NORTH CAROLINA REGISTER

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September 1, 2022

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For questions or concerns regarding the Administrative Procedure Act or any of its components, consult with the agencies below. The bolded headings are typical issues which the given agency can address but are not inclusive.

Rule Notices, Filings, Register, Deadlines, Copies of Proposed Rules, etc.

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215 North Dawson Street — 919-715-2893
Raleigh, North Carolina 27603
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300 North Salisbury Street — 919-733-2578
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NORTH CAROLINA REGISTER

Publication Schedule for January 2022 – December 2022

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270th day from publication in the Register
36:13	01/03/22	12/08/21	01/18/22	03/04/22	03/21/22	04/21/2022	05/01/22	09/30/22
36:14	01/18/22	12/22/21	02/02/22	03/21/22	04/20/22	05/19/2022	06/01/22	10/15/22
36:15	02/01/22	01/10/22	02/16/22	04/04/22	04/20/22	05/19/2022	06/01/22	10/29/22
36:16	02/15/22	01/25/22	03/02/22	04/18/22	04/20/22	05/19/2022	06/01/22	11/12/22
36:17	03/01/22	02/08/22	03/16/22	05/02/22	05/20/22	06/16/2022	07/01/22	11/26/22
36:18	03/15/22	02/22/22	03/30/22	05/16/22	05/20/22	06/16/2022	07/01/22	12/10/22
36:19	04/01/22	03/11/22	04/16/22	05/31/22	06/20/22	07/21/2022	08/01/22	12/27/22
36:20	04/18/22	03/25/22	05/03/22	06/17/22	06/20/22	07/21/2022	08/01/22	01/13/23
36:21	05/02/22	04/08/22	05/17/22	07/01/22	07/20/22	08/18/2022	09/01/22	01/27/23
36:22	05/16/22	04/25/22	05/31/22	07/15/22	07/20/22	08/18/2022	09/01/22	02/10/23
36:23	06/01/22	05/10/22	06/16/22	08/01/22	08/22/22	09/15/2022	10/01/22	02/26/23
36:24	06/15/22	05/24/22	06/30/22	08/15/22	08/22/22	09/15/2022	10/01/22	03/12/23
37:01	07/01/22	06/10/22	07/16/22	08/30/22	09/20/22	10/20/2022	11/01/22	03/28/23
37:02	07/15/22	06/23/22	07/30/22	09/13/22	09/20/22	10/20/2022	11/01/22	04/11/23
37:03	08/01/22	07/11/22	08/16/22	09/30/22	10/20/22	11/17/2022	12/01/22	04/28/23
37:04	08/15/22	07/25/22	08/30/22	10/14/22	10/20/22	11/17/2022	12/01/22	05/12/23
37:05	09/01/22	08/11/22	09/16/22	10/31/22	11/21/22	12/15/2022	01/01/23	05/29/23
37:06	09/15/22	08/24/22	09/30/22	11/14/22	11/21/22	12/15/2022	01/01/23	06/12/23
37:07	10/03/22	09/12/22	10/18/22	12/02/22	12/20/22	01/19/2023	02/01/23	06/30/23
37:08	10/17/22	09/26/22	11/01/22	12/16/22	12/20/22	01/19/2023	02/01/23	07/14/23
37:09	11/01/22	10/11/22	11/16/22	01/03/23	01/20/23	02/16/2023	03/01/23	07/29/23
37:10	11/15/22	10/24/22	11/30/22	01/17/23	01/20/23	02/16/2023	03/01/23	08/12/23
37:11	12/01/22	11/07/22	12/16/22	01/30/23	02/20/23	03/16/2023	04/01/23	08/28/23
37:12	12/15/22	11/22/22	12/30/22	02/13/23	02/20/23	03/16/2023	04/01/23	09/11/23

This document is prepared by the Office of Administrative Hearings as a public service and is not to be deemed binding or controlling.

EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

GENERAL

The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:

(1) temporary rules;
(2) text of proposed rules;
(3) text of permanent rules approved by the Rules Review Commission;
(4) emergency rules
(5) Executive Orders of the Governor;
(6) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H; and
(7) other information the Codifier of Rules determines to be helpful to the public.

COMPUTING TIME: In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.

FILING DEADLINES

ISSUE DATE: The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month after the first or fifteenth that is not a Saturday, Sunday, or holiday for State employees.

LAST DAY FOR FILING: The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.

NOTICE OF TEXT

EARLIEST DATE FOR PUBLIC HEARING: The hearing date shall be at least 15 days after the date a notice of the hearing is published.

END OF REQUIRED COMMENT PERIOD An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.

DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION: The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.

Notice of Application for a new Innovative Approval of a Wastewater System for On-site Subsurface Use

Pursuant to NCGS 130A-343(g), the North Carolina Department of Health and Human Services (DHHS) shall publish a Notice in the NC Register that a manufacturer has submitted a request for approval of a modification of a wastewater system, component, or device for on-site subsurface use. The following application has been submitted to DHHS:

Application by: David Lentz, PE
Infiltrator Water Technologies
PO Box 768
Old Saybrook, CT 06475

For: Modification to Innovative Approval for Chamber Trench Systems

DHHS Contact: Jon Fowlkes
1-919-707-5875
Fax: 919-845-3973
jon.fowlkes@dhhs.nc.gov

These applications may be reviewed by contacting the applicant or Jon Fowlkes, Branch Head, at 5605 Six Forks Rd, Raleigh, NC, On-Site Water Protection Branch, Environmental Health Section, Division of Public Health. Draft proposed innovative approvals and proposed final action on the application by DHHS can be viewed on the On-Site Water Protection Branch web site: http://ehs.ncpublichealth.com/oswp/.

Written public comments may be submitted to DHHS within 30 days of the date of the Notice publication in the North Carolina Register. All written comments should be submitted to Mr. Jon Fowlkes, Branch Head, On-site Water Protection Branch, 1642 Mail Service Center, Raleigh, NC 27699-1642, jon.fowlkes@dhhs.nc.gov, or fax 919-845-3973. Written comments received by DHHS in accordance with this Notice will be taken into consideration before a final agency decision is made on the innovative subsurface wastewater system application.

Note from the Codifier: *The notices published in this Section of the NC Register include the text of proposed rules. The agency must accept comments on the proposed rule(s) for at least 60 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. If the agency adopts a rule that differs substantially from a prior published notice, the agency must publish the text of the proposed different rule and accept comment on the proposed different rule for 60 days. Statutory reference: G.S. 150B-21.2.*

TITLE 11 – DEPARTMENT OF INSURANCE

Notice *is hereby given in accordance with G.S. 150B-21.2 that the Department of Insurance intends to repeal the rules cited as 11 NCAC 08 .1601-.1603.*

Pursuant to G.S. 150B-21.17, the Codifier has determined it impractical to publish the text of rules proposed for repeal unless the agency requests otherwise. The text of the rule(s) are available on the OAH website at http://reports.oah.state.nc.us/ncac.asp.

Link to agency website pursuant to G.S. 150B-19.1(c): *https://www.ncdoi.gov/insurance-industry/rules-and-rules-review*

Proposed Effective Date: *January 1, 2023*

Public Hearing:
Date: *October 11, 2022*
Time: *10:00 a.m.*
Location: *North Carolina Department of Insurance, 325 N Salisbury Street, Raleigh, NC*

Reason for Proposed Action: *Session Law 2022-11, s. 14.(c) amended N.C. Gen. Stat. § 143-139.4 and authorizes the Commissioner of Insurance to fill the "marketplace of qualified inspectors" by contracting with an individual, corporation, or other business entity to perform these duties. The amended statute has created some conflicts with existing rules, necessitating their repeal, such as the setting of a two-day statutory deadline for alternative inspections to commence after assignment where 11 NCAC 08 .1602(c) sets forth a one-day deadline for the same.*

Comments may be submitted to: *Loretta Peace-Bunch, 325 N. Salisbury Street, Raleigh, NC 27603; email ncdoirulescomments@ncdoi.gov*

Comment period ends: *October 31, 2022*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ **State funds affected**
- ☐ **Local funds affected**
- ☐ **Substantial economic impact (>= $1,000,000)**
- ☐ **Approved by OSBM**
- ☒ **No fiscal note required**

CHAPTER 08 - ENGINEERING AND BUILDING CODES DIVISION

SECTION .1600 ALTERNATIVE INSPECTIONS

11 NCAC 08 .1601 DEFINITIONS

Authority G.S. 143-139.4(a).

11 NCAC 08 .1602 REQUEST FOR AN ALTERNATIVE INSPECTION

Authority G.S. 58-2-40(1a); 143-139.4(a).

11 NCAC 08 .1603 QUALIFIED MARKETPLACE INSPECTORS

Authority G.S. 134-139.4.

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice *is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Department of Environmental Quality intends to adopt the rule cited as 15A NCAC 01E .0115, readopt with substantive changes the rules cited as 15A NCAC 01E .0101-.0108, .0111, .0113, .0114, readopt without substantive changes the rule cited as 15A NCAC 01E .0110 repeal through readoption the rules cited as 15A NCAC 01E .0109 and .0112.*

Link to agency website pursuant to G.S. 150B-19.1(c): *https://deq.nc.gov/permits-regulations/rules-regulations/proposed-main/proposed-rules*

Proposed Effective Date: *January 1, 2023*

Public Hearing:
Date: *September 20, 2022*

Time: *6:30 p.m.*
Location: *217 West Jones Street, Green Square Building, Training Room on the 1st floor, Room 1210, Raleigh NC 27603*

Reason for Proposed Action: *G.S §150B-21.3A requires state agencies to review existing rules every ten years, determine which rules are still necessary, and either readopt or repeal each rule. The rules in 15A NCAC 01E establish the procedures relating to Oil Refining Facility Permits, authorized in N.C. Gen. Stat. §§ 143-215.100–215.102, including the requirements of an oil refining facility permit application, the permit application procedure, the requirements of the public hearing process, the criteria for evaluating an application for an oil refining facility permit, and the requirements for compliance after an oil refining facility permit is issued. These rules fall under the Secretary's direct authority, delegated to the Assistant Secretary in these rule revisions.*

Comments may be submitted to: *Alyssa Wright, 1601 Mail Service Center, Raleigh, NC 27699-1601;*
email publiccomments@ncdenr.gov (Please add "Comment on Oil Refinery Rules" into the subject line)

Comment period ends: *October 31, 2022*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

☒ **State funds affected**
☐ **Local funds affected**
☐ **Substantial economic impact (>= $1,000,000)**
☒ **Approved by OSBM**
☐ **No fiscal note required**

CHAPTER 01 - DEPARTMENTAL RULES

SUBCHAPTER 01E - OIL REFINING FACILITY PERMITS

SECTION .0100 – GENERAL INFORMATION

15A NCAC 01E .0101 PURPOSE

The purpose of this Subchapter is to establish procedures and standards under which permits for the construction and operation of oil refining facilities will be issued or denied. ~~The permit decision is based on a full and fair discussion and assessment of effects which the refinery will or may have on the environment.~~

Authority G.S. 143-215.101.

15A NCAC 01E .0102 DEFINITIONS

As used in this Subchapter, unless the context otherwise requires:

(1) "Act" means the Oil Pollution and Hazardous Substances Control Act, Article 21A, Chapter 143, General Statutes.

~~(2)~~ ~~"Director" means the Director of the Division of Environmental Management.~~

~~(3)~~(2) "Construction" means:

(a) construction and operation of a new oil refining facility;

(b) substantial enlargement and operation of an existing oil refining facility; or

(c) substantial change in the physical separation or chemical reaction process of an existing oil refining facility and operation of such facility.

(3) "Department" means the Department of Environmental Quality.

(4) "Environment" means man's total physical environment including but not limited to wildlife; freshwater, estuarine or marine fisheries; air quality; water quality; and publicly-owned parks, forests, or recreation areas.

(5) "Oil" means oil of any kind or in any form, including petroleum, fuel oil, sludge, oil refuse, oil mixed with wastes other than dredge spoil.

~~(5)~~(6) "Oil refining facility" means any facility of any kind and related appurtenances located in, on, or under the surface of any land, or water, including submerged lands, which is used or capable of being used for the purpose of refining oil. The term "related appurtenances" includes pipelines.

~~(6)~~(7) "Publicly owned parks, forests, or recreation areas" means lands, including beaches, shorelines, and submerged lands, and waters:

(a) ~~which~~ that are owned or controlled by a governmental body for purposes of conservation of natural resources, public recreation, or general public use; or

(b) ~~which~~ that the public has a right to use for recreation or as a part of the natural environment.

(8) "Secretary" means the Secretary of the Department of Environmental Quality or the Secretary's designee.

~~(7)~~(9) "Wildlife" means wild animals and plants.

Authority G.S. 143-215.101; 143-215.77.

15A NCAC 01E .0103 OIL REFINING FACILITY PERMIT REQUIRED

(a) No person shall construct or operate an oil refining facility unless and until such person applies for and obtains an oil refining facility permit under ~~these Rules. However, any person who is operating an oil refining facility on the effective date of these Rules and who applies for an oil refining facility permit within 60 days of the effective date of these Rules, unless that time is extended by the Assistant Secretary pursuant to Rule .0013 of this Subchapter, may continue to operate without a permit until a final agency decision to issue or deny the permit is made and until judicial review, if any, of that decision is completed.~~ this Subchapter.

(b) The ~~director~~ Secretary shall determine upon request or upon ~~his~~ the Secretary's own initiative whether a proposed enlargement or process change to an existing oil refining facility is substantial. In making that determination, ~~he~~ the Secretary shall consider relevant factors ~~including, but not limited to:~~ including:

(1) the number of employees which the enlargement or process change will add to the facility's permanent work force; ~~and~~

(2) the character and volume of the changes which will or may occur in the facility's process, products, by-products, discharges, and emissions; and

(3) the change in oil refining capacity which the facility will be designed to handle after its enlargement or process change.

Authority G.S. 143-215.100; 143-215.101; 143B-10.

15A NCAC 01E .0104 PERMIT APPLICATION REQUIREMENTS

(a) An application for a permit shall be in writing and shall be transmitted to the ~~director~~ Secretary at the following address:

~~Director, Division of Environmental Management~~ Secretary's Office
North Carolina Department of ~~Environment, Health,~~ Environmental Quality
~~and Natural Resources~~
~~P.O. Box 27687~~ 1601 Mail Service Center
Raleigh, North Carolina ~~27611~~ 27699-1601

(b) An application shall be made by and in the names of all persons who will be owners or operators of a proposed oil refining facility or who are owners or operators of an existing facility.

(c) To apply for an oil refining facility permit, a person or persons shall submit to the ~~director~~ Secretary an application which shall contain all of the following ~~16~~ elements:

(1) A cover ~~sheet,~~ sheet ~~which~~ shall not exceed one page and ~~which~~ shall include:

(A) the title, APPLICATION FOR PERMIT TO CONSTRUCT OR OPERATE AN OIL REFINING FACILITY; ~~and~~

(B) a short statement of the activity for which the permit is sought (i.e., construction and operation, operation, enlargement and operation, or process change and operation) and the name and location of the oil refining facility involved; ~~and~~

(C) the complete name, address, and telephone number of each applicant; ~~and~~

(D) the date of the application; ~~and~~

(E) the name, address, and telephone number of the employee or agent of the applicant who can supply further information; and

(F) an abstract of the assessment of the effects which the construction or operation of the oil refining facility will have on the environment.

(2) A table of contents.

(3) A description of each applicant's interest in the ownership or role in the operation of the oil refining facility.

(4) A description of each applicant's experience in the engineering, design, construction, and operation of oil refining facilities.

(5) A description of any civil or criminal penalty assessment, any criminal conviction, or any prior or pending civil litigation or administrative proceeding relating to environmental activities or related to ~~the~~ each applicant's financial condition.

(A) which arose out of the construction or operation of an oil refining facility by the applicant or by a person holding a substantial interest in the applicant; and

(B) which involves alleged violations by the applicant or interest holder of federal or any state's laws concerning the environment.

(6) A description of each applicant's financial condition.

(7) A description of the proposed or existing oil refining facility, including ~~but not limited to~~ a description of the following aspects of the facility's operation:

(A) kind of refining process;

(B) refining capacity;

(C) kind, character, and volume of raw materials, and the source(s) of their supply;

(D) kind, character, and volume of products;

(E) kind, character, and volume of by-products;

(F) kind, character, and volume of effluent discharges to waters or lands of the State;

(G) kind, character, and volume of emissions to air;

(H) number of persons in the facility's permanent work force; and

(I) cost of construction of the facility.

(8) If construction is involved, a description of the construction process and the applicant's estimate of the timetable for that process.

(9) ~~Two~~ An electronic copy or two sets of paper copies of the most current reports, drawings, maps, plans, and specifications ~~concerning~~ describing the location, construction, and operation of the oil refining facility, in such detail as the ~~Assistant~~ Secretary deems necessary to decide to issue or deny the permit.

(10) A description of the transfer of oil to and from the oil refining facility, including ~~but not limited to~~ a statement of the amount and kind of vessel traffic which the facility's operation does or will generate.

(11) ~~Two~~ An electronic copy or two sets of paper copies of the most current reports, drawings, maps, plans, specifications, and other information ~~concerning~~ describing the transfer of ~~oil (including~~ oil, including ~~but not limited to~~ vessel characteristics and ownership, vessel navigation to and from the facility, oil loading equipment, and ~~pipelines)~~ pipelines, in such detail as the ~~Assistant~~ Secretary deems necessary to decide to issue or deny the permit.

