

1 15A NCAC 07H .0501 is readopted as published with changes in 34:09 NCR 757 as follows:

2

3

SECTION .0500 - NATURAL AND CULTURAL RESOURCE AREAS

4

15A NCAC 07H .0501 GENERAL

6 ~~The fourth and final group of AECs is gathered under the heading of fragile coastal natural~~ **Natural** and cultural
7 resource areas ~~and is~~ **are** defined as areas containing environmental, natural or cultural resources of more than local
8 significance in which uncontrolled or incompatible development could result in major or irreversible damage to natural
9 systems or cultural resources, scientific, educational, or associative values, or aesthetic qualities.

10

11 *History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(4e) to (b)(4g);*

12

113A-124;

13

Eff. September 9, 1977;

14

Amended Eff. June 1, 1979;

15

Readopted Eff. January 1, 2023.

1 15A NCAC 07H .0502 is readopted as published with changes in 34:09 NCR 757 as follows:

2

3 **15A NCAC 07H .0502 SIGNIFICANCE**

4 (a) Fragile coastal natural resource areas are generally recognized to be of educational, scientific, or cultural value
5 because of the natural features of the particular site. These features in the coastal area serve to distinguish the area
6 designated from the vast majority of coastal landscape and therein establish its value. Such areas may be key
7 components of systems unique to the coast which act to maintain the integrity of that system.

8 (b) Areas that contain outstanding examples of coastal processes or habitat areas of significance to the scientific or
9 educational communities are a second type of fragile coastal natural resource area. These areas are essentially
10 self-contained units or "closed systems" minimally dependent upon adjoining areas.

11 (c) Finally, fragile Fragile areas may be particularly important to a locale either in an aesthetic or cultural sense.

12 (d) Fragile coastal cultural resource areas are generally recognized to be of educational, associative, scientific,
13 aesthetic, or cultural value because of their special importance to our understanding of past human settlement of and
14 interaction with the coastal zone. Their importance serves to distinguish the designated areas as significant among
15 the historic architectural or archaeological remains in the coastal zone, and therein established their value.

16

17 *History Note: Authority G.S. 113A-107(a),(b); 113A-113(b)(4e) to (b)(4g); 113A-124;*

18 *Eff. September 9, 1977;*

19 *Amended Eff. June 1, 1979;*

20 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07H .0503 is readopted as published with changes in 34:09 NCR 757 as follows:

2
3 **15A NCAC 07H .0503 NOMINATION AND DESIGNATION PROCEDURES**

4 (a) Special Designation Process. The nomination and designation of a coastal complex natural area, a unique coastal
5 geologic formation, a coastal area that sustains remnant species, a significant coastal archaeological resource, or a
6 significant coastal historic architectural resource area of environmental concern shall follow the procedures set forth
7 in this Rule and in GS 113A-115.

8 (b) Nomination. An area may be nominated by any person or group at any time for Coastal Resources Commission
9 (CRC) consideration. Nominations ~~may, for example, may~~ be made by citizens, interest groups, local governments,
10 or state and federal agencies. Nominations shall be on a standard ~~form form, available from the Division of Coastal~~
11 ~~Management~~ and shall be submitted to the Division of Coastal Management ~~(DCM) at 400 Commerce Ave., Morehead~~
12 ~~City NC 28557. (DCM).~~ The nomination shall include information relating to the location, size, importance,
13 ownership, and uniqueness of the proposed site. ~~Nomination forms are available from the Division of Coastal~~
14 ~~Management.~~

15 (c) Preliminary Evaluation. After receipt of a nomination, the Division of Coastal Management shall conduct a
16 preliminary evaluation of the proposed site. The land owner, local government, and CRC and CRAC members in
17 whose jurisdiction the site is located shall be informed of the proposed nomination. Representatives of these groups
18 shall meet to discuss the proposed nomination and shall complete a preliminary evaluation within 60 days after receipt
19 of the nomination. Various protection methods shall be examined to determine if AEC designation is appropriate.

20 (d) CRC Endorsement. A report on the preliminary evaluation shall be presented to the CRC so that it may determine
21 whether to endorse the ~~evaluations evaluation~~ and proceed with a more detailed analysis of the site. This report shall
22 be made at the first CRC meeting after the preliminary evaluation is completed. All parties involved in the nomination
23 and preliminary evaluation shall be informed, in writing, of the Commission's decision to proceed or not to proceed
24 with a detailed review of the site in question. For sites that do not receive CRC endorsement for detailed review,
25 recommendations for some other form of protection may be discussed with the landowner. Other forms of protection
26 include, registry with the North Carolina Natural Heritage Program, conservation easement to a public agency or to a
27 local conservation foundation, donation or acquisition of ~~title, or other strategies. title.~~

28 (e) Detailed Review. A detailed review of the proposed site shall be initiated ~~under by DCM supervision~~ after CRC
29 endorsement. This ~~detailed review~~ shall include the development of a management ~~plan, if applicable, plan~~ or site
30 specific use standards. Opportunity shall be given to local government officials, interest groups, and those with
31 scientific expertise to comment on the specific biological/physical or cultural values of the site together with
32 ~~appropriate~~ management strategies to safeguard the values identified. This review shall be completed within 90 days,
33 ~~starting~~ from the date of the official CRC endorsement. ~~At the conclusion of this review, the The~~ report on the detailed
34 review shall be presented ~~by DCM~~ to the CRC for their consideration.

35 (f) Public Hearing. If, after receiving the detailed review, the CRC decides to consider formal designation of the site
36 as an AEC and adopt the ~~particular a~~ management plan or use standards developed, a public hearing or hearings shall
37 be conducted and notice of hearing published and distributed in accordance with the requirements of G.S. 113A-115

1 and G.S. 150B-21.2. Copies of the site description and of any proposed rules shall be made available for public
2 inspection at the county courthouse in each affected county and at the Morehead City Office of the Division of Coastal
3 Management. At the hearing(s) the CRC shall present the documentation and recommendations in support of the
4 designation decision.

5 (g) Formal Designation. ~~After consideration of all comments, the Commission shall make its final judgment.~~ If the
6 site is designated as an AEC, the CRC shall also adopt a management strategy or use standards applicable to the AEC.

7

8 *History Note: Authority G.S. 113A-107(a),(b); 113A-113(b)(4)e,f,g, and h; 113A-124;*

9 *Eff. September 9, 1977;*

10 *Amended Eff. June 1, 2005; May 1, 1988; May 1, 1985; February 1, 1982; June 1, 1979;*

11 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07H .0505 is readopted as published **with changes** in 34:09 NCR 757 as follows:

2

3 **15A NCAC 07H .0505 COASTAL AREAS THAT SUSTAIN REMNANT SPECIES**

4 (a) Description. Coastal areas that sustain remnant species are those areas that support native plants or animals
5 determined to be rare or endangered (synonymous with threatened and endangered), within the coastal area. Such
6 places provide habitats necessary for the survival of existing populations or communities of rare or endangered species
7 within the coastal area. Determination **will-shall** be made by the Commission based upon the listing adopted by the
8 North Carolina Wildlife Resources Commission or the federal government listing; upon written reports or testimony
9 of experts indicating that a species is rare or endangered within the coastal area; and upon consideration of written
10 testimony of local government officials, interest groups, and private land owners.

