

Burgos, Alexander N

Subject: FW: CRC rule 15A NCAC 07H .0314

From: Everett, Jennifer <jennifer.everett@deq.nc.gov>

Sent: Friday, June 27, 2025 4:20 PM

To: Peaslee, William W <bill.peaslee@oah.nc.gov>; Liebman, Brian R <brian.liebman@oah.nc.gov>

Cc: Young, Elizabeth S <esyong@ncdoj.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Miller, Tancred <tancred.miller@deq.nc.gov>; Willis, Angela <angela.willis@deq.nc.gov>; Howell, Jonathan <jonathan.howell@deq.nc.gov>; Govoni, Daniel <daniel.govoni@deq.nc.gov>; Goebel, Christine A <Christine.Goebel@deq.nc.gov>; Hirschman, Daniel S <dan.hirschman@deq.nc.gov>

Subject: RE: CRC rule 15A NCAC 07H .0314

Thank you for letting us know!
Have a nice weekend!

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)-707-8595
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From: Peaslee, William W <bill.peaslee@oah.nc.gov>

Sent: Friday, June 27, 2025 4:01 PM

To: Everett, Jennifer <jennifer.everett@deq.nc.gov>; Liebman, Brian R <brian.liebman@oah.nc.gov>

Cc: Young, Elizabeth S <esyong@ncdoj.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: CRC rule 15A NCAC 07H .0314

Good afternoon,

It appears that the RRC has, today, received at least ten written objections to the above captioned rule pursuant to G.S. 150B-21.3. While these are not currently available on the RRC website, they should be posted on Monday.

As always if you have any questions please feel free to contact me.

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

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Burgos, Alexander N

Subject: FW: 15A NCAC 07H .0314 RFC

From: Everett, Jennifer <jennifer.everett@deq.nc.gov>
Sent: Sunday, June 15, 2025 5:54 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>
Subject: RE: 15A NCAC 07H .0314 RFC

Great, thanks for letting me know.

Best,

Jennifer Everett
DEQ Rulemaking Coordinator
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From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Saturday, June 14, 2025 5:49 PM
To: Rules, Oah <oah.rules@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Everett, Jennifer <jennifer.everett@deq.nc.gov>
Subject: FW: 15A NCAC 07H .0314 RFC

Good afternoon,

It is my intention to recommend approval of the attached rule as revised at the June RRC meeting.

As always if you have any questions please feel free to contact me.

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

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Burgos, Alexander N

Subject: FW: 15A NCAC 07H .0314 RFC
Attachments: 06.2025 - CRC 07H .0314 Request for Changes RESPONSES.docx; 15A NCAC 07H .0314 for Code with Tech Changes.docx

From: Everett, Jennifer <jennifer.everett@deq.nc.gov>
Sent: Wednesday, June 4, 2025 9:11 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>; Miller, Tancred <tancred.miller@deq.nc.gov>; Howell, Jonathan <jonathan.howell@deq.nc.gov>; Govoni, Daniel <daniel.govoni@deq.nc.gov>; Young, Elizabeth S <esyoung@ncdoj.gov>; Goebel, Christine A <Christine.Goebel@deq.nc.gov>; Willis, Angela <angela.willis@deq.nc.gov>; Coats, Heather <heather.coats@deq.nc.gov>; Luck, Cameron A <Cameron.Luck@deq.nc.gov>
Subject: RE: 15A NCAC 07H .0314 RFC

Hi Bill,

Attached are agency responses to your technical change requests and the rewritten rule -15A NCAC 07H .0314.

Thank you.

Jennifer Everett
DEQ Rulemaking Coordinator
N.C. Depart. Of Environmental Quality
Office of General Counsel
1601 Mail Service Center
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Tele: (919)-707-8595
<https://deq.nc.gov/permits-rules/rules-regulations/deq-proposed-rules>

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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..."

Agency Response: *The rule is currently proposed to be "cabined" within the Ocean Hazard Areas (Section .0300). This area includes the Ocean Erodible Area AEC, the Inlet Hazard Area AEC, the Unvegetated Beach Area AEC, and the State Ports Inlet Management Area AEC. Therefore, the geographic area that this rule applies is the Ocean Hazard Area. All AECs, including those that make up the Ocean Hazard Area are designated pursuant to G.S. 113A-113. However, "Ocean Hazard Areas" has been added to title.*

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

Agency Response: *added an "a" in order to keep subject singular*

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

Agency Response: *corrected*

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.

Agency Response: *corrected*

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

Agency Response: *corrected*

William W. Peaslee
Commission Counsel

Date submitted to agency: May 21, 2025

Line 32: Define “dune building material.”

Agency Response: *changed language to read “A minimum of seven feet of spacing shall be maintained between any part of the installed wheat straw bales or other dune building materials such as wooden sand fencing.”*

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.

Agency Response: *updated language as suggested*

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

Agency Response: *added language specifying what the stakes are used for to the line*

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

Agency Response: *the CRC has the authority to enforce its rules pursuant to G.S. 113A-126. Requiring repair or removal of authorized wheat bales that no longer comply with the provisions of 15A NCAC 07H .0314 falls within that authority. Reference to G.S. 113A-126 has been added to the history note for clarity.*

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

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

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

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

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

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

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

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

- 20 (1) Wheat straw bales shall not be placed on the wet sand beach;
- 21 (2) Wheat straw bale sections shall not exceed 2 feet in width, 3 feet in height as measured
22 from the bottom bale, and 10 feet in length;
- 23 (3) Wheat straw bales installed on or waterward of the crest of the frontal or primary dune
24 shall be installed at an angle no less than 45 degrees to the shoreline. No portion of a
25 wheat straw bale section shall extend more than 10 feet waterward of the following
26 locations as defined in 15A NCAC 07H .0305: the first line of stable and natural
27 vegetation, the toe of the frontal or primary dune, or the erosion escarpment of the frontal
28 or primary dune;
- 29 (4) Wheat straw bales along public accessways may span the length of the structural
30 accessway and ~~may~~ shall be aligned no less than 45 degrees to the shoreline on the
31 waterward end. The waterward location of the sections shall not exceed 10 feet
32 waterward of the locations identified in Subparagraph (3) of this Paragraph; and
- 33 (5) A minimum of seven feet of spacing shall be maintained between any ~~sections of dune~~
34 ~~building materials.~~ part of the installed wheat straw bales or other dune building materials
35 such as wooden sand fencing.

36 ~~(f) Non-functioning, damaged, or wheat straw bale sections or stakes that have moved from their authorized~~
37 ~~alignment shall be repaired or removed by the permittee.~~ Any non-functioning, damaged, or displaced wheat straw

1 bales or stakes used to anchor the bales shall be repaired or removed by the permittee.

2

3 *History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-126:*

4 *Eff. July 1, 2025.*

Burgos, Alexander N

From: Peaslee, William W
Sent: Wednesday, May 21, 2025 5:04 PM
To: Everett, Jennifer
Cc: Burgos, Alexander N
Subject: 15A NCAC 07H .0314 RFC
Attachments: 06.2025 - CRC 07H .0314 Request for Changes.docx

Hi Jennifer,

Attached please find the request for changes for the above captioned rule before eth RRC in June.

As always if you have any question or concerns please feel free to contact me.

Bill

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
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(984) 236-1939
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