(12) ~~A~~ Upon request of the Secretary, a listing of the ~~effects~~ environmental or health impacts which interested or affected persons or their representatives have indicated are of ~~substantial~~ concern to ~~them and which the oil refining facility will or may have on the environment.~~ them.

~~(A)~~ To prepare such a listing, the applicant shall make diligent efforts:

~~(i)~~(A) to inform about the facility those persons whom the facility will or may interest or ~~affect;~~ affect, including those living within one mile of any part of the facility; and

~~(ii)~~(B) to discover their concerns about the effects of the facility and their suggestions for meeting those concerns.

The applicant may coordinate ~~his~~ efforts in this regard with similar efforts required ~~of him~~ by other statutes or regulations, federal or state, so as to reduce duplication of effort.

~~(B) In the case of an initial permit application for an oil refining facility which is operating on the effective date of these Rules, this Subparagraph (12) of the application will not be required.~~

(13) A list of ~~state and federal~~ all federal, state, and local ~~environmental quality~~ permits or approvals related to protection of the environment or environmental resources ~~for which~~ that the applicant ~~has applied or will apply,~~ shall obtain for construction or operation of the oil refining facility, the date on which each application was ~~or is expected to be~~ submitted to the appropriate authority, a copy of each filed application, and ~~the current status~~ a copy of each ~~application or permit.~~ permit or approval showing that it has been issued.

(14) An analysis of the effects which construction or operation of the facility, including ~~but not limited to~~ the transfer of oil to and from the ~~facility;~~ facility, will or may have on the environment.

~~(A)~~ The applicant shall include in such analysis a description of the environment as it exists at the time the application is ~~filed.~~ filed, including all available data about the site.

~~(B) The applicant shall address in such analysis the relationship of people with the specified parts of the natural and physical environment. Therefore, if the construction or operation of the oil refining facility, including but not limited to the transfer of oil to and from the facility, will or may have a primary effect on the environment, the applicant shall address the secondary effects on public health, safety, and welfare which will or may result from those primary effects. Those secondary effects shall include but not be limited to social, economic, aesthetic, historic, and cultural effects.~~

(15) The applicant's proposals for avoiding or minimizing the adverse effects of the construction and operation of the oil refining facility and the transfer of oil to and from the facility on the environment and proposals for enhancing the quality of the environment. The applicant's proposals shall ~~include but not be limited to:~~ include:

(A) a description of the procedures, methods, means, and equipment, including ~~but not limited to~~ those relating to vessel navigation and design, which the applicant will use to prevent any discharges to the waters or lands of the State; ~~and~~

(B) a description of the procedures, methods, means, and equipment by which the applicant will detect and report discharges; ~~and~~

(C) a description of the procedures, methods, means, and equipment which the applicant will use in the containment, removal, and cleaning up of discharges and in the restoration

of any lands or waters affected by a ~~discharge.~~ discharge; and

(D) a description and copies of any spill prevention and emergency response plans required under federal, State, or local laws and regulations.

(16) A list of the names of the persons who were primarily responsible for preparing the application or any part thereof, together with their qualifications, including ~~but not limited to~~ their expertise, experience, ~~and~~ professional ~~disciplines.~~ disciplines and licenses. Where possible, the persons who were responsible for a particular analysis shall be identified.

(17) A statement and explanation by the applicant whether the proposed construction or operation of the oil refining facility is subject to Article 1 of G.S. Chapter 113A, the North Carolina Environmental Policy Act, or corresponding rules adopted by the Department of Environmental Quality or the Department of Administration.

~~(d) In fulfillment or partial fulfillment of any requirement of Paragraph (c) of this Rule, the applicant may adopt an oil refining facility permit application or portion thereof which any applicant has previously filed. The adopted application or portion thereof must meet the standards for an adequate and complete application under these Rules.~~

~~(e)~~(d) The ~~director~~ Secretary shall determine the adequacy and completeness of the submitted application.

~~(f)~~(e) The applicant shall supply such other information as the ~~director~~ Secretary deems necessary to decide to issue or deny the ~~permit.~~ permit according to the schedule provided by the Secretary.

Authority G.S. 143-215.84; 143-215.101; 143-215.102.

15A NCAC 01E .0105 PERMIT APPLICATION PROCEDURE

(a) Upon receipt of an application for an oil refining facility permit, the ~~director~~ Secretary shall determine whether the application contains the necessary parts and whether the content and detail of those parts is sufficient to ~~enable him to~~ decide to issue or deny the permit. If the application is incomplete, the ~~director~~ Secretary shall within ~~30~~ 60 days of its receipt describe in writing to the applicant how the application is incomplete. The applicant ~~shall~~ shall, within 60 days, submit such additional information relating to the oil refining facility as the ~~director~~ Secretary deems necessary. If the application is complete, the ~~director~~ Secretary shall so advise the applicant in writing within ~~30~~ 60 days of its receipt.

(b) Within ~~45~~ 30 days of ~~receiving~~ giving notice to the applicant of a ~~complete~~ completed application, ~~the director~~ in accordance with Rule .0105(a) of this Section, the Secretary shall give notice of the application and of a public hearing to be held pursuant to Rule ~~.0006~~ .0106 of this Subchapter to all of the following state agencies and other persons:

(1) the North Carolina Coastal Resources Commission;

(2) the North Carolina Department of ~~Economic and Community Development;~~ Commerce;

~~(3) the North Carolina Commercial and Sports Fisheries Committee;~~

~~(4)~~(3) the North Carolina Department of Natural and Cultural Resources;

~~(5)~~(4) the North Carolina Environmental Management Commission;

~~(6)~~(5) the North Carolina ~~Forestry Council;~~ Forest Service;

~~(7)~~(6) the North Carolina Department of Health and Human ~~Resources;~~ Services;

~~(8)~~(7) the North Carolina Marine Fisheries Commission;

~~(9) the North Carolina Parks and Recreation Council;~~

~~(10)~~(8) the North Carolina Department of Transportation;

~~(11)~~(9) the North Carolina State Ports Authority;

~~(12)~~(10) the North Carolina Wildlife Resources Commission;

~~(13)~~(11) the Boards of County Commissioners for the county in which the oil refining facility is located or is proposed to be located and for contiguous counties;

~~(14)~~(12) the governing body of any incorporated municipality within 50 miles of the oil refining facility;

~~(15)~~(13) any person whose name is on the mailing list required in Rule ~~.0011~~ .0111 of this ~~Subchapter;~~ Section;

~~(16)~~(14) any owner of real property which is contiguous to the site of the oil refining facility; and

~~(17)~~(15) the applicant.

(c) The notice ~~which~~ Paragraph (b) of this Rule requires shall contain the following information:

(1) The title "Notice of Application for Oil Refining Facility Permit," and a statement that the purpose of the notice is to obtain ~~information, views, and arguments~~ information or comments to assist the ~~director~~ Secretary in assessing the effects of the oil refining facility on the environment.

(2) The name and address of the applicants and a brief description of the name, character, location, and capacity of the oil refining facility for which the permit is sought.

(3) A summary of the analysis of effects submitted in the application ~~as~~ under ~~Subparagraph (14) of~~ Rule .0104(c) ~~0004(c)~~ of this ~~Subchapter.~~ Section.

(4) An invitation to persons who may be interested or affected by the facility to present, either in writing or at the public hearing held pursuant to Rule ~~.0006~~ .0106 of this ~~Subchapter,~~ Section, their ~~information, views, and arguments~~ information or comments concerning the impacts of the construction and operation of the oil refining facility, including ~~but not limited to~~

the effects of the transfer of oil to and from the facility, on the environment.

(5) A statement that written ~~information, views, and arguments~~ information or comments may be submitted to the ~~director~~ Secretary at a specified address at any time until 30 days after the close of the public hearing on the application.

(6) An announcement of the date, time, and place of the public hearing held pursuant to Rule ~~.0006~~ .0106 of this ~~Subchapter.~~ Section.

(7) A list of the state agencies ~~which~~ that may review and comment on the ~~application,~~ application pursuant to Paragraph (b) of this Rule and the date by which the agencies' comments ~~should~~ shall be submitted to the ~~director.~~ Secretary, which shall be within 45 days of the date the notice is issued.

(8) The ~~addresses and telephone numbers of two locations, one at the Department's offices in Raleigh and the other at a public location reasonably close to the site or proposed site of the oil refining facility,~~ address on the Department's website at which anyone may review the complete application.

(9) A reference to the particular sections of the North Carolina General Statutes and the North Carolina Administrative Code applicable to the issuance or denial of oil refining facility permits.

(10) A description of the nature of the hearing and the rules ~~which will~~ that shall govern its conduct.

(11) The name, email address, and telephone number of a department official from whom additional information may be obtained.

(12) Any other information provided by the Secretary.

(d) The ~~director~~ Secretary shall arrange for the publication of the notice in a regularly published newspaper of general circulation:

(1) in the county containing the site of the oil refining facility; and

(2) in contiguous ~~counties; and~~ counties.

~~(3) in at least three different parts of the State. Publication shall occur at least 30 days before the hearing.~~

(e) The Secretary shall provide public notice in accordance with the appropriate portions of the DEQ Public Participation Plan.

Authority G.S. 143-215.101.

15A NCAC 01E .0106 PUBLIC HEARING ON PERMIT APPLICATION

(a) The ~~director~~ Secretary shall hold a public hearing at which any person will be given a reasonable opportunity to present ~~information, views, and arguments~~ information or comments concerning the contents of the application and the effects of the construction and operation of the oil refining facility, including ~~but not limited to~~ the effects of the transfer of oil to and from the ~~facility,~~ facility on the environment.

(b) The hearing shall be held between ~~45~~ 60 and ~~60~~ 90 days after the date of the notice required by Rule ~~.0005(b).~~0105(b) of this Subchapter. If the ~~director~~ Secretary deems it necessary, ~~he~~ the Secretary may arrange for the sending or publication of a second, abbreviated notice shortly before the hearing.

(c) The state agencies listed in Rule ~~.0005(b).~~0105(b) of this Subchapter may comment on the effects which construction or operation of an oil refining facility will or may have on the environment and in so doing should address matters within their jurisdiction, authority, or expertise. An agency may reply that it has no comment. Agencies ~~must~~ shall submit any comments within the time period specified for comment in the notice.

(d) The hearing shall be held in the county where the oil refining facility for which the applicant seeks a permit is located or is proposed to be located, unless the ~~director~~ Secretary finds and directs that, for reasons of public convenience, safety, or health, it should be held ~~elsewhere.~~ in a different location or through a virtual application.

(e) The hearing shall be informational in nature and shall not be a contested case as defined in G.S. ~~150A-2(2).~~ 150B-2. The ~~director~~ Secretary shall hold the hearing or appoint a hearing officer to do so. The person holding the hearing has the authority to set reasonable guidelines for the hearing, including ~~but not limited to~~ the length of the hearing and the length of time a person may speak.

(f) The record of the hearing shall be open for written submissions until 30 days after the close of hearing. Any oral or written ~~information, views, and arguments~~ information or comments offered at the hearing and any further written ~~information, views, and arguments~~ information or comments submitted within 30 days after the close of the hearing shall be made part of the record of the hearing.

(g) Within 30 days after the close of the public comment period, the Secretary may request that the applicant provide any information necessary to respond to public comments. The applicant shall have up to 90 days to submit the requested information.

Authority G.S. 143-215.101.

15A NCAC 01E .0107 DECISION TO ISSUE OR DENY PERMIT

(a) Within ~~45~~ 60 days of the last day for submitting ~~information, views, and arguments~~ public comments about the permit application, or the last day on which the applicant provides additional information requested by the Secretary to respond to public comments, the ~~director~~ Secretary shall issue or deny the ~~oil refining facility permit.~~ permit for the oil refining facility.

(b) In deciding to issue or deny the permit, the ~~director~~ Secretary shall consider:

(1) the permit application and ~~supporting~~ relevant ~~documents;~~ documents such as site sampling, reports, and proposals for minimizing adverse effects on the environment;

(2) the data, information, ~~views,~~ and ~~arguments~~ comments which have been submitted during the permit process;

(3) all ~~facts~~ facts, information, or analyses of which ~~judicial notice may be taken;~~ the Department becomes aware, including any environmental permits issued by federal, State, or local authorities; and

(4) other ~~facts~~ facts, information, or analyses within the specialized knowledge of the Department.

~~(c) The director shall base his decision on the effects which the construction or operation of the oil refining facility, including the transfer of oil to and from the facility, will or may have on the environment. In evaluating those effects, the director shall consider the relationship of people with the specified parts of the natural and physical environment. This means that, if~~ The Secretary shall base the decision on the effects which the construction or operation of the oil refining facility, including the transfer of oil to and from the facility, will or may have ~~a primary effect~~ on the ~~environment, the director shall consider the secondary effects on public health, safety and welfare, including but not limited to social, economic, aesthetic, historic, and cultural effects, which will or may result from those primary effects.~~ environment.

~~(d)~~(c) The ~~director~~ Secretary shall deny the permit upon a finding that:

(1) The construction or operation of the oil refining facility, including ~~but not limited to~~ the transfer of oil to and from the facility, will have substantial adverse effects on wildlife or on freshwater, estuarine, or marine fisheries; or

(2) The construction or operation of the oil refining facility, including ~~but not limited to~~ the transfer of oil to and from the facility, will violate standards of air or water quality promulgated or administered by the Environmental Management Commission; or

(3) The construction or operation of the oil refining facility, including ~~but not limited to~~ the transfer of oil to and from the facility, will have a substantial adverse effect on a publicly owned park, forest, or recreation area.

~~(e)~~(d) In the absence of a finding described in ~~(d)~~ Paragraph (c) of this Rule, the ~~director~~ Secretary shall issue the permit.

(1) The ~~director~~ Secretary shall impose on any permit he issues the following terms and conditions:

(A) The permit shall not be effective until the applicant has obtained ~~the~~ all necessary environmental permits, including without limitation, those permits required by ~~G.S. 143-215.1, entitled "Control of sources of water pollution; permits required," and G.S. 143-215.108, entitled "Control of sources of air pollution; permits required."~~ Articles 21, 21A, and 21B of G.S. Chapter 143, Article 9 of G.S. Chapter 130A, and Articles 4 and 7 of G.S. Chapter 113A. When the necessary ~~water and air pollution control~~ permits have been obtained by the applicant, the ~~director~~ Secretary upon the applicant's request shall confirm the effective date of the oil refining facility permit.

(B) The applicant, on February 1 of each year following the year in which the applicant's permit became effective, shall submit to the ~~director~~ Secretary a description of the following aspects of the facility's operation as of that date:

(i) as they are listed in Rule ~~.0004(c)(7).~~0104(c)(7)(A), (B), (C), (D), (E), (F), (G), and ~~(H);~~ (H) of this Section; and

(ii) transfer of oil to and from the facility, including ~~but not limited to~~ a statement of the amount and kind of vessel traffic which the facility's operation does or will generate.

(2) Further, the applicant, in making this annual report, may adopt an oil refining facility permit application or portion thereof which the applicant has previously ~~filed. The~~ filed, if the adopted application or portion thereof ~~must meet the standards for an adequate response to this permit term.~~ provides all of the required information in Part (1)(B) of this Paragraph. The applicant shall submit additional information about the facility's operation if the ~~director~~ Secretary deems it necessary and requests it.

~~(2)~~(3) The ~~director~~ Secretary has the authority to impose any additional terms and conditions on the permit which he deems necessary and appropriate to effectuate the purposes of the Act, including but not limited to terms and conditions requiring the installation of such facilities and the employment of such protective measures and operating procedures as ~~he deems~~ deemed reasonable and necessary to prevent, contain, and remove any discharges to the waters or lands of the State, and to restore, restock, and replenish said waters or lands.

Authority G.S. 143-215.1; 143-215.101; 143-215.108.

15A NCAC 01E .0108 SUSPENSION: REVOCATION: OR AMENDMENT OF PERMITS

(a) The ~~director~~ Secretary may suspend, revoke, or amend the permittee's oil refining facility permit if:

(1) a permittee violates any provision of the Act, ~~or~~ any rule, regulation, or order made pursuant to ~~Part 4 of~~ the Act, ~~entitled "Oil Refining Facility Permits," or~~ any provision, term, or condition of

the ~~permit;~~ permit, or any other environmental permit issued to the facility; or

(2) a permittee intentionally misrepresented or failed to disclose material facts which were required to be included in the application.

(b) The ~~director~~ Secretary may, on a continuing basis, amend the permit under Rules .0105 and .0106 of this Section to impose such terms and conditions thereon as ~~he deems~~ necessary and appropriate to effectuate the purposes of the Act.

(c) G.S. 150B-3, entitled "Special Provisions on Licensing," shall apply to any suspension, revocation, or amendment of a permit.

Authority G.S. 143-215.101; 150B-3.

15A NCAC 01E .0109 ADMINISTRATIVE HEARINGS: FINAL DECISION BY SECRETARY

~~(a) Any person aggrieved, as that term is defined by G.S. 150B-2(6), by the director's decision to issue, deny, suspend, revoke, or amend an oil refining facility permit shall have an opportunity for an administrative hearing.~~

~~(b) Procedures for such a hearing shall be as set forth in 15A NCAC 1B .0200, "Hearing Procedures for Contested Cases," and Article 3 of Chapter 150B of the General Statutes.~~

~~(c) The Secretary shall make the final decision concerning the issuance, denial, suspension, revocation, or amendment of a permit in contested cases.~~

Authority G.S. 143-215.101; 150B-23 through 150B-37.