11 (b) Significance. The continued survival of certain habitats that support native plants and animals in the coastal area
12 is vital for the preservation of **our the State's** natural heritage and for the protection of natural diversity which is related
13 to biological stability. These habitats and the species they support provide a valuable educational and scientific
14 resource that cannot be duplicated.

15 (c) Management Objective. To protect unique habitat conditions that are necessary to the continued survival of
16 threatened and endangered native plants and animals and to minimize land use impacts that **might** jeopardize these
17 conditions.

18

19 *History Note: Authority G.S. 113A-107(a),(b); 113A-113(b)(4)f; 113A-124;*

20

Eff. September 9, 1977;

21

Readopted Eff. January 1, 2023.

1 15A NCAC 07H .0506 is readopted as published **with changes** in 34:09 NCR 757 as follows:

2
3 **15A NCAC 07H .0506 COASTAL COMPLEX NATURAL AREAS**

4 (a) Description. Coastal complex natural areas are defined as lands that support native plant and animal communities
5 and provide habitat qualities which have remained **essentially** unchanged by human activity. Such areas may be either
6 significant components of coastal systems or **especially** notable habitat areas of scientific, educational, or aesthetic
7 value. They may be surrounded by landscape that has been modified but does not **drastically** alter conditions within
8 the natural area. Such areas may have been altered by human activity and/or subject to limited future modifications,
9 e.g. the placement of dredge spoil, if the CRC determines that the modifications benefit the plant or animal habitat or
10 enhance the biological, scientific or educational values which will be protected by designation as an AEC.

11 (b) Significance. Coastal complex natural areas function as key biological components of natural systems, as
12 important scientific and educational sites, or as valuable scenic or cultural resources. **Often these** **These** natural areas
13 provide habitat **suitable** for threatened or endangered species or support plant and animal communities representative
14 of pre-settlement conditions. These areas **help** provide a historical perspective to changing natural habitats in the
15 coastal area and **together** are important and irreplaceable scientific and educational resources. The CRC may
16 determine significance of a natural area by consulting the Natural Heritage Priority List maintained by the Natural
17 Heritage Program within **the Department of Natural and Cultural Resources, the Division of Parks and Recreation.**
18 **The CRC will establish a standing committee, composed of two or more members of the CRC, one or more members**
19 **of the CRAC, and three or more members of the Natural Area Advisory Committee, to evaluate areas not included in**
20 **the Natural Heritage Priority List.**

21 (c) Management Objectives. The management objectives **of this Rule** are to protect the features of a designated
22 coastal complex natural area **in order to safeguard and** its biological relationships, educational and scientific values,
23 and aesthetic qualities. Specific objectives for each of these functions shall be related to the following policy statement
24 either singly or in combination:

- 25 (1) To protect the natural conditions or the sites that function as key or unique components of coastal
26 systems. The interactions of various life forms are the foremost concern and include sites that are
27 necessary for the completion of life cycles, areas that function as links to other wildlife areas
28 (wildlife corridors), and localities where the links between biological and physical environments are
29 most fragile.
- 30 (2) To protect the identified scientific and educational values and to ensure that the site **will-shall** be
31 accessible for **related** study purposes.
- 32 (3) To protect the values of the designated coastal complex natural area as expressed by the local
33 government and citizenry. These values **should shall** be related to the educational and aesthetic
34 qualities of the feature.

35
36 *History Note: Authority G.S. 113A-107(a),(b); 113A-113(b)(4)e; 113A-24;*
37 *Eff. September 9, 1977;*
38 *Amended Eff. October 1, 1988; February 1, 1982;*

1 15A NCAC 07H .0507 is readopted as published **with changes** in 34:09 NCR 757 as follows:

2
3 **15A NCAC 07H .0507 UNIQUE COASTAL GEOLOGIC FORMATIONS**

4 (a) Description. Unique coastal geologic formations are defined as sites that contain geologic formations that are
5 unique or **otherwise** significant components of coastal systems, or that are **especially** notable examples of geologic
6 formations or processes in the coastal area. Such areas **will shall** be evaluated by the Commission after identification
7 by the State Geologist.

8 (b) Significance. Unique coastal geologic areas are important educational, scientific, or scenic resources that would
9 be jeopardized by uncontrolled or incompatible development.

10 (c) Management Objectives. The CRC's objective is to preserve unique resources of more than local significance that
11 function as key physical components of natural systems, as important scientific and educational sites, or as valuable
12 scenic resources. Specific objectives for each of these functions shall be related to the following policy statements
13 either singly or in combination:

14 (1) To ensure that the designated geologic feature **will-shall** be able to **freely** interact with other
15 components of the identified systems. These interactions are often the natural forces acting to
16 maintain the unique qualities of the site. The primary concern is the relationship between the
17 geologic feature and the accompanying biological component associated with the feature. Other
18 interactions which may be of equal concern are those relating the geologic feature to other physical
19 components, specifically the relationship of the geologic feature to the hydrologic elements; ground
20 water and surface runoff.

21 (2) To ensure that the designated geologic feature or process **will-shall** be preserved for and be
22 accessible to the scientific and educational communities for **related** study purposes.

23 (3) To protect the values of the designated geologic feature as expressed by the local government and
24 citizenry. These values **should shall** be related to the educational and aesthetic qualities of the
25 feature.

26 (d) Designation. The Coastal Resources Commission hereby designates Jockey's Ridge as a unique coastal geologic
27 formation area of environmental concern. The boundaries of the area of environmental concern shall be as depicted
28 on a map approved by the Coastal Resources Commission on December 4, 1987, and on file with the Division of
29 Coastal ~~Management.~~ **Management, available at 400 Commerce Ave., Morehead City, NC 28557.** This area includes
30 the entire rights of way of US 158 Bypass, SR 1221 (Sound Side Road), Virginia Dare Trail, and Conch Street where
31 these roads bound this area. Jockey's Ridge is the tallest active sand dune along the Atlantic Coast of the United
32 States. Located within the Town of Nags Head in Dare County, between US 158 and Roanoke Sound, the Ridge
33 represents the southern extremity of a back barrier dune system which extends north along Currituck Spit into Virginia.
34 Jockey's Ridge is an **excellent** example of a medano, a large isolated hill of sand, asymmetrical in shape and lacking
35 vegetation. Jockey's Ridge is the largest medano in North Carolina and has been designated a National Natural
36 Landmark by the U.S. Department of the Interior.

1 (e) Use Standards. Jockey's Ridge. Development within the Jockey's Ridge AEC shall be consistent with the
2 following minimum use standards:

3 (1) Development which requires the removal of greater than ten cubic yards of sand per year from the
4 area within the AEC boundary shall require a permit;

5 (2) All sand which is removed from the area within the AEC boundary in accordance with 7H
6 .0507(e)(1) shall be deposited at locations within the Jockey's Ridge State Park designated by the
7 Division of Coastal Management in consultation with the Division of Parks and Recreation;

8 (3) Development activities shall not significantly alter or retard the free movement of sand except when
9 necessary for the purpose of maintaining or constructing a road, residential/commercial structure,
10 accessway, lawn/garden, or parking area.

