

JEFF JACKSON
ATTORNEY GENERAL



REPLY TO:
MARY L. LUCASSE
(919) 716-6962
MLUCASSE@NCDOJ.GOV

March 7, 2025

Via email submission: oah.rules@oah.nc.gov

Rules Review Commission
North Carolina Office of Administrative Hearings
1711 New Hope Church Road
Raleigh, NC 27609

Re: Response to RRC's December 20, 2024 Objection to
15A NCAC 07H .0508;
15A NCAC 07J .1401, .1402, .1403, .1405, .1501, .1502, and .1503

Dear Chair Doran and Commission Members:

Following the North Carolina Coastal Resources Commission ("CRC")'s regularly scheduled February 26 and 27, 2025 meeting and pursuant to N.C. Gen. Stat. § 150B-21.12(a)(1) and (2), I am submitting a written response on behalf of the CRC to the North Carolina Rules Review Commission's ("RRC") December 20, 2024 letter (the "Objection Letter"). In the Objection Letter, the RRC objected to the above-captioned rules based on its conclusion that the rules did not satisfy N.C. Gen. Stat. § 150B-21.9(a)(4). This section requires the RRC to review the rules to determine whether they were "adopted in accordance with" the North Carolina Administrative Procedure Act. In its Objection Letter, the RRC concluded that the rules at issue here had not been adopted in accordance with N.C. Gen. Stat. § 150B-19.1(c) which establishes procedures for providing notice and publication of the proposed rule.

General Response to Objection Letter

Following the concerns raised by the RRC during its December 19, 2024 meeting and expressed in the Objection Letter, the CRC has revised its procedure for providing notice and its method of publication of proposed rules. Specifically, the CRC has established a dedicated website to access information regarding "CRC's Proposed Rules" including the text of the proposed rule, an explanation of the rule and why it is being proposed, any required federal certification, instructions on how and where to submit oral or written comments on the proposed rule, and any fiscal note that has been prepared for the proposed rule. See <https://www.deq.nc.gov/about/divisions/coastal-management/coastal-resources-commission/crc-proposed-rules> (last checked March 6, 2025). The CRC Proposed Rules website went live January 10, 2025.

In addition, the CRC has provided a link on its website that enables persons interested in receiving notice of rulemaking to sign up to receive notice of the CRC's rulemaking. See <https://www.deq.nc.gov/about/divisions/coastal-management/coastal-resources-commission/crc-proposed-rules-sign> (last checked March 6, 2025). Through DEQ's IT Department, the CRC has created a specific email to receive rulemaking comments only: crcrulemaking@deq.nc.gov. In addition, the CRC has provided an opt-in online subscription form that enables persons interested in receiving notice of rulemaking to request notice.

See <https://www.deq.nc.gov/about/divisions/coastal-management/coastal-resources-commission/crc-proposed-rules-sign>. The CRC Proposed Rules Distribution List subscription form went live on January 10, 2025. The form is accessible from the CRC Proposed Rules website, on the DCM main page carousel and by scrolling down the DCM main page. As of the date of this letter, the CRC has received requests from over fifty persons requesting email notification of proposed rulemaking actions. See attached list.

Specific Response to Objection Letter

In order to address the objections raised by RRC, the CRC believes it must restart the rulemaking process for each of the rules included in the Objection Letter. Following the CRC's February 26 and 27, 2025 meeting, the required information relating to 15A NCAC 07H .0508 Jockey's Ridge Area of Environmental Concern was included on the CRC's website and a public hearing scheduled for April 30, 2025 with the comment period to extend from April 1 through June 2, 2025. In addition, an email was sent out to everyone who had requested notification of rulemaking on March 7, 2025 regarding 07H .0508.

The CRC plans to use its revised process for proposed rules going forward. In this way, the CRC believes it has changed its process to satisfy the Commission's objection and will submit adopted rules to the RRC once the rules have gone through the public notice period and the CRC has had an opportunity to address any comments received.

If the RRC disagrees with this approach, the CRC respectfully requests and welcomes any suggestions the RRC may have regarding the CRC's planned multi-step response to the objections raised.

Sincerely,



Mary L. Lucasse
Special Deputy Attorney General/ CRC Counsel

Enclosures as noted

cc: M. Renee Cahoon, Chair and Commissioners
Tancred Miller, DCM Director
William W. Peaslee, Rules Review Commission Counsel

**Attachment to March 7, 2025 CRC's letter to RRC:
List of persons who have requested notice
of the CRC's proposed rules
as of March 6, 2025**