15A NCAC 01E .0110 SEVERABILITY (READOPTION WITHOUT SUBSTANTIVE CHANGES)

If any provision of this Subchapter or its application to any person or circumstance is held invalid, such invalid provision or application shall not affect the validity of other provisions or applications of this Subchapter; and to this end the provisions of this Subchapter are declared to be severable.

Authority G.S. 143-215.101.

15A NCAC 01E .0111 MAILING LIST

The ~~director~~ Secretary shall establish and maintain a mailing list of all persons desiring to receive any notices required by this Subchapter, and notices required to be given shall be given to all such persons whose names are on this mailing list.

Authority G.S. 143-215.101.

15A NCAC 01E .0112 FEES

~~The director may charge a reasonable fee to recover costs incurred in supplying copies of any application or other materials described in this Subchapter.~~

Authority G.S. 7A-308(12); 132-6; 143-215.101.

15A NCAC 01E .0113 EXTENSIONS OF TIME PERIODS

The ~~director~~ Secretary may extend any of the time periods prescribed by this Subchapter. Such an extension shall not exceed 15 days. The Secretary may issue multiple extensions at the Secretary's discretion.

Authority G.S. 143-215.101.

15A NCAC 01E .0114 DELEGATIONS

The ~~secretary~~ Secretary hereby delegates to the ~~director~~ Assistant Secretary the authority to issue, deny, suspend, revoke, or amend oil refining facility ~~permits, except that the secretary retains the authority to make the final agency decision in contested cases as applied by 15A NCAC 1B .0200 – Contested Case Procedures.~~ permits.

Authority G.S. 143-215.100; 143-215.101; 143B-10; 150B-2(2).

15A NCAC 01E .0115 UNAUTHORIZED DISCHARGES

(a) In addition to any other reporting obligation under State, local, or federal law, the operator of any oil refining facility shall report in writing to the Secretary any unauthorized discharge of oil of 500 gallons or more or other occurrence prohibited by the Act. Such reporting shall occur as soon as practicable, but no later than 24 hours after the owner or operator becomes aware of the discharge or occurrence. The report shall include an estimated volume of the discharge.

(b) In the event of an unauthorized discharge of oil from an oil refining facility, the owner or operator of that oil refining facility shall issue a press release to all print and electronic news media that provide general coverage in the county where the discharge occurred setting out the details of the discharge. The owner or operator shall issue the press release within 24 hours after the owner or operator has determined that a discharge has occurred. The press release shall include an estimated volume of the discharge. The owner or operator shall provide a copy of the press release and a listing of the news media to whom the press release was issued to the Department.

(c) After an unauthorized discharge of oil, the owner or operator shall submit a report to the Secretary describing the actions taken to respond to and contain the release. In the event that a release cannot be contained within 24 hours after the owner or operator becomes aware, the owner or operator shall submit daily reports on the status of the response as directed by the Department until the discharge is contained.

Authority G.S. 143-215.101.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 18 – BOARD OF EXAMINERS OF ELECTRICAL CONTRACTORS

***Notice** is hereby given in accordance with G.S. 150B-21.2 that the Board of Examiners of Electrical Contractors intends to adopt the rules cited as 21 NCAC 18B .0212, .0308 and amend the rules cited as 21 NCAC 18B .0201, .0209 and .0404.*

Link to agency website pursuant to G.S. 150B-19.1(c): *www.ncbeec.org*

Proposed Effective Date: *January 1, 2023*

Public Hearing:
Date: *September 16, 2022*
Time: *8:30 a.m.*
Location: *3101 Industrial Dr., Suite 206, Raleigh, NC 27609*

Reason for Proposed Action:
21 NCAC 18B .0201 *Session Law 2022-11 reduced the amount of experience required to sit for examination for each of the license classifications issued by the Board. This amended changes the existing rule to be consistent with the amount of experience required for each classification and also changes the unit of measurement from years to hours.*
21 NCAC 18B .0209 *This amendment increases the exam fee for all classifications of licenses and is a response to the inflation in the general economy as experienced by the Board in the form of rising costs.*
21 NCAC 18B. 0212 *This proposed rule allows for the use of a National Examination as an alternative examination to the qualifying examinations already offered by the Board which will continue to be offered. This rule simply affords applicants an alternative pathway to licensure for applicants.*
21 NCAC 18B .0308 *Session Law 2021-122 and Session Law 2022-6 allow for the bidding of projects by licensees of the State Board of Examiners of Electrical Contractors even if those projects include work requiring a license issued by either the State Licensing Board for General Contractors or the State Board of Examiners of Plumbing, Heating, and Fire Sprinkler Contractors under certain conditions and subject to rules adopted by the State Board of Examiners of Electrical Contractors. This proposed rule establishes percentages of work that require a license issued under Article 2 of Chapter 87 to perform that may be included in a bid by a licensee of the State Board of Examiners of Electrical Contractors.*
21 NCAC 18B .0404 *This amendment increases the license fee for all classifications of licenses and is a response to the inflation in the general economy as experienced by the Board in the form of rising costs.*

Comments may be submitted to: *Tim Norman, 3101 Industrial Dr., Suite 206, Raleigh, NC 27609; phone (919) 733-9042; email tim.norman@ncbeec.org*

Comment period ends: *October 31, 2022*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.
☐ **State funds affected**
☐ **Local funds affected**
☐ **Substantial economic impact (>= $1,000,000)**
☐ **Approved by OSBM**
☒ **No fiscal note required**

SUBCHAPTER 18B - BOARD'S RULES FOR THE IMPLEMENTATION OF THE ELECTRICAL CONTRATING LICENSING ACT

SECTION .0200 - EXAMINATIONS

21 NCAC 18B .0201 REQUIREMENTS FOR ALL EXAMINATION APPLICANTS

(a) To take an examination in any electrical contracting license classification, the applicant shall:

(1) be 18 years of age;
(2) submit the required duly filed application as defined in Rule .0210 of this Section;
(3) submit with the application written statements from two persons, attesting to the applicant's good character; and
(4) meet the requirements set out in Paragraph (b) of this Rule.

(b) Examination applicants shall meet the following requirements for the specified license classifications:

(1) Limited classification. An applicant shall have ~~two years~~ 3,000 hours of experience, as defined in Rule .0202 of this Section, of which ~~one year~~ 2,000 hours shall be primary experience. The balance of experience may be primary, secondary, or both.
(2) Intermediate classification. An applicant shall have ~~four years~~ 5,750 hours of experience, as defined in Rule .0202 of this Section, of which ~~two and one half years~~ 5,000 hours shall be primary experience. The balance of experience may be primary, secondary, or both.
(3) Unlimited classification. An applicant shall:
    (A) have ~~five years~~ 9,000 hours of experience, as defined in Rule .0202 of this Section, of which ~~four years~~ 8,000 hours shall be primary experience. The balance of experience may be primary, secondary, or both; and
    (B) submit with the application written statements from two persons who are knowledgeable of the applicant's electrical experience, attesting to the applicant's ability to supervise and direct all electrical wiring or electrical installation work of an electrical

contracting business in the unlimited classification.

(4) Single family detached residential dwelling (SP-SFD) classification. An applicant shall have ~~two years~~ 3,000 hours of experience, as defined in Rule .0202 of this Section, of which ~~one year~~ 2,000 hours shall be primary experience. The balance of experience may be primary, secondary, or both.

(5) Special restricted fire alarm/low voltage (SP-FA/LV) classification. An applicant shall have ~~two years~~ 3,000 hours of experience, as defined in Rule .0202 of this Section, of which ~~one year~~ 2,000 hours shall be primary experience. The balance of experience may be primary, secondary, or both. An applicant in this classification may also receive creditable experience for service in any of the capacities listed in Rule .0202 that the applicant gained in the low voltage field.

(6) Special restricted elevator (SP-EL) classification. An applicant shall:

(A) have ~~two years~~ 3,000 hours of experience, as defined in Rule .0202 of this Section, of which ~~one year~~ 2,000 hours shall be primary experience. The balance of experience may be primary, secondary, or both. An applicant in this classification shall also receive creditable experience for service in any of the capacities listed in Rule .0202 that the applicant gained in the elevator field; and

(B) include on the application information to establish that the applicant is regularly on active duty in, and will be the listed qualified individual for a firm that is primarily engaged in, a lawful elevator business in this State, consistent with G.S. 87-43 and 21 NCAC 18B .0301.

(7) Special restricted plumbing and heating (SP-PH) classification. An applicant shall:

(A) have ~~two years~~ 3,000 hours of experience, as defined in Rule .0202 of this Section, of which ~~one year~~ 2,000 hours shall be primary experience. The balance of experience may be primary, secondary, or both. An applicant in this classification shall also receive creditable experience for service in any of the capacities listed in Rule .0202 that the applicant gained in the plumbing, heating, or air conditioning field; and

(B) include on the application information verifying that the applicant is regularly on active duty in, and will be the listed qualified individual for a firm that is primarily engaged in, a lawful plumbing, heating, or air conditioning business in this State consistent with G.S. 87-43 and 21 NCAC 18B .0301.

(8) Special restricted ground water pump (SP-WP) classification. An applicant shall:

(A) have ~~two years~~ 3,000 hours of experience, as defined in Rule .0202 of this Section, of which ~~one year~~ 2,000 hours shall be primary experience. The balance of experience may be primary, secondary, or both. An applicant in this classification shall also receive creditable experience for service in any of the capacities listed in Rule .0202 that the applicant gained in the ground water pump field; and

(B) include on the application information to establish that the applicant is regularly on active duty in, and will be the listed qualified individual for a firm that is primarily engaged in, a lawful ground water pump business in this State, consistent with G.S. 87-43 and 21 NCAC 18B .0301.

(9) Special restricted electric sign (SP-ES) classification. An applicant shall:

(A) have ~~two years~~ 3,000 hours of experience, as defined in Rule .0202 of this Section, of which ~~one year~~ 2,000 hours shall be primary experience. The balance of experience be primary, secondary, or both. An applicant in this classification shall also receive creditable experience in any of the capacities listed in Rule .0202 that the applicant gained in the electric sign field; and

(B) include on the application information to establish that the applicant is regularly on active duty in, and will be the listed qualified individual for a firm that is primarily engaged in, a lawful electric sign business in this State.

(10) Special restricted swimming pool (SP-SP) classification. An applicant shall:

(A) have ~~two years~~ 3,000 hours of experience, as defined in Rule .0202 of this Section, of which ~~one year~~ 2,000 hours shall be primary experience. The balance of experience may be primary, secondary, or both. An applicant in this classification shall also receive creditable experience for service in any of the capacities listed in Rule .0202 that the applicant gained in the swimming pool field; and

(B) include on the application information verifying that the applicant is regularly on active duty in, and will be the listed qualified individual for a firm that is primarily engaged in, a lawful swimming pool business in this State, consistent with G.S. 87-43 and 21 NCAC 18B .0301.

Authority G.S. 87-42; 87-43.3; 87-43.4; 87-44; S.L. 2022-11.

21 NCAC 18B .0209 FEES

(a) The application and examination fee for qualifying examinations shall be ~~ninety dollars ($90.00)~~ one hundred and twenty-five ($125.00) for all classifications.

(b) The fee for review of a failed examination is twenty-five dollars ($25.00). All reviews are supervised by the Board or staff.

(c) The examination fees for examinations in all classifications and the fees for examination reviews shall be in the form of cash, check, money order, Visa, or Mastercard made payable to the Board and shall accompany the respective applications when filed with the Board.

(d) Examination fees received with applications filed for qualifying examinations shall be retained by the Board unless:

(1) an application is not filed as prescribed in Rule .0210 of this Section, in which case the examination fee of sixty dollars ($60.00) shall be returned and application shall be returned; or

(2) the applicant does not take the examination during the period for which application was made, files a written request for a refund setting out extenuating circumstance, and the Board finds extenuating circumstances.

(e) Examination review fees are non-refundable unless the applicant does not take the review, files a written request for a refund, setting out extenuating circumstance, and the Board finds extenuating circumstances.

(f) Any fee retained by the Board shall not be creditable toward any future examination fee or examination review.

(g) Extenuating circumstances for the purposes of Paragraphs (d)(2) and (e) of this Rule are the applicant's illness, bodily injury or death, or death of the applicant's spouse, child, parent, or sibling, or a breakdown of the applicant's transportation to the designated site of the examination or examination review.

Authority G.S. 87-42; 87-43.3; 87-43.4; 87-44.

21 NCAC 18B .0212 ALTERNATIVE EXAMINATION

(a) In the alternative to the qualifying examinations administered by the Board for any license classification, an applicant may submit an Alternative Test Application form from the Board's website. The alternative application submission form must document a passing score from the computer-based examination entitled "Electrical Contractor" certified by the National Association State Contractor Licensing Agencies (NASCLA).

(b) In addition to passing the qualifying examinations set forth in Paragraph (a) of this Rule, applicant must satisfy all experience requirements, age and character requirements set forth in Rules 21 NCAC 18B .0201 and 21 NCAC 18B .0203.

(c) An applicant under this rule shall further be required to obtain a passing score of at least 18 of the 25 questions answered correctly on the North Carolina Laws, Rules and Business Practices test. The questions for the North Carolina Laws, Rules and Business Practices test are set forth on the NASCLA alternative application. Applicants under this rule shall complete the North Carolina Laws, Rules and Business Practices test remotely and are permitted to use information from the Board's website during the test.

Authority G.S. 87-42.

SECTION .0300 - DEFINITIONS AND EXPLANATIONS OF TERMS APPLICABLE TO LICENSING

21 NCAC 18B .0308 BIDDING PROJECTS PURSUANT TO G.S. 87-1.1

If a building project is bid or performed pursuant to G.S 87-1.1,

(1) the total amount of work to be performed by all licensed general contractors shall not exceed 25 percent of the total bid price;

(2) the total amount of work to be performed by all licensed contractors issued by a license by the State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors under Article 2 of Chapter 87 of the North Carolina General Statutes shall no exceed 25 percent of the total bid price.

Authority G.S. 87-1.1; 87-42; S.L. 2021-122; 2022-6.

SECTION .0400 - LICENSING REQUIREMENTS

21 NCAC 18B .0404 ANNUAL LICENSE FEES

(a) The fee for issuance of license, reissuance of license, or license renewal in the various license classifications shall be as follows:

LICENSE FEE SCHEDULE

CLASSIFICATION	LICENSE FEE
Limited	~~$95.00~~$100.00
Intermediate	~~$140.00~~ $150.00
Unlimited	~~$190.00~~ $200.00
SP-SFD	~~$95.00~~ $100.00
Special Restricted	~~$95.00~~ $100.00

(b) License fees shall be made payable to the Board. Payment shall accompany any license or license renewal application filed with the Board.

Authority G.S. 87-42; 87-44.

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CHAPTER 42 – BOARD OF EXAMINERS IN OPTOMETRY

***Notice** is hereby given in accordance with G.S. 150B-21.2 that the Board of Examiners in Optometry intends to amend the rule cited as 21 NCAC 42A .0101.*

Link to agency website pursuant to G.S. 150B-19.1(c): *www.ncoptometry.org*

Proposed Effective Date: *January 1, 2023*

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): Contact the Board at (910) 285-3160 or info@ncoptometry.org*

Reason for Proposed Action: To *update address and other contact information.*

Comments may be submitted to: *Janice Peterson, 521 Yopp Rd., Suite 214 #444, Jacksonville, NC 28540; phone (910) 285-3160; fax (910) 285-4546; email janice@ncoptometry.org*

Comment period ends: *October 31, 2022*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

☐ **State funds affected**
☐ **Local funds affected**
☐ **Substantial economic impact (>= $1,000,000)**
☐ **Approved by OSBM**
☒ **No fiscal note required**

CHAPTER 42 - BOARD OF EXAMINERS IN OPTOMETRY

SUBCHAPTER 42A - ORGANIZATION

21 NCAC 42A .0101 ~~LOCATION~~ CONTACTING THE BOARD

~~The location of the office of the~~ The Board mailing address is ~~109 N. Graham Street, Wallace, North Carolina, 28466-2713.~~ 521 Yopp Rd., Suite 214 #444, Jacksonville, NC 28540. The Board's phone number is (910) 285-3160; its ~~WATS~~ toll free number is (800) 426-4457 (in-state only); and its fax number is (910) 285-4546. The email address is info@ncoptometry.org and its website is www.ncoptometry.org.

Authority G.S. 90-117.5.