11
12 *History Note: Authority G.S. 113A-107(a),(b); 113A-113(b)(4)g.; 113A-124;*
13 *Eff. September 9, 1977;*
14 *Amended Eff. March 1, 1988;*
15 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07H .0508 is readopted as published with changes in 34:09 NCR 757 as follows:

2
3 **15A NCAC 07H .0508 USE STANDARDS**

4 Permits for development in designated fragile coastal natural or cultural resource areas will-shall be approved upon
5 finding that:

- 6 (1) The proposed design and location will-shall not cause no major or irreversible damage significant
7 adverse impacts to the stated values of a particular resource. One or more of the following values
8 must-shall be considered depending upon the stated significance of the resource:
- 9 (a) Development shall preserve the values of the individual resource as it functions as a critical
10 component of a natural system.
 - 11 (b) Development shall not adversely affect cause significant adverse impacts to the values of
12 the resource as a unique scientific, associative, or educational resource.
 - 13 (c) Development shall be consistent with the aesthetic values of a resource as identified by the
14 local government and citizenry.
- 15 (2) No reasonable alternative sites are available outside the designated AEC.
- 16 (3) Reasonable mitigation Mitigation measures have been-shall be considered and incorporated into the
17 project plan. These measures shall include consultation with recognized authorities and with the
18 CRC.
- 19 (4) The project will-shall be of equal or greater public benefit than those benefits lost or damaged
20 through development.
- 21 ~~(5) Use standards will not address farming and forestry activities that are exempted in the definition of~~
22 ~~development (G.S. 113A-103(5)a.4).~~

23
24 *History Note: Authority G.S. 113A-107(a),(b); 113A-113(b)(4e) to (b)(4h); 113A-124;*
25 *Eff. September 9, 1977;*
26 *Amended Eff. February 1, 1982; June 1, 1979;*
27 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07H .0509 is readopted as published with changes in 34:09 NCR 757 as follows:

2
3 **15A NCAC 07H .0509 SIGNIFICANT COASTAL ARCHAEOLOGICAL RESOURCES**

4 (a) Description. Significant coastal archaeological resources are defined as areas that contain archaeological remains
5 (objects, features, and/or sites) that have more than local significance to history or prehistory. Such areas will-shall
6 be evaluated by the North Carolina Historical Commission Department of Natural and Cultural Resources in
7 consultation with the Commission as part of the procedure set forth in Rule .0503 of this Section.

8 (b) Significance. Significant coastal archaeological resources are important educational, scientific, or aesthetic
9 resources. Such resources would be jeopardized by uncontrolled or incompatible development. In general, significant
10 archaeological resources possess integrity of location, design, setting, workmanship, materials, and association and:

- 11 (1) are associated with historic events; events that have made a significant contribution to the broad
12 patterns of history; or
13 (2) are associated with the lives of persons significant in history; or
14 (3) embody the distinctive characteristics of a type, period, or method of construction, or represent a
15 significant and distinguishable entity whose components may lack individual distinction; or
16 (4) have yielded, or may be likely to yield, information important in history or prehistory.

17 (c) Management Objectives. The CRC's objective is to conserve coastal archaeological resources of more than local
18 significance to history or prehistory that constitute important scientific sites, or are valuable educational, associative,
19 or aesthetic resources. Specific objectives for each of these functions shall be related to the following policy
20 statements either singly or in combination:

- 21 (1) to give the highest priority to the development of a preservation management plan to provide
22 long term, effective long-term management of the archaeological resource; only that and
23 development which would-shall not have minimal significant adverse effects impacts on the
24 archaeological resource, resource will be acceptable;
25 (2) to conserve significant archaeological resources, including their spatial and structural context and
26 characteristics through in-situ preservation and/or scientific study;
27 (3) to insure ensure that the designated archaeological resource resource, or the information contained
28 therein, be preserved for and be accessible to the scientific and educational communities for related
29 study purposes;
30 (4) to protect the values of the designated archaeological resource as expressed by the local government
31 and citizenry; these values should-shall be related to the educational, associative, or aesthetic
32 qualities of the resource.

33 (d) General Use Standards.

- 34 (1) Significant concentrations of archaeological material, preferably reflecting a full range of human
35 behavior, should-shall be preserved in-situ for future research by avoidance during planned
36 construction development activities. Areas for avoidance should-shall be selected only after
37 sufficient archaeological investigations have been made. See Subparagraph (d)(2)(B) of this Rule

1 ~~to determine~~ outlines the nature, extent, conditions and ~~relative~~ significance of the cultural deposits.

2 Three avoidance measures ~~should~~ shall be ~~considered; considered, preferably in combination;~~

3 (A) incorporation of "no impact" spaces in construction plans such as green spaces between
4 lots;

5 (B) definition of restrictions limiting specific types of ground disturbing activities;

6 (C) donation of preservation easements to the ~~state~~ State or, upon approval by the ~~N.C. Division~~
7 ~~of Archives and History; Department of Natural and Cultural Resources,~~ a legitimate
8 historic preservation agency or organization.

9 (2) ~~Any activities~~ Activities which would damage or destroy the ~~fragile~~ contents of a designated site's
10 surface or subsurface shall be ~~expressly~~ prohibited until an archaeological investigation and
11 ~~subsequent~~ resource management plan has been ~~implemented; implemented by the applicant.~~ Such
12 ~~The~~ investigation and management plan shall be developed in ~~full~~ consultation with the ~~Department~~
13 ~~of Natural and Cultural Resources; North Carolina Division of Archives and History.~~ In this way,
14 ~~potentially damaging or destructive activities (e.g., construction, roads, sewer lines, land scaping)~~
15 ~~may be managed both during initial phases of construction and after the development is completed.~~

16 Such archaeological investigations shall comply with the following criteria:

17 (A) all archaeological work ~~will~~ shall be conducted ~~by an experienced professional~~
18 ~~archaeologist; in consultation by the Department of Natural and Cultural Resources;~~

19 (B) ~~initial~~ archaeological investigations conducted as part of the permit review process
20 ~~will~~ shall be implemented in three parts: Phase I, a reconnaissance level investigation to
21 determine the nature and extent of archaeological materials over the designated area; Phase
22 II, an intensive level investigation which represents a direct outgrowth of Phase I findings
23 and through systematic data recovery assesses the potential importance of identified
24 concentrations of archaeological materials; Phase III, mitigation of ~~significant~~ adverse
25 ~~effects~~ impacts to recognized areas of importance. Evaluations of research potential ~~will~~
26 ~~shall~~ be made and prioritized in order of importance, based upon the status of previous
27 research in the area and the integrity of the remains;