| Email address | First name | Last name | Company |
|----------------------------------|----------------|-------------|-------------------------------------|
| ben@coastalpermitguy.com | Ben | Brink | CPG, LLC |
| ryan@rgpropertiesnc.com | Ryan | Gray | RG Properties, LLC |
| debbiew75@charter.net | Debra | Wilson | |
| zach.wallace@audubon.org | Zach | Wallace | Audubon NC |
| brian.liebman@oah.nc.gov | Brian | Liebman | NCOAH |
| rachel.love-adrick@deq.nc.gov | Rachel | Love-Adrick | North Carolina Division of Coastal |
| jyoungman@selcnc.org | Julie | Youngman | Southern Environmental Law Cent |
| swelliott@charter.net | Sherri | Elliott | |
| alysonf@nccoast.org | Alyson | Flynn | North Carolina Coastal Federation |
| brendan@tidalcreekpermitting.com | Brendan | Brock | Tidal Creek Permitting |
| jjhennessy23@gmail.com | Jordan | Hennessy | |
| skingsr@outlook.com | Steve | King | CRC |
| holman_crc@skybest.com | Sheila | Holman | |
| rzachwallace@gmail.com | Zach | Wallace | Audubon North Carolina |
| brhall@nhcgov.com | Bryan | Hall | |
| nelson@nelsonpaul.com | Nelson | Paul | Nelson G. Paul & Associates |
| neal@andrewengineers.com | Neal | Andrew | ACE |
| j.hennessy.crc@deq.nc.gov | Jordan | Hennessy | |
| garygreene@ggengineers.com | Gary | Greene | Gary Greene Engineers |
| emma.hughes@tnc.org | Emma | Hughes | |
| erasheed@selcnc.org | Elizabeth | Rasheed | Southern Environmental Law Cent |
| csimmonssays@gmail.com | Christy | Simmons | NC DEQ/Division of Coastal Mana |
| cmillis@nchba.org | Chris | Millis | North Carolina Home Builders Ass |
| lbaldwincrc@gmail.com | Larry | Baldwin | CRC |
| grady@ncconservationnetwork.org | Grady | McCallie | NC Conservation Network |
| craigamylar@gmail.com | Craig | Myler | |
| carmen.johnson@ncwildlife.gov | Carmen | Johnson | |
| absomers@uncg.edu | Ann | Somers | |
| williamsnyder1@gmail.com | William | Snyder | Retired. Chairman of the Topsail Is |
| christine.goebel@deq.nc.gov | Christine | Goebel | DEQ |
| seh@dhwlegal.com | Samantha | Hamilton | |
| tancred.miller@deq.nc.gov | Tancred | Miller | North Carolina Division of Coastal |
| marykatherinestukes@mvalaw.com | Mary Katherine | Stukes | Moore & Van Allen PLLC |
| robert@roberthighdevelopment.com | Robert | High | |
| mlucasse@ncdoj.gov | Mary | Lucasse | NCDOJ |
| braxtond@nccoast.org | Braxton | Davis | NC Coastal Federation |
| mjlopazanski@gmail.com | Mike | Lopazanski | |
| corbett@ecu.edu | Reide | Corbett | East Carolina University |
| margaret.young@ncleg.gov | Margaret | Young | |
| lstephens@nchba.org | Elizabeth | Stephens | NCHBA |
| gregory.finch@davey.com | Gregory | Finch | Davey Resource Group |
| nhardison@brookspierce.com | Nancy | Hardison | Brooks Pierce |
| rbrownlow@tidewaterenc.com | Roy | Brownlow | Tidewater Associates, Inc. |

| | | | |
|-------------------------------------|-------|----------------|-----------------------------------|
| keith.larick@ncfb.org | Keith | Larick | |
| mcampbell@selcnc.org | Mindy | Campbell | Southern Environmental Law Cent |
| drjrbrock@gmail.com | Joe | Brock | |
| apw@wardandsmith.com | Amy | Wang | Ward and Smith, PA |
| deekrm@yahoo.com | Renee | McCullen | |
| kerria@nccoast.org | Kerri | Allen | North Carolina Coastal Federation |
| tyler@ncbase.org | Tyler | Newman | |
| vymyers@gmail.com | Vicki | Myers | Public |
| jason.r.lautenschleger.mil@army.mil | Jason | Lautenschleger | |
| mmasbill@selcnc.org | Mary | Asbill | Southern Environmental Law Cent |

**Attachment to March 7, 2025 CRC's letter to RRC:
Notice to list serve regarding 15A NCAC 07H .0508
Jockey's Ridge Area of Environmental Concern**

Lucasse, Mary

Subject:

FW: CORRECTION: CRC Proposed Rules Distribution List Information 3.7.25

From: NC Division of Coastal Management <christy.simmons@ncdivisionofcoastalmanagement.ccsend.com>

Sent: Friday, March 7, 2025 12:07 PM

To: Lucasse, Mary <MLucasse@ncdoj.gov>

Subject: CORRECTION: CRC Proposed Rules Distribution List Information 3.7.25



CORRECTION: CRC Proposed Rules Distribution List Information

3.7.25

**15A NCAC 07H .0508 Jockey's Ridge Area of Environmental
Concern**

**15A NCAC 07H .0508 Jockey's Ridge Area of Environmental
Concern**

The Coastal Resources Commission is proposing to amend **its rule governing the** Jockey's Ridge AEC to provide clarity **and** an updated boundary map.

[Proposed Rule Language](#)

[Fiscal Analysis - OSBM Approved](#)

[Notice of Text](#)

[Memo to CRC \(CRC 25-07\)](#)

Public Hearing: April 30, 2025 4 p.m.

Dare County Government Center

954 Marshall C. Collins Dr., Manteo, 27954

Comment Period: April 1 - June 2, 2025

Comments may be mailed to Tancred Miller, Director, Division of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557 or emailed to crcrulemaking@deq.nc.gov.

Notice will officially post in the State Register and on the DEQ Public Notices and Comments page on April 1.

NC Division of Coastal Management | 400 Commerce Avenue | Morehead City, NC 28557 US

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