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CHAPTER 50 – BOARD OF EXAMINERS OF PLUMBING, HEATING AND FIRE SPRINKLER CONTRACTORS

***Notice** is hereby given in accordance with G.S. 150B-21.2 that the Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors intends to adopt the rules cited as 21 NCAC 50 .0415, .0520 and amend the rules cited as 21 NCAC 50 .0403, .0519 and .1101.*

Link to agency website pursuant to G.S. 150B-19.1(c): *https://nclicensing.org*

Proposed Effective Date: *January 1, 2023*

Public Hearing:
Date: *September 16, 2022*
Time: *8:30 a.m.*
Location: *1109 Dresser Court, Raleigh, NC 27609*

Reason for Proposed Action:
21 NCAC 50 .0519 *The amendment clarifies that a Residential Fire Sprinkler Design Contractor is required to place their license number and a dated signature of all design drawings and documents to eliminate any questions as to the identity of the Residential Fire Sprinkler Design Contractor who created the design drawings and documents being relied upon in the field. The amendment further requires the Residential Fire Sprinkler Design Contractor to submit all NFPA 13 D multipurpose fire sprinkler design drawings and documents to the installation contractors before installation commences and make those drawings and documents available to local inspection departments, upon request, in order to be sure that that the installation contractors and local inspectors have up to date and up to standard installation plans that clearly identify the design professional.*
21 NCAC 50 .0403 *This amendment is to clarify and avoid any confusion by amending an existing rule by incorporating a reference to a new rule being adopted as 21 NCAC 50.0415. That rule deals with bidding requirements unique to GS 87-21.1 and the amendments set forth in Session Law 2021-122 and Session Law 2022-6.*
21 NCAC 50 .0415 *Session law 2021-122 and session law 2022-6 allow for the bidding of projects by licensees of the State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors even if those projects include work requiring a license issued by either the State Licensing Board for General Contractors or the State Board of Examiners of Electrical Contractors under certain conditions and subject to rules adopted by the State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors. This proposed rule establishes percentages of work requiring a license under Article 4 that can be bid by a licensee of the State Board of Examiners of Plumbing, Heating, and Fire Sprinkler Contractors. The proposed rule will provide needed guidance to the marketplace.*
21 NCAC 50 .0520 *This proposed rule provides additional guidance to licensees of the Board as to the need for personally*

performed on-site supervision of installation to ensure compliance with the standard of the North Carolina State Building Code. The rule clarifies that remote off-site supervision is not sufficient supervision.

21 NCAC 50 .1101 *This amendment changes to a date 30 days earlier in the calendar year from November 1 to October 1 to allow a successful examinee the option to defer obtaining their license and paying the related fee until the beginning following calendar year. This is an option for those who do not wish to pay a full fee for 3 months or less of contracting activity and prefer to wait until the new year to obtain the license. The amendment is an attempt to give flexibility to the regulated public.*

Comments may be submitted to: *Dale Dawson, 1109 Dresser Court, Raleigh, NC 27609; phone (919) 875-3612; email ddawson@nclicensing.org*

Comment period ends: *October 31, 2022*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

☐ **State funds affected**
☐ **Local funds affected**
☐ **Substantial economic impact (>= $1,000,000)**
☐ **Approved by OSBM**
☒ **No fiscal note required**

SECTION .0400 – GENERAL PROCEDURES

21 NCAC 50 .0403 USE OF LICENSE

(a) A licensed contractor or technician shall not permit the use of his license by any other person.

(b) A contractor licensed by the Board shall not bid or contract installations requiring license of a type or classification issued by this Board which the licensee does not have except as a part of a documented joint venture with a licensee holding the necessary qualification or in accordance with the provisions set out in 21 NCAC 50 .0415. Bidding without qualification and with an intention to subcontract the unauthorized work does not satisfy this requirement; provided however that, in a contract administered pursuant to G.S. 143-129 and in which more than one classification administered by this Board has been combined in the separate contract specifications, a licensee of this Board holding either of such qualifications may bid both of such classifications of work administered by this Board in addition to the classification for which he holds license if the successful bidder obtains an executed written contract with a qualified licensee prior to the award of the contract by the awarding authority.

(c) A technician licensed by this Board shall not contract work based on the Technician license.

Authority G.S. 87-18; 87-23; 87-26; 87-1.1.

21 NCAC 50 .0415 PROPOSAL, BID, ESTIMATE, PERFORMANCE UNDER G.S. 87-1.1

If a building project is bid or performed pursuant to G.S. 87-1.1,

(1) the total amount of work to be performed by all licensed general contractors shall not exceed 25 percent of the total bid price;

(2) the total amount of work to be performed by all licensed contractors issued a license by the State Board of Examiners of Electrical Contractors under Article 4 of Chapter 87 of the North Carolina General Statutes shall not exceed 25 percent of the total bid price.

Authority G.S. 87-1.1; 87-18; S.L. 2022-6; 2021-122.

SECTION .0500 - POLICY STATEMENTS AND INTERPRETATIVE RULES

21 NCAC 50 .0519 RESIDENTIAL FIRE SPRINKLER DESIGN CONTRACTOR LICENSE

(a) A licensed Residential Fire Sprinkler Design Contractor is authorized to design residential fire sprinkler Systems consistent with NFPA 13D Residential Multipurpose Fire Sprinkler Systems.

(b) An individual who holds an active license as a Plumbing Contractor and as a Residential Fire Sprinkler Installation Contractor may obtain license as a Residential Fire Sprinkler Design Contractor upon meeting the requirements of Rule .0316 of this Chapter.

(c) A licensed Fire Sprinkler Installation Contractor may design residential fire sprinkler systems consistent with NFPA 13D Residential Multipurpose Fire Sprinkler Systems without meeting the requirements of Paragraph (a) and (b) of this Rule.

(d) Residential Fire Sprinkler Design Contractors shall place their Residential Fire Sprinkler Design Contractor license number and their dated signature on all design drawings and documents.

(e) Residential Fire Sprinkler Design Contractors shall submit all NFPA 13D multipurpose fire sprinkler design drawings and documents to the Residential Fire Sprinkler Installation Contractors prior to the commencement of the multipurpose fire sprinkler installation and upon request from the local inspection department.

Authority G.S. 87-18; 87-21(b).

21 NCAC 50 .0520 ONSITE SUPERVISION AND STANDARD OF COMPETENCE

General supervision requires that a licensee of the firm who holds the proper licensing qualification shall thoroughly perform on-site in-person supervision and review on all work, prior to work being covered or placed into service, to assure that all installations meet or exceed the minimum standard of the North Carolina State Building Code prior to all inspection requests.

Authority G.S. 87-21; 87-18; 87-26.

SECTION .1100 - FEES

21 NCAC 50 .1101 EXAMINATION FEES

(a) An application to reissue or transfer a license to a different corporation, partnership or individual name requires a fee of twenty-five dollars ($25.00).

(b) An application to issue or transfer a license to the license of an existing licensee requires a fee of twenty-five dollars ($25.00).

(c) An application for a license by examination requires a fee of one hundred dollars ($100.00), consisting of an application fee of twenty-five dollars ($25.00) and an examination fee of seventy-five dollars ($75.00), which is nonrefundable. Upon passage of the examination, the license fee set forth in 21 NCAC 50.1102 or this Rule must be paid to obtain the license within 45 days of notification of the result of the examination, except that anyone passing the examination on or after ~~November~~ October 1 of any year may elect to obtain a license for the following year rather than the year in which the exam was passed.

Authority G.S. 87-18; 87-22; 87-22.1; 87-26.

*This Section includes a listing of rules approved by the Rules Review Commission followed by the full text of those rules. The rules that have been approved by the RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register are identified by an * in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

Rules approved by the Rules Review Commission at its meeting on July 21, 2022 Meeting.

				REGISTER CITATION TO THE NOTICE OF TEXT
HHS - HEALTH BENEFITS, DIVISION OF				
Scope	10A NCAC	22Q	.0101	36:18 NCR
Definitions	10A NCAC	22Q	.0102*	36:18 NCR
Distributions	10A NCAC	22Q	.0103	36:18 NCR
Certifying Hospital Distribution	10A NCAC	22Q	.0104	36:18 NCR
Certifying Hospitals' Outpatient Costs	10A NCAC	22Q	.0105*	36:18 NCR
Certifying Hospitals' Proportionate Share	10A NCAC	22Q	.0106*	36:18 NCR
Scope	10A NCAC	22R	.0101	36:18 NCR
Definitions	10A NCAC	22R	.0102*	36:18 NCR
Eligible Hospital	10A NCAC	22R	.0103	36:18 NCR
Eligible Outpatient Costs	10A NCAC	22R	.0104*	36:18 NCR
Distribution of Available Funds	10A NCAC	22R	.0105*	36:18 NCR
ALARM SYSTEMS LICENSING BOARD				
Application for License	14B NCAC	17	.0201*	36:14 NCR
Application for Registration	14B NCAC	17	.0301*	36:14 NCR
COASTAL RESOURCES COMMISSION				
Application of Erosion Rate Setback Factors	15A NCAC	07H	.0104	36:14 NCR
Use Standards	15A NCAC	07H	.0208*	36:13 NCR
AECs Within Ocean Hazard Areas	15A NCAC	07H	.0304	36:14 NCR
Definition and Description of Landforms	15A NCAC	07H	.0305	36:14 NCR
General Use Standards for Ocean Hazard Areas	15A NCAC	07H	.0306*	36:14 NCR
Specific Use Standards for Ocean Hazard Areas	15A NCAC	07H	.0308*	36:14 NCR
Use Standards for Ocean Hazard Areas: Exceptions	15A NCAC	07H	.0309*	36:14 NCR
Use Standards for Inlet Hazard Areas	15A NCAC	07H	.0310*	36:14 NCR
Specific Conditions	15A NCAC	07H	.1205*	36:13 NCR
Purpose	15A NCAC	07H	.1801*	36:13 NCR
Development Period/Commencement/Continuation	15A NCAC	07J	.0403*	36:13 NCR
Development Period Extension	15A NCAC	07J	.0404*	36:13 NCR
Beach Management Plan Approval	15A NCAC	07J	.1201*	36:14 NCR
Review of the Beach Management Plan Approval Request	15A NCAC	07J	.1202*	36:14 NCR
Procedure for Approving a Beach Management Plan	15A NCAC	07J	.1203*	36:14 NCR
Review of Beach Management Plans	15A NCAC	07J	.1204	36:14 NCR
Revocation and Expiration of Beach Management Plan Approval	15A NCAC	07J	.1205	36:14 NCR
Local Governments and Communities with Approved Beach …	15A NCAC	07J	.1206*	36:14 NCR
Requesting the Development Line	15A NCAC	07J	.1301	36:14 NCR
Procedures for Approving the Development Line	15A NCAC	07J	.1302	36:14 NCR
Local Governments and Communities with Development Lines	15A NCAC	07J	.1303	36:14 NCR

Single Family Residences Exempted	15A NCAC	07K	.0208*	36:13 NCR
Priorities for Funding Planning and Management Projects	15A NCAC	07L	.0503*	34:09 NCR
Declaration of General Policy	15A NCAC	07M	.0301	36:13 NCR
Definitions	15A NCAC	07M	.0302*	36:13 NCR
Standards for Public Access	15A NCAC	07M	.0303	36:13 NCR
Local Government and State Involvement in Access	15A NCAC	07M	.0306	36:16 NCR
Public Beach and Coastal Waterfront Access Program	15A NCAC	07M	.0307*	36:13 NCR
Public Involvement/Notice	15A NCAC	07M	.0308	36:13 NCR
Standards for Public Access	15A NCAC	07M	.0310	36:13 NCR
WILDLIFE RESOURCES COMMISSION				
General Regulations Regarding Hunting on Game Lands	15A NCAC	10D	.0103*	36:11 NCR
RECREATIONAL THERAPY LICENSURE, BOARD OF				
Minimum Level of Education and Competency for Licensed Re...	21 NCAC	65	.0301*	36:15 NCR
Licensure Fees	21 NCAC	65	.0501*	36:15 NCR
Reinstatement of Lapsed License	21 NCAC	65	.0701*	36:15 NCR

TITLE 10A - DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 22Q .0101 SCOPE
This Subchapter establishes the requirements for the distribution of federal disproportionate share adjustment receipts as established by 42 CFR 447.298 arising from certified public expenditures.

History Note: Authority G.S. 108A-54; 143C-9-9; Temporary Adoption Eff. December 29, 2021; Eff. August 1, 2022.

10A NCAC 22Q .0102 DEFINITIONS
(a) "Certifying Hospital" means an institution that meets all of the following criteria:
(1) meets the definition in G.S. 131E-176(13);
(2) is licensed by the State of North Carolina; and
(3) certifies as a public agency that its expenditures are eligible for Federal Financial Participation in accordance with 42 CFR 433.51(b), which is incorporated by reference, including subsequent amendments and editions. This document may be accessed at https://www.ecfr.gov at no charge.
(b) "Department" means the North Carolina Department of Health and Human Services.
(c) "Outpatient services" means those services as defined by 42 CFR 440.20(a), which is hereby incorporated by reference, including subsequent amendments and editions. This document can be accessed at https://www.ecfr.gov at no charge.
(d) "Uninsured patient" means medical care recipients who do not have health insurance, Medicaid or Medicare, or other third-party coverage. State or local government payments made to a hospital for services provided to indigent patients shall not be considered a source of third-party coverage.
(e) "Hospital Uncompensated Care Fund" means the fund established by G.S. 143C-9-9 and governed by 10A NCAC 22R.
(f) "Payment period" means the 12-month term ending September 30th of each year.

History Note: Authority G.S. 108A-54; 143C-9-9; Temporary Adoption Eff. December 29, 2021; Eff. August 1, 2022.

10A NCAC 22Q .0103 DISTRIBUTIONS
After distributions are made pursuant to an act appropriating funds for the operation of the North Carolina Medicaid Program and the "Basic Disproportionate Share Hospital (DSH) Payment" section of the North Carolina Medicaid State Plan, Attachment 4.19-A, which is incorporated by reference, including subsequent amendments and editions, and may be accessed free of charge at https://medicaid.ncdhhs.gov/media/973/download?attachment, the Department shall make distributions of the remaining DSH funds in the following order to:
(1) Certifying hospitals; and
(2) The Hospital Uncompensated Care Fund.

History Note: Authority G.S. 108A-54; 143C-9-9; Temporary Adoption Eff. December 29, 2021; Eff. August 1, 2022.

10A NCAC 22Q .0104 CERTIFYING HOSPITAL DISTRIBUTION
The Department shall distribute available funds to certifying hospitals in two parts:
(1) An amount equal to 10 percent of expenditures certified by the hospital pursuant to 42 CFR 433.51; and
(2) An amount equal to the hospital's proportionate share, calculated pursuant to Rule .0106 of this Section, of the available funds based on the

hospital's share of outpatient costs for uninsured patients as a percentage of the Statewide aggregate of outpatient costs for uninsured patients. To be eligible for a proportionate share, a hospital shall file with the Department 90 days prior to the date of payment as determined by the Department, a form prescribed by the Department attesting to the hospital's:

(a) Qualification for disproportionate share status under the "Disproportionate Share Hospital (DSH) Payment" section of the North Carolina Medicaid State Plan, Attachment 4.19-A;

(b) Unreimbursed charges and payments for outpatient services provided to uninsured patients; and

(c) Aggregate Medicaid outpatient cost-to-charge ratio.

History Note: Authority G.S. 108A-54; 143C-9-9; Temporary Adoption Eff. December 29, 2021; Eff. August 1, 2022.

10A NCAC 22Q .0105 CERTIFYING HOSPITALS' OUTPATIENT COSTS

(a) A certifying hospital's outpatient costs for uninsured patients will be determined by multiplying the hospital's outpatient cost-to-charge ratio in Rule .0104(2)(c) of this Section by the hospital's outpatient charges for uninsured patients from Rule .0104(2)(b) of this Section.

(b) From the product calculated in Paragraph (a) of this Rule, the Department will then subtract payments that the hospital received from uninsured patients for outpatient services in Rule .0104(2)(b) of this Section.

(c) The Department will bring the uncompensated care cost data forward to the end of the payment period by applying the applicable Centers for Medicare and Medicaid Services' Prospective Payment System Hospital Input Price Indices, which are incorporated by reference, including subsequent amendments and editions and available at no cost at https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/MedicareProgramRatesStats/MarketBasketData.

History Note: Authority G.S. 108A-54; 143C-9-9; Temporary Adoption Eff. December 29, 2021; Eff. August 1, 2022.

10A NCAC 22Q .0106 CERTIFYING HOSPITAL'S PROPORTIONATE SHARE

The Department shall calculate the certifying hospital's proportionate share of outpatient costs as follows:

(1) Adding the certifying hospitals' outpatient costs and each of the eligible hospitals' as defined in 10A NCAC 22R .0103, eligible outpatient costs under 10A NCAC 22R .0104. The sum represents the total of the outpatient costs.

(2) The sum of all certifying hospitals' outpatient costs under Rule .0105 of this Section shall be divided by the total outpatient costs in Item (1) of this Rule. The quotient represents the certifying hospitals' proportionate share, expressed as a decimal.

(3) The amount of available funds shall be multiplied by the certifying hospitals' proportionate share in Item (2) of this Rule. The product represents the funds available for distribution to individual certifying hospitals.

(4) A certifying hospital shall be eligible for a payment from funds available for distribution in Item (3) of this Rule. In each payment period, a certifying hospital shall receive a proportional payment of the available funds based on the certifying hospital's share of outpatient costs for uninsured patients as a percentage of the aggregate of outpatient costs for uninsured patients for certifying hospitals.

(5) Hospitals receiving payments pursuant to this Subchapter shall be subject to the audit and reporting requirements of the North Carolina Medicaid State Plan, Attachment 4.19-A.

History Note: Authority G.S. 108A-54; 108A-55(c); 143C-9-9; Temporary Adoption Eff. December 29, 2021; Eff. August 1, 2022.

10A NCAC 22R .0101 SCOPE

This Subchapter establishes the requirements for the distribution of funds allocated to the Hospital Uncompensated Care Fund pursuant to G.S. 143C-9-9 after distributions of available funds have been made pursuant to 10A NCAC 22Q.

History Note: Authority G.S. 108A-54; 143C-9-9; Temporary Adoption Eff. December 29, 2021; Eff. August 1, 2022.

10A NCAC 22R .0102 DEFINITIONS

(a) "Department" means the North Carolina Department of Health and Human Services.

(b) "Eligible hospital" means an institution that meets the requirements of Rule .0103 of this Section.