28 (C) an archaeological research design ~~will~~ shall be required for all archaeological
29 investigations. All research designs ~~will~~ shall be subject to the approval of the ~~North~~
30 ~~Carolina Division of Archives and History; Department of Natural and Cultural Resources~~
31 prior to conducting the work. A research proposal ~~must~~ shall allow at least 30 days for
32 review and comment by the ~~North Carolina Division of Archives and History; Department~~
33 ~~of Natural and Cultural Resources;~~

34 (D) data ~~will~~ shall be collected and recorded ~~accurately and systematically~~ and artifacts ~~will~~
35 ~~shall~~ be curated according to accepted ~~professional~~ standards at an approved ~~repository.~~
36 ~~repository in consultation with the Department of Natural and Cultural Resources.~~

37

1 (e) Designations. The Coastal Resources Commission hereby designates Permuda Island as a significant coastal
2 archaeological resource area of environmental concern. Permuda Island is a former barrier island located within
3 Stump Sound in southwestern Onslow County. The island is 1.2 miles long and .1 - .25 miles wide. Archaeological
4 evidence indicates earliest occupation from the Middle Woodland Period (300 B.C. - 800 A.D.) through the late
5 Woodland Period (800 A.D. - 1650 A.D.) and historic occupations predating the Revolutionary War. Archaeological
6 remains on the island consist of discrete shell heaps, broad and thick layers of shell midden, prehistoric refuse pits and
7 postholes, as well as numerous ceramic vessel fragments and well-preserved animal bone remains. ~~The resources
8 offer extensive research opportunities.~~

9
10 *History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(4h); 113A-124;*
11 *Eff. June 1, 1979;*
12 *Amended Eff. October 1, 1988; January 1, 1985;*
13 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07H .0510 is readopted as published with changes in 34:09 NCR 757 as follows:

2
3 **15A NCAC 07H .0510 SIGNIFICANT COASTAL HISTORIC ARCHITECTURAL RESOURCES**

4 (a) Description. Significant coastal historic architectural resources are defined as districts, structures, buildings, sites
5 or objects that have more than local significance to history or architecture. Such areas ~~will~~ shall be evaluated by the
6 ~~North Carolina Historical Commission~~ Department of Natural and Cultural Resources in consultation with the Coastal
7 Resources Commission as part of the procedure set forth in Rule .0503 of this Section.

8 (b) Significance. Significant coastal historic architectural resources are important educational, scientific, associative,
9 or aesthetic resources. Such resources would be jeopardized by uncontrolled or incompatible development. In general,
10 significant Significant historic architectural resources possess integrity of design, setting, workmanship, materials,
11 and association and:

- 12 (1) are associated with historic events; ~~events that have made a significant contribution to the broad~~
13 ~~patterns of history;~~ or
14 (2) are associated with the lives of persons significant in history; or
15 (3) embody the distinctive characteristics of a type, period, or method of construction, or represent a
16 significant and distinguishable entity whose components may lack individual distinction; or
17 (4) have yielded, or may be likely to yield, information important in history.

18 (c) Management Objectives. The CRC's objective is to conserve coastal historic architectural resources of more than
19 local significance which are valuable educational, scientific, associative or aesthetic resources. Specific objectives
20 for each of these functions shall be related to the following policy statements either singly or in combination:

- 21 (1) to conserve historic architectural resources as a living part of community life and development,
22 including their structural and environmental characteristics, ~~in order and~~ to give a sense of
23 orientation to the people of the ~~state;~~ State;
24 (2) to ~~insure~~ ensure that the designated historic architectural resource be preserved, as a tangible element
25 of our cultural heritage, for its educational, scientific, associative or aesthetic purposes;
26 (3) to protect the values of the designated historic architectural resource as expressed by the local
27 government and citizenry; these values should be related to the educational, scientific, associative
28 or aesthetic qualities of the resource.

29
30 *History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(4h); 113A-124;*
31 *Eff. June 1, 1979;*
32 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07H .2305 is readopted with changes as published in 34:09 NCR 760 as follows:

2
3 **15A NCAC 07H .2305 SPECIFIC CONDITIONS**

4 (a) This ~~general permit~~ **General Permit** is applicable to bridge replacement projects spanning no more than 400 feet
5 of estuarine water, public trust area, and coastal wetland AECs.

6 (b) Existing roadway deck width shall not be expanded to create additional lanes, with the exception that an existing
7 one lane bridge may be expanded to two lanes ~~where the Department of Environment and Natural Resources~~
8 ~~Environmental Quality determines that authorization is warranted and provided~~ the proposed project does not
9 ~~significantly affect the quality of the human and natural environment or unnecessarily endangers adjoining properties.~~
10 ~~create significant adverse impacts.~~

11 (c) Replacement of existing bridges with new bridges shall not reduce vertical or horizontal navigational clearances.

12 (d) All demolition debris shall be disposed of landward of all wetlands and the ~~normal water level (NWL)~~ **Normal**
13 **Water Level** or **Normal High Water** ~~normal high water (NHW) level~~ (as as defined in ~~15A NCAC 07H .0106~~), **15A**
14 **NCAC 07H .0106**, and shall employ soil stabilization measures to prevent entry of sediments in the adjacent water
15 bodies or wetlands.

16 (e) Bridges and culverts shall be designed to allow passage of anticipated high water flows.

17 (f) Measures sufficient to restrain sedimentation and erosion shall be implemented at each site.

18 (g) Bridge or culvert replacement activities involving excavation or fill in wetlands, public trust areas, and estuarine
19 waters shall meet the following conditions:

20 (1) Replacing bridges with culverts shall not be allowed in primary nursery areas as defined by the
21 Marine Fisheries or Wildlife Resources Commissions.

22 (2) The total area of public trust area, estuarine waters, and wetlands to be excavated or filled shall not
23 exceed 2,500 square feet except that the coastal wetland component shall not exceed 750 square
24 feet.

25 (3) Culverts shall not be used to replace bridges with open water spans greater than 50 feet.

26 (4) There shall be no temporary placement or double handling of excavated or fill materials within
27 waters or vegetated wetlands.

28 (5) No excavated or fill material shall be placed in any wetlands or surrounding waters outside of the
29 alignment of the fill area indicated on the work ~~plat(s), plat,~~

30 (6) All excavated materials shall be confined above **Normal Water Level** ~~NWL~~ or **Normal High Water**
31 **NHW** and landward of any wetlands behind dikes or other retaining structures to prevent spill-over
32 of solids into any wetlands or surrounding waters.

33 (7) No bridges with a clearance of four feet or greater above the NWL or NHW shall be allowed to be
34 replaced with ~~culvert(s)~~ **culverts** unless the culvert design maintains the existing water depth,
35 vertical clearance and horizontal clearance.

36 (8) If a bridge is being replaced by a ~~culvert(s)~~ **culvert** then the width of the waterbody shall not be
37 decreased by more than 40 percent.

