

Burgos, Alexander N

From: Peaslee, William W
Sent: Monday, July 18, 2022 1:43 PM
To: Everett, Jennifer
Cc: Burgos, Alexander N
Subject: RE: Request for Changes Coastal Resources Commission 07.2022 15A NCAC 07M

Thank you. If you become aware of any interconnectivity issues, please let me know.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

From: Everett, Jennifer <jennifer.everett@ncdenr.gov>
Sent: Monday, July 18, 2022 1:09 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: Request for Changes Coastal Resources Commission 07.2022 15A NCAC 07M

Correct.

Jennifer Everett
DEQ Rulemaking Coordinator
N.C. Depart. Of Environmental Quality
Office of General Counsel
1601 Mail Service Center
Raleigh, NC 27699-1601
Tele: (919)-707-8614
<https://deq.nc.gov/permits-rules/rules-regulations/deq-proposed-rules>

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From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Monday, July 18, 2022 11:12 AM
To: Everett, Jennifer <jennifer.everett@ncdenr.gov>
Subject: RE: Request for Changes Coastal Resources Commission 07.2022 15A NCAC 07M

Good morning Jennifer,

Just to be clear, the agency is not asking for an extension on 15A NCAC 07L .0503 which remains on the agenda for Thursday. Correct?

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From: Everett, Jennifer <jennifer.everett@ncdenr.gov>
Sent: Wednesday, July 6, 2022 1:30 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Lopazanski, Mike <mike.lopezanski@ncdenr.gov>; Lucasse, Mary L <mlucasse@ncdoj.gov>; Goebel, Christine A <Christine.Goebel@NCDENR.GOV>; Willis, Angela <angela.willis@ncdenr.gov>; Wright, Alyssa N <Alyssa.Wright@ncdenr.gov>
Subject: RE: Request for Changes Coastal Resources Commission 07.2022 15A NCAC 07M

Hello,

We are kindly requesting an extension for the period of review for 15A NCAC 07M. This extension will allow staff additional time to address your technical change requests.

Thank you.

Jennifer Everett
DEQ Rulemaking Coordinator
N.C. Depart. Of Environmental Quality
Office of General Counsel
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Raleigh, NC 27699-1601
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<https://deq.nc.gov/permits-rules/rules-regulations/deq-proposed-rules>

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From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Tuesday, July 5, 2022 2:16 PM
To: Everett, Jennifer <jennifer.everett@ncdenr.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: Request for Changes Coastal Resources Commission 07.2022 15A NCAC 07M

Good morning, Jennifer,

I'm the attorney who reviewed the Rules submitted by the North Carolina Coastal Resources Commission for the July 2022 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, July 21, 2022, at 9:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as we get closer to the meeting. If there are any other representatives from your agency who will want to attend virtually, let me know prior to the meeting, and we will get evites out to them as well.

Please submit the revised Rules and forms to me via email, no later than 5 p.m. on Friday, July 14, 2022.

In the meantime, please let me know if you have any questions or concerns.

William W. Peaslee
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Office of Administrative Hearings
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(984) 236-1939
Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: Request for Changes 15A NCAC 07L
Attachments: 15A NCAC 07L .0503 July 5 2022.docx; Request for Changes CRC 07.2022 15A NCAC 07L .0503 July 5 2022.docx

From: Everett, Jennifer <jennifer.everett@ncdenr.gov>
Sent: Wednesday, July 6, 2022 1:28 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Lopazanski, Mike <mike.lopezanski@ncdenr.gov>; Lucasse, Mary L <mlucasse@ncdoj.gov>; Goebel, Christine A <Christine.Goebel@NCDENR.GOV>
Subject: RE: Request for Changes 15A NCAC 07L

Bill,

Attached is the rewritten rule and responses to your technical change requests for 15A NCAC 07L.

Thanks.

Jennifer Everett
DEQ Rulemaking Coordinator
N.C. Depart. Of Environmental Quality
Office of General Counsel
1601 Mail Service Center
Raleigh, NC 27699-1601
Tele: (919)-707-8614
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REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07L .0503

DEADLINE FOR RECEIPT: July 14, 2022

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:

(a), Page 1, Line 9: Consider whether the sentence beginning “Projects may include...” is necessary. Is DEQ otherwise prohibited from including these topics?

DCM would prefer to retain this sentence as it describes the types of projects that will be funded under the categories described in 1-6. DEQ is not prohibited from including these topics.

(a), Page 1, Line 11: Consider whether the sentence beginning “Projects shall be focused...” is necessary.

Deleted.