(c) "Eligible hospital cost" means the values calculated pursuant to Rule .0104 of this Section.

(d) "Hospital Uncompensated Care Fund" means the fund established by G.S. 143C-9-9 and governed by 10A NCAC 22R.

(e) "Outpatient services" means the medical care and items as defined by 42 CFR 440.20(a), which is incorporated by reference in 10A NCAC 22Q .0102.

(f) "Uninsured patient" means a recipient of medical care who has no health insurance, Medicaid or Medicare, or other third-party coverage. State and local government payments made to a hospital for services provided to indigent patients shall not be considered third-party coverage.

(g) "Payment period" means the 12-month term ending September 30th of each year.

History Note: Authority G.S. 108A-54; 143C-9-9; Temporary Adoption Eff. December 29, 2021; Eff. August 1, 2022.

10A NCAC 22R .0103 ELIGIBLE HOSPITAL

An institution licensed by the State of North Carolina that meets the definition in G.S. 131E-176 (13) is eligible for reimbursement from the Hospital Uncompensated Care Fund if it:

(1) is not a public agency qualified to certify expenditures in accordance 42 CFR 433.51(b), which is incorporated by reference in 10A NCAC 22Q .0102;

(2) received payment for more than 50 percent of their Medicaid inpatient discharges under the North Carolina Medicaid State Plan, Attachment 4.19-A discharge Diagnosis Related Groups methodology for the most recent payment period;

(3) files with the Department 90-days prior to the date of payment under this Subchapter forms prescribed by the Department attesting to the hospital's:

(a) qualification for disproportionate share status of the "Disproportionate Share Hospital (DSH) Payment" section of the North Carolina Medicaid State Plan, Attachment 4.19-A;

(b) unreimbursed charges and payments for outpatient services provided to uninsured patients; and

(c) aggregate Medicaid outpatient cost-to-charge.

History Note: Authority G.S. 108A-54; 143C-9-9; Temporary Adoption Eff. December 29, 2021; Eff. August 1, 2022.

10A NCAC 22R .0104 ELIGIBLE OUTPATIENT COSTS

(a) An eligible hospital's eligible outpatient costs for uninsured patients will be determined by multiplying the hospital's outpatient cost-to-charge ratio in Rule .0103(3)(c) of this Section by the hospital's outpatient charges for uninsured patients from Rule .0103(3)(b) of this Section.

(b) From the product calculated in Paragraph (a) of this Rule, the Department will then subtract payments that the hospital received from uninsured patients for outpatient services from Rule .0103(3)(b) of this Section.

(c) The Department will bring the uncompensated care cost data forward to the end of the payment period by applying the applicable Centers for Medicare and Medicaid Services' Prospective Payment System Hospital Input Price Indices, which are incorporated by reference, including subsequent amendments and editions and available at no cost at https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/MedicareProgramRatesStats/MarketBasketData.

History Note: Authority G.S. 108A-54; 143C-9-9; Temporary Adoption Eff. December 29, 2021; Eff. August 1, 2022.

10A NCAC 22R .0105 DISTRIBUTION OF AVAILABLE FUNDS

(a) An eligible hospital satisfying the requirements of Rule .0103 of this Section shall be eligible for a payment from funds available under this Subchapter. In a payment period, an eligible hospital shall receive a proportional payment of the available funds based on the eligible hospital's share of outpatient costs for uninsured patients as a percentage of the aggregate of outpatient costs for uninsured patients for all eligible hospitals.

(b) Based on the availability of funds, payments authorized by this Rule shall be made at least annually on a frequency determined by the Department in consultation with certifying hospitals.

(c) To confirm the hospital's eligibility to receive payments pursuant to this Subchapter and the accuracy of the hospital's attestation to unreimbursed charges for outpatient services provided to uninsured patients and the hospital's Medicaid outpatient cost-to-charge ratios, the Department may audit a hospital receiving more than two million dollars ($2,000,000) for compliance with the requirements of this Subchapter. Upon completion of the audit, the following shall occur when applicable:

(1) If a hospital received payments pursuant to Paragraph (a) of this Rule in excess of the percentage determined by the audit, the excess payments shall be refunded to the Department.

(2) The Department shall distribute any refunded amounts to eligible hospitals, excluding eligible hospitals from whom excess distributions were recovered pursuant to Subparagraph (c)(1) of this Rule, within 12 months of receipt using the distribution method set forth Paragraph (a) of this Rule.

(3) No additional payment shall be made to eligible hospitals in connection with the audit except for the redistribution of amounts refunded after an audit conducted by the Division of Health Benefits.

History Note: Authority G.S. 108A-54; 143C-9-9; Temporary Adoption Eff. December 29, 2021; Eff. August 1, 2022.

TITLE 14B - DEPARTMENT OF PUBLIC SAFETY

14B NCAC 17 .0201 APPLICATION FOR LICENSE

(a) Each applicant for a license shall submit an online application on the website provided by the Board. When this online application is submitted, it shall be accompanied by:

(1) electronic submission of fingerprints from a Live Scan or similar system approved by the State Bureau of Investigation or one set of classifiable fingerprints on an F.B.I. fingerprint card provided by the Board and mailed separately to the Board's office;

(2) one head and shoulders digital photograph of the applicant in JPG format of sufficient quality for identification, taken within six months prior to the online submission;
(3) statements of the results of a statewide criminal history records search by the reporting service designated by the Board pursuant to G.S. 74D-2.1(a) for any state where the applicant has resided within the preceding 60 months;
(4) a minimum of three letters attesting to the good character and reputation of the applicant using the online character letter submission process; and
(5) the applicant's application fee, along with a four dollar ($4.00) convenience fee charged by the third-party vendor and the credit card transaction fee charged by the applicant's credit card provider and collected online.

(b) Each applicant shall upload evidence of high school graduation either by diploma, G.E.D. certificate, or other equivalent documentation.

(c) Each applicant for a license shall meet personally with either a Board investigator, the Screening Committee, the Director, or a Board representative designated by the Director prior to being issued a license. The applicant shall discuss the provisions of G.S. 74D and the administrative rules in this Chapter during the personal meeting. The applicant shall sign a form provided by the Board stating that the applicant has reviewed the information with the Board's representative and that the applicant understands G.S. 74D and the administrative rules in this Chapter. During a national or State declared state of emergency that restricts or prohibits travel, the personal meeting requirement may be waived if requested by the applicant in favor of alternative means of communication.

(d) Each applicant for a branch office license shall submit an online application on the website provided by the Board. This online application shall be accompanied by the branch office application fee.

(e) All photographs, record checks, proof of insurance, explanations of criminal charges, explanations of credit history, or requested documents shall be submitted online through the Board's website by any applicant for a permit, license, registration, or certificate within 60 days of the Board's receipt of the application form or a request from Board staff, whichever is later. Any failure to submit required or requested documents to complete the application process within this 60-day period shall void the application and require re-application.

History Note: Authority G.S. 74D-2; 74D-2.1; 74D-3; 74D-5; 74D-7; 74D-8;
Temporary Rule Eff. January 9, 1984, for a period of 120 days to expire on May 7, 1984;
Eff. May 1, 1984;
Amended Eff. December 1, 2012; February 1, 2012; January 1, 2007; September 1, 2006; March 1, 1993; July 1, 1987; January 1, 1986;
Transferred and Recodified from 12 NCAC 11 .0201 Eff. July 1, 2015;
Amended Eff. December 1, 2017;
Readopted Eff. June 1, 2018;
Amended Eff. September 1, 2019;
Emergency Amendment Eff. June 9, 2020;
Amended Eff. August 1, 2020;
Temporary Amendment Eff. August 28, 2020;
Temporary Amendment Expired Eff. June 12, 2021;
Amended Eff. August 1, 2022; November 1, 2021.

14B NCAC 17 .0301 APPLICATION FOR REGISTRATION

(a) Each licensee or qualifying agent shall submit an online application for the registration of his or her employee on the website provided by the Board. When this online application is submitted, it shall be accompanied by:
(1) electronic submission of fingerprints from a Live Scan or similar system approved by the State Bureau of Investigation or one set of classifiable fingerprints on a standard F.B.I. fingerprint card mailed separately to the Board's office;
(2) one original signed S.B.I. release of information form uploaded online and the original mailed separately to the Board's office;
(3) one head and shoulders digital photograph of the applicant of sufficient quality for identification, taken within six months prior to online submission, and uploaded with the application submission;
(4) statements of the results of a statewide criminal history records search by the reporting service designated by the Board pursuant to G.S. 74D-2.1(a) for any state where the applicant has resided within the preceding 60 months;
(5) the registration fee required by Rule .0302 of this Section, along with a four dollar ($4.00) convenience fee charged by the third-party provider and the credit card transaction fee charged by the applicant's credit card provider and collected online; and
(6) a completed affidavit form attesting to the truth of the information provided and public notice statement form.

(b) The employer of an applicant who is currently registered with another alarm business shall complete an online application form provided by the Board. This form shall be accompanied by the applicant's multiple registration fee along with a four dollar ($4.00) convenience fee charged by the third-party provider and the credit card transaction fee charged by the applicant's credit card provider and collected online. This online application shall be accompanied by a completed affidavit form and public notice statement form.

(c) The employer of each applicant for registration shall print and retain a copy of the applicant's online application in the individual applicant's personnel file in the employer's office.

History Note: Authority G.S. 74D-2.1; 74D-5; 74D-8;
Temporary Rule Eff. January 9, 1984 for a Period of 120 Days to Expire on May 7, 1984;
Eff. May 1, 1984;

Amended Eff. December 1, 2012; January 1, 2007; July 1, 1993; March 1, 1993; September 1, 1990; November 1, 1988;
Transferred and Recodified from 12 NCAC 11 .0301 Eff. July 1, 2015;
Amended Eff. December 1, 2017;
Readopted Eff. June 1, 2018;
Amended Eff. August 1, 2022; August 1, 2020; September 1, 2019.

TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY

15A NCAC 07H .0104 APPLICATION OF EROSION RATE SETBACK FACTORS

History Note: Authority G.S. 113A-107; 113A-113; 113A-124;
Eff. September 15, 1979;
Amended Eff. August 1, 2010; April 1, 2004; April 1, 1997; April 1, 1995; May 1, 1990; November 1, 1988; September 1, 1988;
Readopted Eff. July 1, 2020;
Repealed Eff. August 1, 2022.

15A NCAC 07H .0208 USE STANDARDS

(a) General Use Standards

(1) Uses that are not water dependent shall not be permitted in coastal wetlands, estuarine waters, and public trust areas. Restaurants, residences, apartments, motels, hotels, trailer parks, private roads, factories, and parking lots are examples of uses that are not water dependent. Uses that are water dependent include: utility crossings, wind energy facilities, docks, wharves, boat ramps, dredging, bridges and bridge approaches, revetments, bulkheads, culverts, groins, navigational aids, mooring pilings, navigational channels, access channels and drainage ditches;

(2) Before being granted a permit, the CRC or local permitting authority shall find that the applicant has complied with the following standards:

(A) The location, design, and need for development, as well as the construction activities involved shall be consistent with the management objective of the Estuarine and Ocean System AEC (Rule .0203 of this subchapter) and shall be sited and designed to avoid significant adverse impacts upon the productivity and biologic integrity of coastal wetlands, shellfish beds, submerged aquatic vegetation as defined by the Marine Fisheries Commission, and spawning and nursery areas;

(B) Development shall comply with State and federal water and air quality rules, statutes and regulations;

(C) Development shall not cause irreversible damage to documented archaeological or historic resources as identified by the N.C. Department of Cultural resources;

(D) Development shall not increase siltation;

(E) Development shall not create stagnant water bodies;

(F) Development shall be timed to avoid significant adverse impacts on life cycles of estuarine and ocean resources; and

(G) Development shall not jeopardize the use of the waters for navigation or for other public trust rights in public trust areas including estuarine waters.

(3) When the proposed development is in conflict with the general or specific use standards set forth in this Rule, the CRC may approve the development if the applicant can demonstrate that the activity associated with the proposed project will have public benefits as identified in the findings and goals of the Coastal Area Management Act, that the public benefits outweigh the long range adverse effects of the project, that there is no reasonable alternate site available for the project, and that all reasonable means and measures to mitigate adverse impacts of the project have been incorporated into the project design and shall be implemented at the applicant's expense. Measures taken to mitigate or minimize adverse impacts shall include actions that:

(A) minimize or avoid adverse impacts by limiting the magnitude or degree of the action;

(B) restore the affected environment; or

(C) compensate for the adverse impacts by replacing or providing substitute resources.

(4) "Primary nursery areas" are defined as those areas in the estuarine and ocean system where initial post larval development of finfish and crustaceans takes place. They are usually located in the uppermost sections of a system where populations are uniformly early juvenile stages. Primary nursery areas are designated and described by the N.C. Marine Fisheries Commission (MFC) and by the N.C. Wildlife Resources Commission (WRC) at 15A NCAC 03R .0103;

(5) "Outstanding Resource Waters" (ORW) are defined as those estuarine waters and public trust areas classified by the N.C. Environmental Management Commission (EMC). In those estuarine waters and public trust areas classified as ORW by the EMC no permit required by the Coastal Area Management Act shall be

approved for any project which would be inconsistent with applicable use standards adopted by the CRC, EMC, or MFC for estuarine waters, public trust areas, or coastal wetlands. For development activities not covered by specific use standards, no permit shall be issued if the activity would, based on site specific information, degrade the water quality or outstanding resource values; and

(6) Beds of "submerged aquatic vegetation" (SAV) are defined as those habitats in public trust and estuarine waters vegetated with one or more species of submergent vegetation. These vegetation beds occur in both subtidal and intertidal zones and may occur in isolated patches or cover extensive areas. In either case, the bed is defined by the Marine Fisheries Commission. Any rules relating to SAVs shall not apply to non-development control activities authorized by the Aquatic Weed Control Act of 1991 (G.S. 113A-220 et seq.).

(b) Specific Use Standards

(1) Navigation channels, canals, and boat basins shall be aligned or located so as to avoid primary nursery areas, shellfish beds, beds of submerged aquatic vegetation as defined by the MFC, or areas of coastal wetlands except as otherwise allowed within this Subchapter. Navigation channels, canals and boat basins shall also comply with the following standards:

(A) Navigation channels and canals may be allowed through fringes of regularly and irregularly flooded coastal wetlands if the loss of wetlands will have no significant adverse impacts on fishery resources, water quality or adjacent wetlands, and if there is no reasonable alternative that would avoid the wetland losses;

(B) All dredged material shall be confined landward of regularly and irregularly flooded coastal wetlands and stabilized to prevent entry of sediments into the adjacent water bodies or coastal wetlands;

(C) Dredged material from maintenance of channels and canals through irregularly flooded wetlands shall be placed on non-wetland areas, remnant spoil piles, or disposed of by a method having no significant, long-term wetland impacts. Under no circumstances shall dredged material be placed on regularly flooded wetlands. New dredged material disposal areas shall not be located in the buffer area as outlined in 15A NCAC 07H .0209(d)(10);

(D) Widths of excavated canals and channels shall be the minimum required to meet the applicant's needs but not impair water circulation;

(E) Boat basin design shall maximize water exchange by having the widest possible opening and the shortest practical entrance canal. Depths of boat basins shall decrease from the waterward end inland;

(F) Any canal or boat basin shall be excavated no deeper than the depth of the connecting waters;

(G) Construction of finger canal systems are not allowed. Canals shall be either straight or meandering with no right angle corners;

(H) Canals shall be designed so as not to create an erosion hazard to adjoining property. Design may include shoreline stabilization, vegetative stabilization, or setbacks based on soil characteristics; and

(I) Maintenance excavation in canals, channels and boat basins within primary nursery areas and areas of submerged aquatic vegetation as defined by the MFC shall be avoided. However, when essential to maintain a traditional and established use, maintenance excavation may be approved if the applicant meets all of the following criteria:

(i) The applicant demonstrates and documents that a water-dependent need exists for the excavation;

(ii) There exists a previously permitted channel that was constructed or maintained under permits issued by the State or Federal government. If a natural channel was in use, or if a human-made channel was constructed before permitting was necessary, there shall be evidence that the channel was continuously used for a specific purpose;

(iii) Excavated material can be removed and placed in a disposal area in accordance with Part (b)(1)(B) of this Rule without impacting adjacent nursery areas and submerged aquatic vegetation as defined by the MFC; and

(iv) The original depth and width of a human-made or natural channel shall not be increased to allow a new or expanded use of the channel.

(2) Hydraulic Dredging

(A) The terminal end of the dredge pipeline shall be positioned at a distance sufficient to preclude erosion of the containment dike and a maximum distance from spillways to allow settlement of suspended solids;

(B) Dredged material shall be either confined on high ground by retaining structures or deposited on beaches for purposes of renourishment if the material is suitable in accordance with the rules in this Subchapter, except as provided in Part (G) of this Subparagraph;

(C) Confinement of excavated materials shall be landward of all coastal wetlands and shall employ soil stabilization measures to prevent entry of sediments into the adjacent water bodies or coastal wetlands;

(D) Effluent from diked areas receiving disposal from hydraulic dredging operations shall be contained by pipe, trough, or similar device to a point waterward of emergent vegetation or, where local conditions require, below normal low water or normal water level;

(E) When possible, effluent from diked disposal areas shall be returned to the area being dredged;

(F) A water control structure shall be installed at the intake end of the effluent pipe;

(G) Publicly funded projects shall be considered by review agencies on a case-by-case basis with respect to dredging methods and dredged material disposal in accordance with Subparagraph (a)(3) of this Rule; and

(H) Dredged material from closed shellfish waters and effluent from diked disposal areas used when dredging in closed shellfish waters shall be returned to the closed shellfish waters.