1 (9) All pipe and culvert inverts placed within the Public Trust or the Estuarine Waters AECs shall be
2 buried at least one foot below normal bed elevation to allow for passage of water and aquatic life.
3 Culverts placed in wetlands are not subject to this requirement.
4

5 *History Note: Authority G.S. 113A-107; 113A-118.1; 113A-124;*
6 *Eff. June 1, 1996;*
7 *Amended Eff. May 1, 2010;*
8 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07I .0406 is readopted as published in 34:09 NCR 761 as follows:

2

3 **15A NCAC 07I .0406 APPLICATION FEES**

4 The application fees collected by the locality shall be used only to defray the administrative costs associated with the
5 processing of a CAMA minor permit development application. Deficits resulting from administrative costs exceeding
6 amounts received from application fees shall be recovered from permit reimbursements. The application fee shall be
7 consistent with 15A NCAC 07J .0204(b)(6)(B).

8

9 *History Note: Authority G.S. 113A-112; 113A-119; 113A-124;*

10 *Eff. December 10, 1977;*

11 *Amended Eff. July 1, 2013; October 1, 1982; May 20, 1980; August 1, 1978;*

12 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07I .0504 is readopted as published **with changes** in 34:09 NCR 761 as follows:

2

3 **15A NCAC 07I .0504 RECORD OF HEARINGS AND COMMENTS**

4 Each permit-letting agency **must shall** compile and maintain a complete record of the public hearing on its proposed
5 **management** local **implementation and enforcement** plan and comments received pursuant to G.S. 113A-117. The
6 record of the public hearing, written comment, and any documentation filed with the local permit-letting agency as to
7 the proposed management plan **must: shall:**

8 (1) consist of a written account from the minutes or transcribed from an electronic recording, and all
9 written documents;

10 (2) remain open for 15 days after the hearing; **and**

11 (3) be available to the **Coastal Resources** Commission upon request.

12

13 *History Note:* Authority G.S. **113-117(a); 113A-117(b); 113A-117(c); ~~113A-124(e)(5);~~**

14 *Eff. November 1, 1984;*

15 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07I .0506 is readopted as published with changes in 34:09 NCR 761 as follows:

2

3 **15A NCAC 07I .0506 ALLOCATION OF AUTHORITY**

4 (a) A county may establish permit-letting authority for any city or part thereof that lies within said county if such city
5 does not submit a letter of intent to the Coastal Resources Commission or states to the Coastal Resources Commission
6 its intent not to become a local permit-letting agency.

7 (b) A city municipal implementation and enforcement management plan shall be limited to its corporate boundaries
8 and to any extra-territorial zoning area over which it may have established control at the time it requested authority to
9 act as a permit-letting agency or over which it later gains control.

10 (c) A county implementation and enforcement plan shall be limited to areas not covered by any city municipal
11 implementation and enforcement plans unless the county acts as the permit-letting agency for a city or cities. A county
12 shall begin such duties only after the county's implementation and enforcement plan has been amended to include
13 such areas.

14 (d) In any city municipality in which neither the city municipality nor the county elects to become the permit-letting
15 agency, the secretary Secretary shall have that duty.

16 (e) Only the Department of Environment and Natural Resources Environmental Quality shall issue a permit for major
17 development.

18

19 *History Note: Authority G.S. 113A-117(b); 113A-124(c)(5);*
20 *Eff. November 1, 1984;*
21 *Amended Eff. June 1, 2006; May 1, 1990;*
22 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07I .0508 is readopted as published **with changes** in 34:09 NCR 761 as follows:

2

3 **15A NCAC 07I .0508 CONSIDERATION OF APPLICATION BY **LOCAL** PERMIT OFFICER**

4 (a) The method of consideration of minor development permit requests by the **local** permit officer **must shall** be
5 uniform in application and **must shall** be set out in writing and available for public inspection. The **permit officer**
6 **Local Permit Officer (LPO)** shall use only forms approved by the **Coastal Resources** Commission in **its** handling of
7 any minor development permit application.

8 (b) The local **management implementation and enforcement** plan shall specify the procedures which will be followed
9 in the handling and consideration of all applications for a minor development permit, including **appropriate** response
10 to receipt of an application for a major development permit.

11 (c) The **permit officer LPO** shall maintain a record of all applications, correspondence, public notices, responses from
12 public notices, and a copy of **his the** final disposition for all permit applications whether issued or denied.

13 (d) The **permit officer, LPO**, in **his** handling of all minor development permit applications, **must shall** use a numbering
14 system **which will be** developed by the **Coastal Resources** Commission in consultation with local government.

15 (e) It is the policy of the Coastal Resources Commission to allow local government **the greatest** flexibility in
16 coordinating minor development permits with all other local permits and approvals. The Commission requires,
17 however, that the **local implementation and enforcement** plan **eventually** submitted state how this coordination will be
18 accomplished.

19

20 *History Note: Authority G.S. **113A-117(c); ~~113A-124(e)(5);~~***

21 *Eff. November 1, 1984;*

22 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07I .0511 is readopted with changes as published in 34:09 NCR 761 as follows:

2

3 **15A NCAC 07I .0511 COMMITMENT TO ADOPT LOCAL MANAGEMENT PLAN AS ORDINANCE**

4 The local governing body shall enter into a commitment to accept the local management plan as part of the city or
5 county code of ordinances within a three-month period.

6

7 *History Note:* Authority G.S. 113A-117(c); ~~113A-124(e)(5);~~

8

Eff. November 1, 1984;

9

Readopted Eff. January 1, 2023.

1 15A NCAC 07I .0602 is readopted as published **with changes** in 34:09 NCR 761 as follows:

2

3 **15A NCAC 07I .0602 COASTAL RESOURCES COMMISSION APPROVAL**

4 An amendment of a local **implementation and enforcement** plan shall be submitted to the Coastal Resources
5 Commission for approval in the same manner in which the original **management** plan is submitted.

6

7 *History Note: Authority G.S. 113A-117(c); ~~113A-124(e)(5);~~*

8

Eff. November 1, 1984;

9

Readopted Eff. January 1, 2023.

1 15A NCAC 07I .0702 is readopted as published **with changes** in 34:09 NCR 761 as follows:

2

3 **15A NCAC 07I .0702 WHEN AN ACTION EXCEEDS THE LOCAL AUTHORITY**

4 When the local permit-letting agency exceeds **the scope and extent of** its authority, which is limited to consideration
5 of applications proposing minor development as defined in the Coastal Area Management Act, that action shall be
6 null, void and of no effect. The determinations of the **commission Coastal Resources Commission** shall be binding
7 on the local permit-letting agency as to questions of such jurisdiction.

8

9 *History Note:* Authority G.S. **113A-117(c); 113A-118(e); 113A-120(c); 113A-124(c)(5);**

10

Eff. November 1, 1984;

11

Readopted Eff. January 1, 2023.

1 15A NCAC 07J .0203 is readopted as published with changes in 34:09 NCR 762 as follows:

2
3 **15A NCAC 07J .0203 PREPARATION OF WORK PLATS**

4 (a) General. Project plans or work plats must shall include a top or planview, plan view, a cross-sectional view, and
5 a location map. All plats must shall have the standard north arrow. North should shall be at the top of the plat. The
6 prints must be neat and sufficiently clear to permit photographic reproduction. Originals are preferred as copies are
7 often found to be unacceptable. The applicant should use as few sheets as necessary to show clearly what is proposed.
8 Work plats must shall be accurately drawn to a scale. A scale of 1" = 200' or less is normally required in order so that
9 project detail can be easily understood.