(a), Page 1, Line 12: Consider adding “by DEQ” after “funding” for clarity.

Done.

(c), Page 2, Lines 9-13: This appears to be unnecessarily wordy. Consider re-writing for clarity.

DCM would prefer to retain the existing wording as it is understood by local governments.

(d), Page 2, Lines 14-16: Consider adding “pursuant to 15A NCAC 07B .0803(a)(3)” after “CRC” for clarity if that is the certification to which the agency refers.

Done.

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

15A NCAC 07L .0503 is readopted as published in 34:09 NCR 763 with changes as follows:

15A NCAC 07L .0503 PRIORITIES FOR FUNDING PLANNING AND MANAGEMENT PROJECTS

(a) The Department of Environmental Quality (DEQ) program provides funding for coastal planning and management projects to assist local governments in the 20 counties as defined in G.S. 113A-103(2) in the refining and implementing of plans and management strategies for their coastal resources. In funding local planning and management grants, DEQ shall select projects that address Coastal Resources Commission (CRC) management goals pursuant to 15A NCAC 07B .0702(d)(2) or topics contained within Subparagraphs (a)(1) through (6) of this Rule. Priority management topics shall be designated on an annual basis following consultation with the CRC. Projects may include education and outreach, planning efforts, improvements in intergovernmental coordination, research or studies, and the development of local ordinances. **Projects shall be focused on coastal resources or issues, related to coastal concerns, and shall not violate State or Federal law.** Projects selected for funding by DEQ shall further the CRC's goals for the following designated topics:

- (1) Public Access: Maximize public access to the beaches and the public trust waters of the coastal region.
- (2) Land Use Compatibility: Ensure that development and use of resources or preservation of land balance protection of natural resources and fragile areas with economic development, avoid risks to public health, safety, and welfare.
- (3) Infrastructure Carrying Capacity: Ensure that public infrastructure systems are sized, located, and managed so the quality and productivity of AECs and other fragile areas are protected or restored.
- (4) Natural Hazards: Conserve and maintain barrier dunes, beaches, flood plains, and other coastal features for their natural storm protection function and their natural resources giving recognition to public health, safety, and welfare issues.
- (5) Habitat Enhancement: Maintain, protect, and enhance coastal habitats.
- (6) Other Topics or Special Issues: developed areas and working waterfronts, urban waterfront revitalization, economic growth and development, redevelopment and revitalization, recreation and tourism, historic and cultural resources, public trust rights, water use and water quality, stormwater management, erosion control, shoreline protection and management, open space, parks and recreation, storm recovery, farmland preservation and management, stakeholder and citizen participation, and transportation.

- (b) DEQ shall take into consideration the following factors listed in order of importance to establish priorities for individual projects:
- (1) a project's contribution towards meeting CRC's prioritized management topics and associated management goals pursuant to 15A NCAC 07B .0702(d)(2) or topics contained in Subparagraphs (a)(1) through (6) of this Rule;
 - (2) the extent to which the project includes measures of environmental protection beyond the Areas of Environmental Concern (AEC) standards of Subchapter 15A NCAC 07H;
 - (3) the applicant's urgency of need;
 - (4) the history of applicant's implementation of planning and management grant program activities, if any;
 - (5) the feasibility of completion of the project as described by the applicant;
 - (6) the applicant's experience with land use planning and implementation projects, as well as present management and administrative capabilities as described by the applicant;
 - (7) the applicability of the project to other coastal area municipalities and counties; and
 - (8) the geographic distribution of applicants.

(c) Matching fund requirements are based on the North Carolina Department of Commerce's Tier designations, as outlined by G.S. 143B-437.08. Local government contributions for planning and management projects shall be at least 25 percent of the project costs. However, Tier 1 designated counties and their respective municipalities shall have a local government contribution of at least 10 percent of the project costs. At least one half of the local contribution shall be cash match; the remainder may be in-kind match.

(d) Any local government whose plan is not certified by the CRC pursuant to 15A NCAC 07B .0803(a)(3) due to failure to meet the criteria listed in 15A NCAC 07B or that has not submitted the most recent required periodic Implementation Status Report as described in 15A NCAC 07B .0804, shall not receive further funding under this program until these inconsistencies are corrected.

*History Note: Authority G.S. 113A-112; 113A-124;
Eff. August 1, 2002;
Amended Eff. July 1, 2017; March 1, 2016;
Readopted Eff. August 1, 2022.*

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Tuesday, July 5, 2022 10:20 AM
To: Everett, Jennifer <jennifer.everett@ncdenr.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: Request for Changes 15A NCAC 07L

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