(3) Drainage Ditches

(A) Drainage ditches located through any coastal wetland shall not exceed six feet wide by four feet deep (from ground surface) unless the applicant shows that larger ditches are necessary;

(B) Dredged material derived from the construction or maintenance of drainage ditches through regularly flooded marsh shall be placed landward of these marsh areas in a manner that will insure that entry of sediment into the water or marsh will not occur. Dredged material derived from the construction or maintenance of drainage ditches through irregularly flooded marshes shall be placed on non-wetlands wherever feasible. Non-wetland areas include relic disposal sites;

(C) Excavation of new ditches through high ground shall take place landward of an earthen plug or other methods to minimize siltation to adjacent water bodies; and

(D) Drainage ditches shall not have a significant adverse impact on primary nursery areas, productive shellfish beds, submerged aquatic vegetation as defined by the MFC, or other estuarine habitat. Drainage ditches shall be designed so as to minimize the effects of freshwater inflows, sediment, and the introduction of nutrients to receiving waters. Settling basins, water gates and retention structures are examples of design alternatives that may be used to minimize sediment introduction.

(4) Nonagricultural Drainage

(A) Drainage ditches shall be designed so that restrictions in the volume or diversions of flow are minimized to both surface and ground water;

(B) Drainage ditches shall provide for the passage of migratory organisms by allowing free passage of water of sufficient depth; and

(C) Drainage ditches shall not create stagnant water pools or changes in the velocity of flow.

(5) Marinas. "Marinas" are defined as any publicly or privately owned dock, basin or wet boat storage facility constructed to accommodate more than 10 boats and providing any of the following services: permanent or transient docking spaces, dry storage, fueling facilities, haulout facilities, and repair service. Excluded from this definition are boat ramp facilities allowing access only, temporary docking, and none of the preceding services. Expansion of existing facilities shall comply with the standards of this Subparagraph for all development other than maintenance and repair necessary to maintain previous service levels.

Marinas shall comply with the following standards:

(A) Marinas shall be sited in non-wetland areas or in deep waters (areas not requiring dredging) and shall not disturb shellfish resources, submerged aquatic vegetation as defined by the MFC, or wetland habitats, except for dredging necessary for access to high-ground sites. The following four alternatives for siting marinas are listed in order of preference for the least damaging alterative; marina projects shall be designed to have the highest of these four priorities that is deemed feasible by the permit letting agency:

(i) an upland basin site requiring no alteration of wetland or estuarine habitat and providing flushing by tidal or wind generated water circulation or basin design characteristics;

(ii) an upland basin site requiring dredging for access when the necessary dredging and operation of the marina will not result in significant adverse impacts to existing fishery, shellfish, or wetland resources and the basin design shall provide flushing by tidal or wind generated water circulation;

(iii) an open water site located outside a primary nursery area which utilizes piers or docks rather than channels or canals to reach deeper water; and

(iv) an open water marina requiring excavation of no intertidal habitat, and no dredging greater than the depth of the connecting channel.

(B) Marinas that require dredging shall not be located in primary nursery areas nor in areas which require dredging through primary nursery areas for access. Maintenance dredging in primary nursery areas for existing marinas shall comply with the standards set out in Part (b)(1)(I) of this Rule;

(C) To minimize coverage of public trust areas by docks and moored vessels, dry storage marinas shall be used where feasible;

(D) Marinas to be developed in waters subject to public trust rights (other than those created by dredging upland basins or canals) for the purpose of providing docking for residential developments shall be allowed no more than 27 square feet of public trust areas for every one linear foot of shoreline adjacent to these public trust areas for construction of docks and mooring facilities. The 27 square feet allocation does not apply to fairway areas between parallel piers or any portion of the pier used only for access from land to the docking spaces;

(E) To protect water quality in shellfishing areas, marinas shall not be located within areas where shellfish harvesting for human consumption is a significant existing use or adjacent to such areas if shellfish harvest closure is anticipated to result from the location of the marina. In compliance with 33 U.S. Code Section 101(a)(2) of the Clean Water Act and North Carolina Water Quality Standards (15A NCAC 02B .0200) adopted pursuant to that section, shellfish harvesting is a significant existing use if it can be established that shellfish have been regularly harvested for human consumption since November 28, 1975 or that shellfish are propagating and surviving in a biologically suitable habitat and are available and suitable for harvesting for the purpose of human consumption. The Division of Coastal Management shall consult with the Division of Marine Fisheries regarding the significance of shellfish harvest as an existing use and the magnitude of the quantities of shellfish that have been harvested or are available for harvest in the area where harvest will be affected by the development;

(F) Marinas shall not be located without written consent from the leaseholders or owners of submerged lands that have been leased from the state or deeded by the State;

(G) Marina basins shall be designed to promote flushing through the following design criteria:

(i) the basin and channel depths shall gradually increase

toward open water and shall never be deeper than the waters to which they connect; and

(ii) when possible, an opening shall be provided at opposite ends of the basin to establish flow-through circulation;

(H) Marinas shall be designed so that the capability of the waters to be used for navigation or for other public trust rights in estuarine or public trust waters are not jeopardized while allowing the applicant access to deep waters;

(I) Marinas shall be located and constructed so as to avoid adverse impacts on navigation throughout all federally maintained channels and their boundaries as designated by the US Army Corps of Engineers. This includes permanent or temporary mooring sites; speed or traffic reductions; or any other device, either physical or regulatory, that may cause a federally maintained channel to be restricted;

(J) Open water marinas shall not be enclosed within breakwaters that preclude circulation sufficient to maintain water quality;

(K) Marinas that require dredging shall provide areas in accordance with Part (b)(1)(B) of this Rule to accommodate disposal needs for future maintenance dredging, including the ability to remove the dredged material from the marina site;

(L) Marina design shall comply with all applicable EMC requirements (15A NCAC 02B .0200) for management of stormwater runoff. Stormwater management systems shall not be located within the 30-foot buffer area outlined in 15A NCAC 07H .0209(d);

(M) Marinas shall post a notice prohibiting the discharge of any waste from boat toilets and listing the availability of local pump-out services;

(N) Boat maintenance areas shall be designed so that all scraping, sandblasting, and painting will be done over dry land with collection and containment devices that prevent entry of waste materials into adjacent waters;

(O) All marinas shall comply with all applicable standards for docks and piers, shoreline stabilization, dredging and dredged material disposal of this Rule;

(P) All applications for marinas shall be reviewed by the Division of Coastal Management to determine their potential impact to coastal resources and compliance with applicable standards of this Rule. Such review shall also consider the cumulative impacts of marina development in accordance with G.S. 113A-120(a)(10); and

(Q) Replacement of existing marinas to maintain previous service levels shall be allowed provided that the development complies with the standards for marina development within this Section.

(6) Piers and Docking Facilities.

(A) Piers shall not exceed six feet in width. Piers greater than six feet in width shall be permitted only if the greater width is necessary for safe use, to improve public access, or to support a water dependent use that cannot otherwise occur;

(B) The total square footage of shaded impact for docks and mooring facilities (excluding the pier) allowed shall be eight square feet per linear foot of shoreline with a maximum of 2,000 square feet. In calculating the shaded impact, uncovered open water slips shall not be counted in the total. Projects requiring dimensions greater than those stated in this Rule shall be permitted only if the greater dimensions are necessary for safe use, to improve public access, or to support a water dependent use that cannot otherwise occur. Size restrictions shall not apply to marinas;

(C) Piers and docking facilities over coastal wetlands shall be no wider than six feet and shall be elevated at least three feet above any coastal wetland substrate as measured from the bottom of the decking;

(D) A boathouse shall not exceed 400 square feet except to accommodate a documented need for a larger boathouse and shall have sides extending no farther than one-half the height of the walls as measured from the Normal Water Level or Normal High Water and covering only the top half of the walls. Measurements of square footage shall be taken of the greatest exterior dimensions.

Boathouses shall not be allowed on lots with less than 75 linear feet of shoreline, except that structural boat covers utilizing a frame-supported fabric covering may be permitted on properties with less than 75 linear feet of shoreline when using screened fabric for side walls. Size restrictions do not apply to marinas;

(E) The total area enclosed by an individual boat lift shall not exceed 400 square feet except to accommodate a documented need for a larger boat lift;

(F) Piers and docking facilities shall be single story. They may be roofed but shall not be designed to allow second story use;

(G) Pier and docking facility length shall be limited by:

(i) not extending beyond the established pier or docking facility length along the same shoreline for similar use. This restriction does not apply to piers 100 feet or less in length unless necessary to avoid unreasonable interference with navigation or other uses of the waters by the public;

(ii) not extending into the channel portion of the water body; and

(iii) not extending more than one-fourth the width of a natural water body, or human-made canal or basin. Measurements to determine widths of the water body, canals, or basins shall be made from the waterward edge of any coastal wetland vegetation that borders the water body. The one-fourth length limitation does not apply in areas where the U.S. Army Corps of Engineers, or a local government in consultation with the Corps of Engineers, has established an official pier-head line. The one-fourth length limitation shall not apply when the proposed pier is located between longer piers or docking facilities within 200 feet of the applicant's property. However, the proposed pier or docking facility shall not be longer than the pier head line established by the adjacent piers or docking facilities, nor longer than one-third the width of the water body.

(H) Piers or docking facilities longer than 400 feet shall be permitted only if the proposed length gives access to deeper water at a rate of at least 1 foot each 100 foot increment of length longer than 400 feet, or, if the additional length is necessary to span some obstruction to navigation. Measurements to determine lengths shall be made from the waterward edge of any coastal wetland vegetation that borders the water body;

(I) Piers and docking facilities shall not interfere with the access to any riparian property and shall have a minimum setback of 15 feet between any part of the pier or docking facility and the adjacent property owner's areas of riparian access. The line of division of areas of riparian access shall be established by drawing a line along the channel or deep water in front of the properties, then drawing a line perpendicular to the line of the channel so that it intersects with the shore at the point the upland property line meets the water's edge. The minimum setback provided in the rule may be waived by the written agreement of the adjacent riparian owner(s) or when two adjoining riparian owners are co-applicants. If the adjacent property is sold before construction of the pier or docking facility commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and submit it to the permitting agency prior to initiating any development of the pier. Application of this Rule may be aided by reference to the approved diagram in 15A NCAC 07H .1205(t) illustrating the rule as applied to various shoreline configurations. When shoreline configuration is such that a perpendicular alignment cannot be achieved, the pier shall be aligned to meet the intent of this Rule to the maximum extent practicable as determined by the Director of the Division of Coastal Management; and

(J) Applicants for authorization to construct a pier or docking facility shall provide notice of the permit application to the owner of any part of a shellfish franchise or lease over which the proposed dock or pier would extend. The applicant shall allow the lease holder the opportunity to mark a navigation route from the pier to the edge of the lease.

(7) Bulkheads

(A) Bulkhead alignment, for the purpose of shoreline stabilization, shall approximate the location of normal high water or normal water level;

(B) Bulkheads shall be constructed landward of coastal wetlands in order to avoid significant adverse impacts to the resources;

(C) Bulkhead backfill material shall be obtained from an upland source approved by the Division of Coastal Management pursuant to this Section, or if the bulkhead is a part of a permitted project involving excavation from a non-upland source, the material so obtained may be contained behind the bulkhead;

(D) Bulkheads shall be permitted below normal high water or normal water level only when the following standards are met:

(i) the property to be bulkheaded has an identifiable erosion problem, whether it results from natural causes or adjacent bulkheads, or it has unusual geographic or geologic features, e.g. steep grade bank, which will cause the applicant unreasonable hardship under the other provisions of this Rule;

(ii) the bulkhead alignment extends no further below normal high water or normal water level than necessary to allow recovery of the area eroded in the year prior to the date of application, to align with adjacent bulkheads, or to mitigate the unreasonable hardship resulting from the unusual geographic or geologic features;

(iii) the bulkhead alignment will not adversely impact public trust rights or the property of adjacent riparian owners;

(iv) the need for a bulkhead below normal high water or normal water level is documented by the Division of Coastal Management; and

(v) the property to be bulkheaded is in a non-oceanfront area.

(E) Where possible, sloping rip-rap, gabions, or vegetation shall be used rather than bulkheads.

(8) Beach Nourishment

(A) Beach creation or maintenance may be allowed to enhance water related recreational facilities for public, commercial, and private use consistent with the following:

(i) Beaches may be created or maintained in areas where they have historically been found due to natural processes;

(ii) Material placed in the water and along the shoreline shall be clean sand and free from pollutants. Grain size shall be equal to that found naturally at the site;

(iii) Beach creation shall not be allowed in primary nursery areas, nor in any areas where siltation from the site would pose a threat to shellfish beds;

(iv) Material shall not be placed on any coastal wetlands or submerged aquatic vegetation as defined by MFC;

(v) Material shall not be placed on any submerged bottom with significant shellfish resources as identified by the Division of Marine Fisheries during the permit review; and

(vi) Beach construction shall not create the potential for filling adjacent navigation channels, canals or boat basins.

(B) Placing unconfined sand material in the water and along the shoreline shall not be allowed as a method of shoreline erosion control;

(C) Material from dredging projects may be used for beach nourishment if:

(i) it is first handled in a manner consistent with dredged material disposal as set forth in this Rule;

(ii) it is allowed to dry prior to being placed on the beach; and

(iii) only that material of acceptable grain size as set forth in Subpart (b)(8)(A)(ii) of this Rule is removed from the disposal site for placement on the beach. Material shall not be placed directly on the beach by dredge or dragline during maintenance excavation.

(D) Beach construction shall comply with State and federal water quality standards;

(E) The renewal of permits for beach nourishment projects shall require an evaluation by the Division of Coastal Management of any adverse impacts of the original work; and

(F) Permits issued for beach nourishment shall be limited to authorizing beach nourishment only one time.

(9) Groins

(A) Groins shall not extend more than 25 feet waterward of the normal high water or normal water level unless a longer structure is justified by site specific conditions and by an individual who meets any North Carolina occupational licensing requirements for the type of structure being proposed and approved during the application process;

(B) Groins shall be set back a minimum of 15 feet from the adjoining riparian lines. The setback for rock groins shall be measured from the toe of the structure. This setback may be waived by written agreement of the adjacent riparian owner(s) or when two adjoining riparian owners are co-applicants. Should the adjacent property be sold before construction of the groin commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and submit it to the permitting agency prior to initiating any development of the groin;

(C) Groins shall pose no threat to navigation;

(D) The height of groins shall not exceed one foot above normal high water or normal water level;

(E) No more than two structures shall be allowed per 100 feet of shoreline unless the applicant provides evidence that more structures are needed for shoreline stabilization.

(F) "L" and "T" sections shall not be allowed at the end of groins; and

(G) Riprap material used for groin construction shall be free from loose dirt or any other pollutant and of a size sufficient to prevent its movement from the site by wave and current action.

(10) "Freestanding Moorings".

(A) A "freestanding mooring" is any means to attach a ship, boat, vessel, floating structure or other water craft to a stationary underwater device, mooring buoy, buoyed anchor, or piling as long as the piling is not associated with an existing or proposed pier, dock, or boathouse;

(B) Freestanding moorings shall be permitted only:

(i) to riparian property owners within their riparian corridors; or

(ii) to any applicant proposing to locate a mooring buoy consistent with a water use plan that is included in either the local zoning or land use plan.

(C) All mooring fields shall provide an area for access to any mooring(s) and other land based operations that shall include wastewater pumpout, trash disposal and vehicle parking;

(D) To protect water quality of shellfishing areas, mooring fields shall not be located within areas where shellfish harvesting for human consumption is a significant existing use or adjacent to such areas if shellfish harvest closure is anticipated to result from the location of the mooring field. In compliance with Section 101(a)(2) of the Federal Water Pollution Control Act, 33 U.S.C. 1251 (a)(2), and North Carolina Water Quality Standards adopted pursuant to that section, shellfish harvesting is a significant existing use if it can be established that shellfish have been regularly harvested for human consumption since November 28, 1975 or that shellfish are propagating and surviving in a biologically suitable habitat and are available and suitable for harvesting for the purpose of human consumption. The Division of Marine Fisheries shall be consulted

regarding the significance of shellfish harvest as an existing use and the magnitude of the quantities of shellfish that have been harvested or are available for harvest in the area where harvest will be affected by the development;

(E) Moorings shall not be located without written consent from the leaseholders or owners of submerged lands that have been leased from the state or deeded by the State;

(F) Moorings shall be located and constructed so as to avoid adverse impacts on navigation throughout all federally maintained channels. This includes permanent or temporary mooring sites, speed or traffic reductions, or any other device, either physical or regulatory, which may cause a federally maintained channel to be restricted;

(G) Open water moorings shall not be enclosed within breakwaters that preclude circulation and degrade water quality in violation of EMC standards;

(H) Moorings and the associated land based operation design shall comply with all applicable EMC requirements for management of stormwater runoff;

(I) Mooring fields shall have posted in view of patrons a notice prohibiting the discharge of any waste from boat toilets or any other discharge and listing the availability of local pump-out services and waste disposal;

(J) Freestanding moorings associated with commercial shipping, public service, or temporary construction or salvage operations may be permitted without a public sponsor;

(K) Freestanding mooring buoys and piles shall be evaluated based upon the arc of the swing including the length of the vessel to be moored. Moorings and the attached vessel shall not interfere with the access of any riparian owner nor shall it block riparian access to channels or deep water, which allows riparian access. Freestanding moorings shall not interfere with the ability of any riparian owner to place a pier for access;

(L) Freestanding moorings shall not be established in submerged cable or pipe crossing areas or in a manner that interferes with the operations of an access through any bridge;

(M) Freestanding moorings shall be marked or colored in compliance with U.S. Coast Guard and the WRC requirements and the required marking maintained for the life of the mooring(s); and

(N) The type of material used to create a mooring must be free of pollutants and of a design and type of material so as to not present a hazard to navigation or public safety.