10 (b) Details of Work Plats

11 (1) Topview Top View or Planview Plan View Plats. Such drawings must shall show existing and
12 proposed features such as dune systems, shorelines, creeks, marshlands, docks, piers, bulkheads,
13 excavated areas, fill areas, type and location of sewage treatment facilities and effluent outlets.
14 Existing water depths must shall be indicated using mean low water as base or zero. These can zero
15 and shall be shown either as contours or spot elevation. Care should be used in indicating Work
16 plats shall indicate which features are existing and which are proposed. Property boundaries, as
17 they appear on the deed, and the names of adjacent property owners must shall be shown on the
18 detailed plat. The work plat must shall clearly show any all areas to be excavated and the exact
19 locality site for disposal of the excavated material. When fill material is to be placed behind a
20 bulkhead or dike, the plan shall must be sufficiently detailed to show the exact location of such
21 bulkheads or dikes, and the adequacy ability of the bulkhead or dike to confine the material.
22 Drawings must shall indicate approximate mean low and mean high water lines and the presence of
23 marsh wetlands in the area of proposed work. In areas where the difference in daily low and high
24 tides is less than six inches, only an average water level must shall be indicated.

25 (2) Cross-Section Drawing. A cross-sectional diagram showing depth and elevation of proposed work
26 relative to existing ground level -- mean low and mean high water line must shall be included in the
27 plan. The mean low water must shall be the reference for water depths and land elevations (i.e.,
28 mean low water should be depicted as "Elevation 0.0 MLW"). First floor elevations relative to mean
29 sea level must shall be shown for any proposed buildings, structures.

30 (3) Location Map. A map of small scale showing the geographic location of the proposed work is also
31 required. The location map must provide information to locate the project site.

32 (4) Title of Drawing. Each drawing must shall have a simple title block to identify the project or work,
33 and shall include name of applicant, date the plat was prepared, and scale of the plat. The date of
34 any revisions must shall be clearly noted. The applicant must also include the name of the person
35 who drew the plat.

36 (c) Applications are often made for permits to authorize projects that have a portion of the development outside Areas
37 of Environmental Concern. Some Basic information concerning plans for development outside AECs is necessary to

1 determine compatibility with the local Land Use Plan and to demonstrate be reasonably sure that such development
2 will not adversely impact AECs. Therefore, any Any application for a CAMA or Dredge and Fill permit shall include,
3 at a minimum, include the following information:

- 4 (1) detailed information on any development located in or directly impacting an AEC;
- 5 (2) a plat showing the entire tract of land to be developed and possible access or roadway locations;
- 6 (3) maps or statements or government agency concerning identifying the location of wetlands within
7 the project area or indicating that there are no wetlands within the project area. to the extent that a
8 wetlands examination has been made by a private consultant or government agency. Each developer
9 of a project is urged, for his own protection and planning, to procure such information prior to
10 submission for a CAMA permit;
- 11 (4) a narrative description of the proposed development that shall include, at a minimum, the following
12 information:
 - 13 (A) the character of the development (i.e. residential, commercial, recreational, etc.);
 - 14 (B) the maximum number of residential living units that will be permitted;
 - 15 (C) the maximum acreage that will be utilized for non-residential purposes;
 - 16 (D) a statement as to whether wastewater treatment is to be by municipal system, septic tank,
17 or other on-site treatment system. A general description of any on-site treatment system
18 shall be included;
 - 19 (E) a statement that access, as required by all land use regulations, is available through the site
20 to the Area of Environmental Concern without crossing any Section +404= wetland or, if
21 such a crossing is required, a statement that said crossing is properly authorized. If the site
22 contains significant wetlands, such statement may be required from a qualified private
23 consultant or government agency, based on an examination of the property by such private
24 consultant or government agency. The CAMA permit when issued may be conditioned
25 upon the procurement of any required wetlands permit, if the need for such is disclosed by
26 such statement;
- 27 (5) any maps or plans that have been prepared to meet other regulatory requirements such as stormwater
28 management and sedimentation and erosion control.

29 (d) Following review of the permit application, including the aforementioned supporting data (Subparagraphs 1-59),
30 a permit may be issued conditioned upon compliance with the development parameters provided in the narrative
31 statement accompanying the application. Any subsequent violation of these narrative standards as incorporated
32 within the permit shall be a permit violation. No subsequent permit, permit modification, or other agency approval
33 shall be required for any subsequent work performed outside the Area of Environmental Concern as long as such
34 work is within the parameters described in the narrative statement presented with the permit, and included in the
35 permit conditions. Any subsequent change in the development which changes the parameters of the narrative,
36 statement shall be submitted to the staff, Division of Coastal Management, but no new permit or permit modification
37 shall be required unless staff the Division of Coastal Management finds that the changes would have reasonable

1 expectation of adversely affecting an Area of Environmental Concern or rendering the project inconsistent with
2 Local Land Use Plans. Nothing in this Rule would prohibit an applicant from proceeding with work outside an AEC
3 that cannot reasonably be determined to have a direct adverse impact on the AEC while a permit application for
4 work in the AEC is pending provided that all other necessary local, state, and federal permits have been obtained.

5
6 *History Note: Authority G.S. 113-229(n)(3); 113-230(a); 113A-119; 113A-124;*
7 *Eff. March 15, 1978;*
8 *Amended Eff. July 1, 1989;*
9 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07J .0204 is readopted as published **with changes** in 34:09 NCR 762 as follows:

2
3 **15A NCAC 07J .0204 PROCESSING THE APPLICATION**

4 (a) On receipt of a CAMA major development and/or dredge and fill permit application **by the Department, the**
5 **Department shall send** a letter **shall be sent** to the applicant acknowledging receipt.

6 (b) Application processing shall begin when an application is accepted as complete. Before an application will be
7 accepted as complete, the following requirements must be met;

- 8 (1) a current application form must be submitted;
- 9 (2) all questions on the application form must be completed or the letters "N/A" must be placed in each
10 section that does not apply;
- 11 (3) an accurate work plan as described in **15A NCAC 07J .0203** ~~15A NCAC 7J .0203~~ **herein** must be
12 attached to all CAMA major development **and/or or** dredge and fill permit applications;
- 13 (4) a copy of a deed or other instrument under which the applicant claims title must accompany a
14 CAMA major development **and/or or** dredge and fill permit application;
- 15 (5) notice to adjacent riparian landowners must be given as follows:
 - 16 (A) Certified return mail receipts (or copies thereof) indicating that adjacent riparian
17 landowners (as identified in the permit application) have been sent a copy of the application
18 for the proposed development must be included in a CAMA major development and/or
19 dredge and fill permit application. Said landowners have 30 days from the date of
20 notification in which to comment. Such comments will be considered by the Department
21 in reaching a final decision on the application.
 - 22 (B) For CAMA minor development permits, the applicant must give actual notice of his **or her**
23 intention to develop his property and apply for a CAMA minor development permit to all
24 adjacent riparian landowners. Actual notice can be given by sending a certified letter,
25 informing the adjoining property owner in person or by telephone, or by using any other
26 method which satisfies the Local Permit Officers that a good faith effort has been made to
27 provide the required notice;
- 28 (6) the application fee must be paid as set out in this Subparagraph:
 - 29 (A) Major development permit - Application fees shall be in the form of a check or money
30 order payable to the Department. The application fee for private, non-commercial **for profit**
31 **development** shall be two hundred fifty dollars (\$250.00). The application fee for a public
32 or commercial **for profit** project shall be four hundred dollars (\$400.00).
 - 33 (B) Minor development permit - Application fees shall be in the form of a check or money
34 order payable to the permit-letting agency in the amount of one hundred dollars (\$100.00).
35 Monies so collected may be used only in the administration of the permit program;
- 36 (7) any other information the Department or local permit officer deems necessary for a review of the
37 application must be provided. Any application not in compliance with these requirements will be