(11) Filling of Canals, Basins and Ditches - Notwithstanding the general use standards for estuarine systems as set out in Paragraph (a) of this Rule, filling canals, basins and ditches shall be allowed if all of the following conditions are met:

(A) the area to be filled was not created by excavating lands which were below the normal high water or normal water level;

(B) if the area was created from wetlands, the elevation of the proposed filling does not exceed the elevation of said wetlands so that wetland function will be restored;

(C) the filling will not adversely impact any designated primary nursery area, shellfish bed, submerged aquatic vegetation as defined by the MFC, coastal wetlands, public trust right or public trust usage; and

(D) the filling will not adversely affect the value and enjoyment of property of any riparian owner.

(12) "Submerged Lands Mining"

(A) Development Standards. Mining of submerged lands shall meet all the following standards:

(i) The biological productivity and biological significance of mine sites, or borrow sites used for sediment extraction, shall be evaluated for significant adverse impacts and a protection strategy for these natural functions and values provided with the State approval request or permit application;

(ii) Natural reefs, coral outcrops, artificial reefs, seaweed communities, and significant benthic communities identified by the Division of Marine Fisheries or the WRC shall be avoided;

(iii) Mining shall avoid significant archaeological

resources as defined in Rule .0509 of this Subchapter; shipwrecks identified by the Department of Cultural Resources; and unique geological features that require protection from uncontrolled or incompatible development as identified by the Division of Energy, Mineral, and Land Resources pursuant to G.S. 113A-113(b)(4)(g);

(iv) Mining activities shall not be conducted on or within 500 meters of significant biological communities identified by the Division of Marine Fisheries or the WRC, such as high relief hard bottom areas. "High relief" is defined for this Part as relief greater than or equal to one-half meter per five meters of horizontal distance;

(v) Mining activities shall be timed to minimize impacts on the life cycles of estuarine or ocean resources; and

(vi) Mining activities shall not affect potable groundwater supplies, wildlife, freshwater, estuarine, or marine fisheries.

(B) Permit Conditions. Permits for submerged lands mining may be conditioned on the applicant amending the mining proposal to include measures necessary to ensure compliance with the provisions of the Mining Act and the rules for development set out in this Subchapter. Permit conditions shall also include:

(i) Monitoring by the applicant to ensure compliance with all applicable development standards; and

(ii) A determination of the necessity and feasibility of restoration shall be made by the Division of Coastal Management as part of the permit or consistency review process. Restoration shall be necessary where it will facilitate recovery of the pre-development ecosystem. Restoration shall be considered feasible unless, after consideration of all practicable restoration alternatives, the Division of Coastal Management determines that the adverse effects of restoration outweigh the benefits of the restoration on estuarine or ocean resources. If restoration is determined to be necessary and feasible, then the applicant shall submit a restoration plan to the Division of Coastal Management prior to the issuance of the permit.

(C) Dredging activities for the purposes of mining natural resources shall be consistent with the development standards set out in this Rule;

(D) Mitigation. Where mining cannot be conducted consistent with the development standards set out in this Rule, the applicant may request mitigation approval under 15A NCAC 07M .0700; and

(E) Public Benefits Exception. Projects that conflict with the standards in this Subparagraph, but provide a public benefit, may be approved pursuant to the standards set out in Subparagraph (a)(3) of this Rule.

(13) "Wind Energy Facilities"

(A) An applicant for the development and operation of a wind energy facility shall provide:

(i) an evaluation of the proposed noise impacts of the turbines to be associated with the proposed facility;

(ii) an evaluation of shadow flicker impacts for the turbines to be associated with the proposed facility;

(iii) an evaluation of avian and bat impacts of the proposed facility;

(iv) an evaluation of viewshed impacts of the proposed facility;

(v) an evaluation of potential user conflicts associated with development in the proposed project area; and

(vi) a plan regarding the action to be taken upon decommissioning and removal of the wind energy

facility. The plan shall include estimates of monetary costs, time frame of removal and the proposed site condition after decommissioning.

(B) Development Standards. Development of wind energy facilities shall meet the following standards in addition to adhering to the requirements outlined in Part (a)(13)(A) of this Rule:

(i) Natural reefs, coral outcrops, artificial reefs, seaweed communities, and significant benthic communities identified by the Division of Marine Fisheries or the WRC shall be avoided;

(ii) Development shall not be sited on or within 500 meters of significant biological communities identified by the Division of Marine Fisheries or the WRC, such as high relief hard bottom areas. High relief is defined for this standard as relief greater than or equal to one-half meter per five meters of horizontal distance;

(iii) Development shall not cause irreversible damage to documented archeological resources including shipwrecks identified by the Department of Cultural Resources and unique geological features that require protection from uncontrolled or incompatible development as identified by the Division of Energy, Mineral, and Land Resources pursuant to G.S. 113A-113(b)(4)(g);

(iv) Development activities shall be timed to avoid significant adverse impacts on the life cycles of estuarine or ocean resources, or wildlife;

(v) Development or operation of a wind energy facility shall not jeopardize the use of the surrounding waters for navigation or for other public trust rights in public trust areas or estuarine waters; and

(vi) Development or operation of a wind energy facility shall not interfere with air navigation routes, air traffic control areas, military training routes or special use airspace and shall comply with standards adopted by the Federal Aviation Administration and codified under 14 CFR Part 77.13.

(C) Permit Conditions. Permits for wind energy facilities may be conditioned on the applicant amending the proposal to include measures necessary to ensure compliance with the standards for development set out in this Rule. Permit conditions may include monitoring to ensure compliance with all applicable development standards; and

(D) Public Benefits Exception. Projects that conflict with these standards, but provide a public benefit, may be approved pursuant to the standards set out in Subparagraph (a)(3) of this Rule.

History Note: Authority G.S. 113A-107(b); 113A-108; 113A-113(b); 113A-124;
Eff. September 9, 1977;
Amended Eff. February 1, 1996; April 1, 1993; February 1, 1993; November 30, 1992;
RRC Objection due to ambiguity Eff. March 21, 1996;
Amended Eff. August 1, 2012(see S.L. 2012-143, s.1.(f)); February 1, 2011; August 1, 2010;
June 1, 2010; August 1, 1998; May 1, 1996;
Readopted Eff. July 1, 2020;
Amended Eff. August 1, 2022.

15A NCAC 07H .0304 AECS WITHIN OCEAN HAZARD AREAS

The ocean hazard AECs contain all of the following areas:

(1) Ocean Erodible Area. This is the area where there exists a substantial possibility of excessive erosion and significant shoreline fluctuation. The oceanward boundary of this area is the mean low water line. The landward extent of this area is the distance landward from the vegetation line as defined in 15A NCAC 07H .0305(a)(5) to the recession line established by multiplying the long-term annual erosion rate times 90; provided that, where there has been no long-term erosion or the rate is less than two feet per year, this distance shall be set at 180 feet landward from the vegetation line. For the purposes of this Rule, the erosion rates are the long-term average based on available historical data. The current long-term

average erosion rate data for each segment of the North Carolina coast is depicted on maps entitled "North Carolina 2019 Oceanfront Setback Factors & Long-Term Average Annual Erosion Rate Update Study" and approved by the Coastal Resources Commission on February 28, 2019 (except as such rates may be varied in individual contested cases or in declaratory or interpretive rulings). In all cases, the rate of shoreline change shall be no less than two feet of erosion per year. The maps are available without cost from any Local Permit Officer or the Division of Coastal Management on the internet at http://www.nccoastalmanagement.net.

(2) Inlet Hazard Area. The inlet hazard areas are natural-hazard areas that are especially vulnerable to erosion, flooding, and other adverse effects of sand, wind, and water because of their proximity to dynamic ocean inlets. This area extends landward from the mean low water line a distance encompassing that area within which the inlet migrates, based on statistical analysis, and shall consider such factors as previous inlet territory, structurally weak areas near the inlet, and external influences such as jetties, terminal groins, and channelization. The areas on the maps identified as Inlet Hazard Areas included in the report entitled INLET HAZARD AREAS, The Final Report and Recommendations to the Coastal Resources Commission, 1978, as amended in 1981, by Loie J. Priddy and Rick Carraway are incorporated by reference and are hereby designated as Inlet Hazard Areas, except for:

(a) the location of a former inlet which has been closed for at least 15 years;

(b) inlets that due to shoreline migration, no longer include the current location of the inlet; and

(c) inlets providing access to a State Port via a channel maintained by the United States Army Corps of Engineers.

In all cases, the Inlet Hazard Area shall be an extension of the adjacent ocean erodible areas and in no case shall the width of the inlet hazard area be less than the width of the adjacent ocean erodible area. This report is available for inspection at the Department of Environmental Quality, Division of Coastal Management, 400 Commerce Avenue, Morehead City, North Carolina or at the website referenced in Item (1) of this Rule.

(3) Unvegetated Beach Area. Beach areas within the Ocean Hazard Area where no stable and natural vegetation is present may be designated as Unvegetated Beach Areas on either a permanent or temporary basis as follows:

(a) An area appropriate for permanent designation as an Unvegetated Beach Area is a dynamic area that is subject to rapid unpredictable landform change due to wind and wave action. The areas in this category shall be designated following studies by the Division of Coastal Management. These areas shall be designated on maps approved by the Coastal Resources Commission and available without cost from any Local Permit Officer or the Division of Coastal Management on the internet at the website referenced in Item (1) of this Rule.

(b) An area that is unvegetated as a result of a hurricane or other major storm event may be designated by the Coastal Resources Commission as an Unvegetated Beach Area for a specific period of time, or until the vegetation has re-established in accordance with 15A NCAC 07H .0305(a)(5). At the expiration of the time specified or the re-establishment of the vegetation, the area shall return to its pre-storm designation.

(c) The Commission designates as temporary unvegetated beach areas those oceanfront areas of:

(i) Surf City and North Topsail Beach in which the vegetation line as shown on the United States National Oceanic and Atmospheric Administration imagery dated September 17, 2018 was destroyed as a result of Hurricane Florence in September 2018; and

(ii) Oak Island in which the vegetation line as shown on the United States National Oceanic and Atmospheric Administration and Geological Survey imagery dated August 4, 2020 was destroyed as a result of Hurricane Isaias in August 2020.

The designation AEC boundaries can be found on the Division's website at https://files.nc.gov/ncdeq/Coastal%20Management/GIS/unvegetated_beach_aec.pdf and https://files.nc.gov/ncdeq/Coastal%20Management/GIS/unveg_beachAEC_Oak_Island.zip. This designation shall

continue until such time as the stable and natural vegetation has reestablished, or until the area is permanently designated as an unvegetated beach area pursuant to Sub-Item (3)(a) of this Rule.

(4) State Ports Inlet Management Area. These are areas adjacent to and within Beaufort Inlet and the mouth of the Cape Fear River, providing access to a State Port via a channel maintained by the Unites States Army Corps of Engineers. These areas are unique due to the influence of federally-maintained channels, and the critical nature of maintaining shipping access to North Carolina's State Ports. These areas may require specific management strategies not warranted at other inlets to address erosion and shoreline stabilization. State Ports Inlet Management Areas shall extend from the mean low water line landward as designated on maps approved by the Coastal Resources Commission and available without cost from the Division of Coastal Management, and on the internet at the website at https://files.nc.gov/ncdeq/Coastal%20Management/GIS/state_port_aec.pdf.

History Note: Authority G.S. 113A-107; 113A-107.1; 113A-113; 113A-124;
Eff. September 9, 1977;
Amended Eff. December 1, 1993; November 1, 1988; September 1, 1986; December 1, 1985;
Temporary Amendment Eff. October 10, 1996;
Amended Eff. April 1, 1997;
Temporary Amendment Eff. October 10, 1996 Expired on July 29, 1997;
Temporary Amendment Eff. October 22, 1997;
Amended Eff. April 1, 2020; July 1, 2016; September 1, 2015; May 1, 2014; February 1, 2013; January 1, 2010; February 1, 2006; October 1, 2004; April 1, 2004; August 1, 1998;
Readopted Eff. December 1, 2020;
Amended Eff. August 1, 2022; September 1, 2021.

15A NCAC 07H .0305 DEFINITION AND DESCRIPTION OF LANDFORMS

This Rule describes natural and man-made features that are found within the ocean hazard area of environmental concern.

(1) Ocean Beaches. Ocean beaches are lands consisting of unconsolidated soil materials that extend from the mean low water line landward to a point where either:
  (a) the growth of vegetation occurs; or
  (b) a distinct change in slope or elevation alters the configuration of the landform, whichever is farther landward.

(2) Nearshore. The nearshore is the portion of the beach seaward of mean low water that is characterized by dynamic changes both in space and time as a result of storms.

(3) Primary Dunes. Primary dunes are the first mounds of sand located landward of the ocean beaches having an elevation equal to the mean flood level (in a storm having a one percent chance of being equaled or exceeded in any given year) for the area plus six feet. Primary dunes extend landward to the lowest elevation in the depression behind that same mound of sand commonly referred to as the "dune trough".

(4) Frontal Dunes. The frontal dune is the first mound of sand located landward of ocean beaches that has stable and natural vegetation present.

(5) Vegetation Line. The vegetation line refers to the first line of stable and natural vegetation, which shall be used as the reference point for measuring oceanfront setbacks. This line represents the boundary between the normal dry-sand beach, which is subject to constant flux due to waves, tides, storms and wind, and the more stable upland areas. The vegetation line is generally located at or immediately oceanward of the seaward toe of the frontal dune or erosion escarpment. The Division of Coastal Management or Local Permit Officer shall determine the location of the stable and natural vegetation line based on visual observations of plant composition and density. If the vegetation has been planted, it may be considered stable when the majority of the plant stems are from continuous rhizomes rather than planted individual rooted sets. Planted vegetation may be considered natural when the majority of the plants are mature and additional species native to the region have been recruited, providing stem and rhizome densities that are similar to adjacent areas that are naturally occurring. In areas where there is no stable and natural vegetation present, this line may be established by interpolation between the nearest adjacent stable natural vegetation by on-ground observations or by aerial photographic interpretation.

(6) Pre-project Vegetation Line. In areas within the boundaries of a large-scale beach fill project, the vegetation line that existed within one year prior to the onset of project construction shall be defined as the "pre-project vegetation line". The "onset of project construction" shall be defined as the date sediment placement begins, with the exception of projects completed prior to the original effective date of this Rule, in which case the award of the contract date will be considered the onset of construction. A pre-project vegetation line shall be established in coordination with the Division of Coastal

Management using on-ground observation and survey or aerial imagery for all areas of oceanfront that undergo a large-scale beach fill project. Once a pre-project vegetation line is established, and after the onset of project construction, this line shall be used as the reference point for measuring oceanfront setbacks in all locations where it is landward of the vegetation line. In all locations where the vegetation line as defined in this Rule is landward of the pre-project vegetation line, the vegetation line shall be used as the reference point for measuring oceanfront setbacks. A pre-project vegetation line shall not be established where a pre-project vegetation line is already in place, including those established by the Division of Coastal Management prior to the effective date of this Rule. A record of all pre-project vegetation lines, including those established by the Division of Coastal Management prior to the effective date of this Rule, shall be maintained by the Division of Coastal Management for determining development standards as set forth in Rule .0306 of this Section. Because the impact of Hurricane Floyd in September 1999 caused significant portions of the vegetation line in the Town of Oak Island and the Town of Ocean Isle Beach to be relocated landward of its pre-storm position, the pre-project line for areas landward of the beach fill construction in the Town of Oak Island and the Town of Ocean Isle Beach, the onset of which occurred in 2000, shall be defined by the general trend of the vegetation line established by the Division of Coastal Management from June 1998 aerial orthophotography.

(7) Beach Fill. Beach fill refers to the placement of sediment along the oceanfront shoreline. Sediment used solely to establish or strengthen dunes shall not be considered a beach fill project under this Rule. A "large-scale beach fill project" shall be defined as any volume of sediment greater than 300,000 cubic yards or any storm protection project constructed by the U.S. Army Corps of Engineers.

(8) Erosion Escarpment. The normal vertical drop in the beach profile caused from high tide or storm tide erosion.

(9) Measurement Line. The line from which the ocean hazard setback as described in Rule .0306(a) of this Section is measured in the unvegetated beach area of environmental concern as described in Rule .0304(3) of this Section. In areas designated pursuant to Rule .0304(3)(b) of this Section, the Division of Coastal Management shall establish a measurement line by:

(a) determining the average distance the pre-storm vegetation line receded at the closest vegetated site adjacent to the area designated by the Commission as the unvegetated beach AEC; and

(b) mapping a line equal to the average recession determination in Part (a) of this Subparagraph, measured in a landward direction from the first line of stable and natural vegetation line on the most recent pre-storm aerial photography in the area designated as an unvegetated beach AEC.