1 returned to the applicant along with a cover letter explaining the deficiencies of the application and
2 will not be considered accepted until it is resubmitted and determined to be complete and sufficient.
3 If a local permit officer receives an application for a permit that the local permit officer lacks
4 authority to grant, the permit officer shall return the application with information as to how the
5 application may be properly considered; and

6 (8) for development proposals subject to review under the North Carolina Environmental Policy Act
7 (NCEPA), G.S. ~~113A-100~~ 113A-1 ~~et. et~~ seq., the permit application will be complete only on
8 submission of the appropriate environmental assessment document.

9 (c) Upon acceptance of a major development and/or dredge and fill permit as complete, the Department shall send a
10 letter to the applicant setting forth the date on which acceptance was made.

11 (d) If the application is found to be incomplete or inaccurate after processing has begun or if based on review by the
12 Division or other State and federal review agencies additional information regarding the scale or scope of the project
13 from the applicant is necessary to adequately assess the project, the processing shall be terminated in abeyance pending
14 receipt of the additional necessary changes or necessary information from the applicant. During the pendency of any
15 termination of processing, the permit processing period shall not run. If the changes or additional information
16 significantly alters the scale or scope of the project proposal, the application shall be considered new and the permit
17 processing period will begin to run from that date.

18 (e) Any CAMA or Dredge and Fill violation occurring at a proposed project site for which an application is being
19 reviewed shall be processed according to the procedures in 15A NCAC 07J .0408 through .0410, ~~15A NCAC 7J~~
20 ~~.0408—0410~~. If the violation substantially altered the proposed project site, and restoration is deemed necessary,
21 required in accordance with G.S. 113A-126, the applicant shall be notified that processing of the application will be
22 suspended pending compliance with the notice of required restoration. ~~Satisfactory restoration~~ Restoration of any
23 unpermitted unauthorized development that has substantially altered a at the project site is required ~~deemed necessary~~
24 to allow a complete review of the application and an accurate assessment of the project's potential impacts. The
25 applicant shall be notified that permit processing has resumed, and that a new processing deadline has been established
26 once the required restoration has been deemed satisfactory by the Division of Coastal Management or Local Permit
27 Officer.

28 (f) If during the public comment period a question is raised as to public rights of access across the subject property,
29 the Division of Coastal Management shall examine the access issue prior to making a permit decision. Any individual
30 or governmental entity initiating action to judicially recognize a public right of access must obtain a court order to
31 suspend processing of the permit application. Should the parties to legal action resolve the issue, permit processing
32 shall continue.

34 *History Note:* Authority G.S. 113-229; 113A-119; 113A-119.1; 113A-122(c); 113A-124;

35 *Eff. March 15, 1978;*

36 *Amended Eff. November 1, 1991; March 1, 1991; July 1, 1990; July 1, 1989;*

37 *Temporary Amendment Eff. September 2, 1998;*

- 1 *Temporary Amendment Expired June 28, 1999;*
- 2 *Amended Eff. August 1, 2000;*
- 3 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07J .0206 is readopted **with changes** as published in 34:09 NCR 762 as follows:

2

3 **15A NCAC 07J .0206 PUBLIC NOTICE OF THE PROPOSED DEVELOPMENT**

4 **Within a reasonable time** **No later than 30 days** after receiving **an a complete** application for a major development
5 permit, a significant modification to an application for a major permit, or an application to modify substantially a
6 previously issued major permit, the Division of Coastal Management shall issue public notice of the proposed
7 development as provided in G.S. 113A-119(b). Any citizen or group will, upon request, be promptly sent a copy of
8 the application upon payment of a reasonable fee to cover costs of copying, handling, and ~~posting~~ **posting as**
9 **authorized by G.S.132-6.2.**

10

11 *History Note: Authority G.S. 113A-119(b);*

12 *Eff. March 15, 1978;*

13 *Amended Eff. January 1, 1990; October 1, 1988; November 1, 1983;*

14 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07J .0207 is readopted as published in 34:09 NCR 762 as follows:

2

3 **15A NCAC 07J .0207 AGENCY REVIEW/COMMENTS: MAJOR DEVELOPMENT/DREDGE AND**
4 **FILL**

5 (a) In order to determine the impact of the proposed project, the Department shall prepare a field report on each major
6 development and/or dredge and fill permit application accepted for processing. Such report shall be prepared after an
7 on-site investigation is made, preferably in the presence of the applicant or his agent. The report **will shall** include
8 such topics as project location, environmental setting, project description and probable environmental impact but will
9 not include recommendations of the office.

10 (b) The Department **will shall** circulate major development permit applications to the **several state State** review
11 agencies having expertise in the criteria enumerated in G.S. 113A-120.

12 (c) The Department **will shall** circulate dredge and fill permit applications to the several state review agencies having
13 expertise in those matters enumerated in G.S. 113- 229(e) (1) - (5).

14 (d) Each reviewing agency may make an independent analysis of the application and submit recommendations and
15 comments to the Department. Such recommendations and comments **will shall** be considered by the Department in
16 taking action on a permit application.

17 (e) Each reviewing agency may request additional information (including Stormwater Management Plans) from the
18 applicant through the Division of Coastal Management if such information is deemed necessary for a **thorough and**
19 complete review of the application. The applicant **will shall** be notified of the requirement for additional information
20 and permit processing will be suspended according to 15A NCAC 7J .0204(d).

21 (f) The Division of Coastal Management is one of the **state State** agencies that comments on dredge and fill project
22 applications. In its role as a commenting agency the Division **will shall** use criteria in 15A NCAC 7H and local land
23 use plans to assess whether to recommend permit issuance, permit issuance with conditions, or permit denial. Other
24 commenting **state State** agencies **will shall** make assessments, in accordance with Paragraph (c) of this Rule.

25

26 *History Note: Authority G.S. 113-229; 113A-124(a)(1); **113A-127**;*

27 *Eff. March 15, 1978;*

28 *Amended Eff. July 1, 1989; October 1, 1988; September 1, 1985; November 1, 1984;*

29 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07J .0208 is readopted **with changes** as published in 34:09 NCR 762 as follows:

2

3 **15A NCAC 07J .0208 PERMIT CONDITIONS**

4 (a) Each of the ~~several state review~~ **State, federal and local reviewing** agencies may submit specific recommendations
5 regarding the manner in which the requested work should be carried out and suggest **reasonable** limitations on the
6 work in order to protect the public interest with respect to the factors enumerated in G.S. 113A-120 and/or G.S.
7 113-229(c). The ~~several state review~~ **State, federal and local reviewing** agencies also may submit specific
8 recommendations regarding limitations to be placed on the operation and/or maintenance of the completed project, as
9 necessary to ensure continued protection of the public interest with respect to those factors. Such limitations may be
10 ~~recommended by the Department or commission to be~~ imposed **by the Department** on the project in the form of "permit
11 conditions". Upon the failure of the applicant to appeal a permit condition, the applicant **will shall** be deemed to have
12 amended his permit to conform to the conditions imposed by the Department. Compliance with operational and/or
13 maintenance conditions **must shall** continue for the life of the project.

14 (b) The local permit officer may condition a minor development permit upon amendment of the proposed project to
15 take whatever measures may be **reasonably** necessary to protect the public interest with respect to the factors
16 enumerated in G.S. 113A-120. The applicant **must shall** sign the conditioned **grant permit** as an indication of
17 amendment of the proposed project in a manner consistent with the conditions set out by the local permit officer before
18 the permit shall become effective.

19 (c) Failure to comply with permit conditions constitutes a violation of an order of the Commission under G.S.
20 113A-126.

21

22 *History Note: Authority G.S. **113-229**; 113A-120(b); 113A-124(a)(1); ~~113A-124(e)(5)~~; **113A-127**;*

23 *Eff. March 15, 1978;*

24 *Amended Eff. March 1, 1985; November 1, 1984.*

25 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07J .0210 is readopted as published with changes in 34:09 NCR 762 as follows:

2
3 **15A NCAC 07J .0210 REPLACEMENT OF EXISTING STRUCTURES**

4 Replacement of structures damaged or destroyed by natural elements, fire or normal deterioration is considered
5 development and requires CAMA permits. Replacement of structures shall be permitted if the replacements
6 replacement is consistent with current CRC rules. Repair of structures damaged by natural elements, fire or normal
7 deterioration is not considered development and shall not require CAMA permits. The CRC shall use the following
8 criteria to determine whether proposed work is considered repair or replacement.

9 (1) NON-WATER DEPENDENT STRUCTURES. Proposed work is considered replacement if the
10 Department determines that the cost to do the work exceeds 50 percent of the market value of an
11 existing structure either prior to a catastrophic event such as a fire or hurricane -structure
12 immediately prior to the time of damage or if there is no catastrophic event, at the time of the request.
13 request Market market value and costs are determined as follows:

14 (a) Market value of the structure does not include the value of the land, value resulting from
15 the location of the property, value of accessory structures, or value of other improvements
16 located on the property. The market Market value of the structure shall be determined by
17 the Division based upon on information provided by the applicant that is no more than one
18 year old as of the date the request is made. The market Market value of the structure shall
19 not include the value of the land or value resulting from the location of the property, the
20 value of accessory structures, or the value of other improvements located on the property.
21 The information provided by the applicant may include any of the following: following
22 methods:

- 23 (i) an appraisal;
- 24 (ii) the replacement cost with depreciation for age of the structure and quality of
25 construction; or
- 26 (iii) the tax assessed value.

27 (b) The cost to do the work is the cost to return the structure to its pre-damaged condition,
28 using labor and materials obtained at market prices, regardless of the actual cost incurred
29 by the owner to restore the structure. It shall include the costs of construction necessary to
30 comply with local and state building codes. codes and any improvements that the owner
31 chooses to construct. The cost shall be determined by the Division utilizing any or all of
32 the following provided by the applicant:

- 33 (i) an estimate provided by a North Carolina licensed contractor qualified by license
34 to provide an estimate or bid with respect to the proposed work;
- 35 (ii) an insurance company's report itemizing the cost, excluding contents and
36 accessory structures; or
- 37 (iii) an estimate provided by the local building inspections office.

1 (2) WATER DEPENDENT STRUCTURES. The proposed work is considered replacement if it
2 enlarges the existing ~~structure.~~ **structure in any dimension.** The proposed work is also considered
3 replacement if:

- 4 (a) in the case of fixed docks, piers, platforms, boathouses, boatlifts, and free standing
5 moorings, more than 50 percent of the framing and structural components (beams, girders,
6 joists, stringers, or pilings) must be rebuilt in order to restore the structure to its pre-damage
7 condition. Water dependent structures that are structurally independent from the principal
8 pier or dock, such as boatlifts or boathouses, are considered as separate structures for the
9 purpose of this Rule;
- 10 (b) in the case of boat ramps and floating structures such as docks, piers, platforms, and
11 modular floating systems, more than 50 percent of the square feet area of the structure must
12 be rebuilt in order to restore the structure to its pre-damage condition;
- 13 (c) in the case of bulkheads, seawalls, groins, breakwaters, and revetments, more than 50
14 percent of the linear footage of the structure must be rebuilt in order to restore the structure
15 to its pre-damage condition.

16
17 *History Note: Authority G.S. 113A-103(5)b.5.; 113A-107(a),(b);*

18 *Eff. July 1, 1990;*

19 *Amended Eff. August 1, 2007;*

20 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07J .0312 is readopted **with changes** as published in 34:09 NCR 762 as follows:

2

3 **15A NCAC 07J .0312 SETTLEMENT**

4 (a) Whenever possible, the Commission encourages the resolution of disputes over the grant or denial of CAMA
5 permits and dredge and fill permits **pursuant to G.S. 150B-22.**

6 (b) The Commission hereby delegates to the director the authority to enter into settlements of appeals concerning
7 CAMA permits and dredge and fill permits prior to the time the administrative law judge opens the hearing on the
8 permit appeal. The director may enter into a settlement without the Commission's approval. Such a settlement shall
9 not be considered a final commission decision, but shall be subject to appeal pursuant to G.S. 113A-121.1 and G.S.
10 113-229(f). The Department shall provide public notice of any settlement entered into prior to the opening of the
11 administrative hearing in the same manner as it provides public notice of permit decisions.

12 (c) The Commission further delegates to the director the authority to enter into negotiations concerning the settlement
13 of any permit appeal after the opening of the hearing on it. Any settlement after the opening of the hearing on an
14 appeal must be submitted to the Commission for adoption or rejection. All parties to a proposed settlement agreement
15 shall waive the time limitation in G.S. 113A-122(c) so as to prevent the decision being appealed from becoming
16 effective before the Commission's consideration of the proposed settlement. The Commission's adoption of any
17 settlement shall constitute a final commission decision under G.S. 113A-123.

18

19 *History Note: Authority G.S. 113A-120; 113A-122; 113A-124;*

20 *Eff. April 1, 1987;*

21 *Amended Eff. July 1, 1989; October 1, 1988;*

22 *Readopted Eff. January 1, 2023.*