History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;
Eff. September 9, 1977;
Amended Eff. December 1, 1992; September 1, 1986; December 1, 1985; February 2, 1981;
Temporary Amendment Eff. October 10, 1996;
Amended Eff. January 1, 1997;
Temporary Amendment Eff. October 10, 1996 Expired on July 29, 1997;
Temporary Amendment Eff. October 22, 1997;
Amended Eff. April 1, 2020; April 1, 2016; April 1, 2008; August 1, 2002; August 1, 1998;
Readopted Eff. December 1, 2020;
Amended Eff. August 1, 2022.

15A NCAC 07H .0306 GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS

(a) In order to protect life and property, all development not otherwise specifically exempted or allowed by law or elsewhere in the Coastal Resources Commission's rules shall be located according to whichever of the following is applicable:

(1) The ocean hazard setback for development shall be measured in a landward direction from the vegetation line, the pre-project vegetation line, or the measurement line, whichever is applicable.

(2) The ocean hazard setback shall be determined by both the size of development and the shoreline long term erosion rate as defined in Rule .0304 of this Section. "Development size" is defined by total floor area for structures and buildings or total area of footprint for development other than structures and buildings. Total floor area includes the following:

(A) The total square footage of heated or air-conditioned living space;

(B) The total square footage of parking elevated above ground level; and

(C) The total square footage of non-heated or non-air-conditioned areas elevated above ground level, excluding attic space that is not designed to be load-bearing.

Decks, roof-covered porches, and walkways shall not be included in the total floor area unless they are enclosed with material other than screen mesh or are being converted into an enclosed space with material other than screen mesh.

(3) With the exception of those types of development defined in 15A NCAC 07H .0309(a), no development, including any portion of a building or structure, shall extend oceanward of the ocean hazard setback. This includes roof overhangs and elevated structural components that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings. The ocean hazard setback shall be established based on the following criteria:

(A) A building or other structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;

(B) A building or other structure greater than or equal to 5,000 square feet but less than 10,000 square feet requires a minimum setback of 120 feet or 60 times the shoreline erosion rate, whichever is greater;

(C) A building or other structure greater than or equal to 10,000 square feet but less than 20,000 square feet requires a minimum setback of 130 feet or 65 times the shoreline erosion rate, whichever is greater;

(D) A building or other structure greater than or equal to 20,000 square feet but less than 40,000 square feet requires a minimum setback of 140 feet or 70 times the shoreline erosion rate, whichever is greater;

(E) A building or other structure greater than or equal to 40,000 square feet but less than 60,000 square feet requires a minimum setback of 150 feet or 75 times the shoreline erosion rate, whichever is greater;

(F) A building or other structure greater than or equal to 60,000 square feet but less than 80,000 square feet requires a minimum setback of 160 feet or 80 times the shoreline erosion rate, whichever is greater;

(G) A building or other structure greater than or equal to 80,000 square feet but less than 100,000 square feet requires a minimum setback of 170 feet or 85 times the shoreline erosion rate, whichever is greater;

(H) A building or other structure greater than or equal to 100,000 square feet requires a minimum setback of 180 feet or 90 times the shoreline erosion rate, whichever is greater;

(I) Infrastructure that is linear in nature, such as roads, bridges, pedestrian access such as boardwalks and sidewalks, and utilities providing for the transmission of electricity, water, telephone, cable television, data, storm water, and sewer requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;

(J) Parking lots greater than or equal to 5,000 square feet require a setback of 120 feet or 60 times the shoreline erosion rate, whichever is greater;

(K) Notwithstanding any other setback requirement of this Subparagraph, construction of a new building or other structure greater than or equal to 5,000 square feet in a community with an unexpired static line exception or Beach Management Plan approved by the Commission in accordance with 15A NCAC 07J .1200 requires a minimum setback of 120 feet or 60 times the shoreline erosion rate in place at the time of permit issuance, whichever is greater. The setback shall be measured landward from either the vegetation line or measurement line, whichever is farthest landward; and

(L) Notwithstanding any other setback requirement of this Subparagraph, replacement of a structure with a total floor area no greater than 10,000 square feet shall be allowed provided that the structure meets the following criteria:

(i) the structure is in a community with an unexpired static line exception, Beach Management Plan approved by the Commission, or was originally constructed prior to August 11, 2009;

(ii) the structure as replaced does not exceed the original footprint or square footage;

(iii) it is not possible for the structure to be rebuilt in a location that meets the ocean hazard setback criteria required under Subparagraph (a)(5) of this Rule;

(iv) the structure as replaced meets the minimum setback required under Part (a)(5)(A) of this Rule; a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater; and

(v) the structure is rebuilt as far landward on the lot as feasible.

(4) If a primary dune exists in the AEC, on or landward of the lot where the development is proposed, the development shall be landward of the applicable ocean hazard setback and the crest of the primary dune. For existing lots where setting the development landward of the crest of the primary dune would preclude any practical use of the lot, development may be located oceanward of the primary dune. In such cases, the development may be located landward of the ocean hazard setback, and shall not be located on or oceanward of a frontal dune. For the purposes of this Rule, "existing lots" shall mean a lot or tract of land that, as of June 1, 1979, is specifically described in a recorded plat and cannot be enlarged by combining the lot or tract of land with a contiguous lot or tract of land under the same ownership.

(5) If no primary dune exists, but a frontal dune does exist in the AEC on or landward of the lot where the development is proposed, the development shall be set landward of the frontal dune or ocean hazard setback, whichever is farthest from the vegetation line, pre-project vegetation line, or measurement line, whichever is applicable.

(6) Structural additions or increases in the footprint or total floor area of a building or structure represent expansions to the total floor area and shall meet the setback requirements established in this Rule and 15A NCAC 07H .0309(a). New development landward of the applicable setback may be cosmetically but not be structurally attached to an existing structure that does not conform with current setback requirements.

(7) Established common law and statutory public rights of access to and use of public trust lands and waters in ocean hazard areas shall not be eliminated or restricted, nor shall such development increase the risk of damage to public trust areas. Development shall not encroach upon public accessways, nor shall it limit the intended use of the accessways.

(8) Development setbacks in areas that have received large-scale beach fill as defined in 15A NCAC 07H .0305 shall be measured landward from the pre-project vegetation line as defined in this Section, unless an unexpired static line exception or Beach Management Plan approved by the Commission has been approved for the local jurisdiction by the Coastal Resources Commission in accordance with 15A NCAC 07J .1200.

(9) A local government, group of local governments involved in a regional beach fill project, or qualified "owners' association" as defined in G.S. 47F-1-103(3) that has the authority to approve the locations of structures on lots within the territorial jurisdiction of the association and has jurisdiction over at least one mile of ocean shoreline, may petition the Coastal Resources Commission for approval of a "Beach Management Plan" in accordance with 15A NCAC 07J .1200. If the request for a Beach Management Plan is approved, the Coastal Resources Commission shall allow development setbacks to be measured from a vegetation line that is oceanward of the pre-project vegetation line under the following conditions:

(A) Development meets all setback requirements from the vegetation line defined in Subparagraphs (a)(1) and (a)(3) of this Rule;

(B) Development setbacks shall be calculated from the shoreline erosion rate in place at the time of permit issuance;

(C) No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings, extends oceanward of the landward-most adjacent habitable building or structure. The alignment shall be measured from the most oceanward point of the adjacent building or structure's roof line, including roofed decks, if applicable. An "adjacent" property is one that shares a boundary line with the site of the proposed development. When no adjacent buildings or structures exist, or the configuration of a lot, street, or shoreline precludes the placement of a building or structure in line with the landward-most adjacent building or structure, an average line of construction shall be determined by the Director of the Division of Coastal Management based on an approximation of the average seaward-most positions of the rooflines of adjacent structures along the same shoreline, extending 500 feet

in either direction. If no structures exist within this distance, the proposed structure must meet the applicable setback from the Vegetation Line and will not be held to the landward-most adjacent structure or an average line of structures.

(D) With the exception of swimming pools, the exceptions defined in Rule .0309(a) of this Section shall be allowed oceanward of the pre-project vegetation line.

(b) Development shall not cause irreversible damage to historic architectural or archaeological resources as documented by the local historic commission, the North Carolina Department of Natural and Cultural Resources, or the National Historical Registry.

(c) Mobile homes shall not be placed within the high hazard flood area unless they are within mobile home parks existing as of June 1, 1979.

(d) Development proposals shall incorporate measures to avoid or minimize adverse impacts of the project. These measures shall be implemented at the applicant's expense and may include actions that:

(1) minimize or avoid adverse impacts by limiting the magnitude or degree of the action;

(2) restore the affected environment; or

(3) compensate for the adverse impacts by replacing or providing substitute resources.

(e) Prior to the issuance of any permit for development in the ocean hazard AECs, there shall be a written acknowledgment from the applicant to the Division of Coastal Management that the applicant is aware of the risks associated with development in this hazardous area and the limited suitability of this area for permanent structures. The acknowledgement shall state that the Coastal Resources Commission does not guarantee the safety of the development and assumes no liability for future damage to the development.

(f) The relocation or elevation of structures shall require permit approval.

(1) Structures relocated landward with public funds shall comply with the applicable ocean hazard setbacks and other applicable AEC rules.

(2) Structures relocated landward entirely with non-public funds that do not meet current applicable ocean hazard setbacks may be relocated the maximum feasible distance landward of its present location. Septic tanks shall not be relocated oceanward of the primary structure.

(3) Existing structures shall not be elevated if any portion of the structure is located seaward of the vegetation line.

(g) Permits shall include the condition that any structure shall be relocated or dismantled when it becomes imminently threatened by changes in shoreline configuration as defined in 15A NCAC 07H .0308(a)(2)(B). Any such structure shall be relocated or dismantled within eight years of the time when it becomes imminently threatened, and in any case upon its collapse or subsidence. However, if natural shoreline recovery or beach fill takes place within eight years of the time the structure becomes imminently threatened, so that the structure is no longer imminently threatened, then it need not be relocated or dismantled. This permit condition shall not affect the permit holder's right to seek authorization of temporary protective measures allowed pursuant to 15A NCAC 07H .0308(a)(2).

History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;
Eff. September 9, 1977;
Amended Eff. December 1, 1991; March 1, 1988; September 1, 1986; December 1, 1985;
RRC Objection due to ambiguity Eff. January 24, 1992;
Amended Eff. March 1, 1992;
RRC Objection due to ambiguity Eff. May 21, 1992;
Amended Eff. February 1, 1993; October 1, 1992; June 19, 1992;
RRC Objection due to ambiguity Eff. May 18, 1995;
Amended Eff. August 11, 2009; April 1, 2007; November 1, 2004; June 27, 1995;
Temporary Amendment Eff. January 3, 2013;
Amended Eff. September 1, 2017; February 1, 2017; April 1, 2016; September 1, 2013;
Readopted Eff. December 1, 2020;
Amended Eff. August 1, 2022; December 1, 2021.

15A NCAC 07H .0308 SPECIFIC USE STANDARDS FOR OCEAN HAZARD AREAS

(a) Ocean Shoreline Erosion Control Activities:

(1) Use Standards Applicable to all Erosion Control Activities:

(A) All oceanfront erosion response activities shall be consistent with the general policy statements in 15A NCAC 07M .0200.

(B) Permanent erosion control structures may cause significant adverse impacts on the value and enjoyment of adjacent properties or public access to and use of the ocean beach, and, therefore, unless specifically authorized under the Coastal Area Management Act, are prohibited. Such structures include bulkheads, seawalls, revetments, jetties, groins and breakwaters.

(C) Rules concerning the use of oceanfront erosion response measures apply to all oceanfront properties without regard to the size of the structure on the property or the date of its construction.

(D) Shoreline erosion response projects shall not be constructed in beach or estuarine areas that sustain substantial habitat for fish and wildlife species, as identified by State or federal natural resource agencies during project review, unless mitigation measures are

incorporated into project design, as set forth in Rule .0306(h) of this Section.

(E) Project construction shall be timed to minimize adverse effects on biological activity.

(F) Prior to completing any erosion response project, all exposed remnants of or debris from failed erosion control structures must be removed by the permittee.

(G) Permanent erosion control structures that would otherwise be prohibited by these standards may be permitted on finding by the Division that:

(i) the erosion control structure is necessary to protect a bridge that provides the only existing road access on a barrier island, that is vital to public safety, and is imminently threatened by erosion as defined in Part (a)(2)(B) of this Rule;

(ii) the erosion response measures of relocation, beach nourishment or temporary stabilization are not adequate to protect public health and safety; and

(iii) the proposed erosion control structure will have no adverse impacts on adjacent properties in private ownership or on public use of the beach.

(H) Structures that would otherwise be prohibited by these standards may also be permitted on finding by the Division that:

(i) the structure is necessary to protect a state or federally registered historic site that is imminently threatened by shoreline erosion as defined in Part (a)(2)(B) of this Rule;

(ii) the erosion response measures of relocation, beach nourishment or temporary stabilization are not adequate and practicable to protect the site;

(iii) the structure is limited in extent and scope to that necessary to protect the site; and

(iv) a permit for a structure under this Part may be issued only to a sponsoring public agency for projects where the public benefits outweigh the significant adverse impacts. Additionally, the permit shall include conditions providing for mitigation or minimization by that agency of significant adverse impacts on adjoining properties and on public access to and use of the beach.

(I) Structures that would otherwise be prohibited by these standards may also be permitted on finding by the Division that:

(i) the structure is necessary to maintain an existing commercial navigation channel of regional significance within federally authorized limits;

(ii) dredging alone is not practicable to maintain safe access to the affected channel;

(iii) the structure is limited in extent and scope to that necessary to maintain the channel;

(iv) the structure shall not have significant adverse impacts on fisheries or other public trust resources; and

(v) a permit for a structure under this Part may be issued only to a sponsoring public agency for projects where the public benefits outweigh the significant adverse impacts. Additionally, the permit shall include conditions providing for mitigation or minimization by that agency of any significant adverse impacts on adjoining properties and on public access to and use of the beach.

(J) The Commission may renew a permit for an erosion control structure issued pursuant to a variance granted by the Commission prior to 1 July 1995. The Commission may authorize the replacement of a permanent erosion control structure that was permitted by the Commission pursuant to a variance granted by the Commission prior to 1 July 1995 if the Commission finds that:

(i) the structure will not be enlarged beyond the dimensions set out in the permit;

(ii) there is no practical alternative to replacing the structure that will provide the same or similar benefits; and

(iii) the replacement structure will comply with all applicable laws and with all rules, other than the rule or rules with respect to which the Commission granted the variance, that are in effect at the time the structure is replaced.

(K) Proposed erosion response measures using innovative technology or design shall be considered as experimental and shall be evaluated on a case-by-case basis to determine consistency with 15A NCAC 07M .0200 and general and specific use standards within this Section.

(2) Temporary Erosion Control Structures:

(A) Permittable temporary erosion control structures shall be limited to sandbags placed landward of mean high water and parallel to the shore.

(B) Temporary erosion control structures as defined in Part (A) of this Subparagraph may be used to protect only imminently threatened roads and associated right of ways and buildings and their associated septic systems. A structure is considered imminently threatened if its foundation, septic system, or right-of-way in the case of roads is less than 20 feet away from the erosion scarp. Buildings and roads located more than 20 feet from the erosion scarp or in areas where there is no obvious erosion scarp may also be found to be imminently threatened when site conditions, such as a flat beach profile or accelerated erosion, increase the risk of imminent damage to the structure.

(C) Temporary erosion control structures shall be used to protect only the principal structure and its associated septic system, but not appurtenances such as pools, gazebos, decks or any amenity that is allowed under Rule .0309 of this Section as an exception to the erosion setback requirement.

(D) Temporary erosion control structures may be placed waterward of a septic system when there is no alternative to relocate it on the same or adjoining lot so that it is landward of or in line with the structure being protected.

(E) Temporary erosion control structures shall not extend more than 20 feet past the sides of the structure to be protected except to align with temporary erosion control structures on adjacent properties, where the Division has determined that gaps between adjacent erosion control structures may result in an increased risk of damage to the structure to be protected. The landward side of such temporary erosion control structures shall not be located more than 20 feet waterward of the structure to be protected or the right-of-way in the case of roads. If a building or road is found to be imminently threatened and at an increased risk of imminent damage due to site conditions such as a flat beach profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet waterward of the structure being protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal Management or the Director's designee in accordance with Part (A) of this Subparagraph.

(F) Temporary erosion control structures may remain in place for up to eight years for a building and its associated septic system, a bridge or a road. The property owner shall be responsible for removal of any portion of the temporary erosion control structure exposed above grade within 30 days of the end of the allowable time period.

(G) An imminently threatened structure or property may be protected only once, regardless of ownership, unless the threatened structure or property is located in a community that is actively pursuing a beach nourishment project or an inlet relocation or stabilization project in accordance with Part (H) of this Subparagraph. Existing temporary erosion control structures may be permitted for additional eight-year periods provided that the structure or property being protected is still imminently threatened, the temporary erosion control structure is in

compliance with requirements of this Subchapter, and the community in which it is located is actively pursuing a beach nourishment or an inlet relocation or stabilization project in accordance with Part (H) of this Subparagraph. In the case of a building, a temporary erosion control structure may be extended, or new segments constructed, if additional areas of the building become imminently threatened. Where temporary structures are installed or extended incrementally, the time period for removal under Part (F) or (H) of this Subparagraph shall begin at the time the initial erosion control structure was installed. For the purpose of this Rule:

(i) a building and its septic system shall be considered separate structures,

(ii) a road or highway may be incrementally protected as sections become imminently threatened. The time period for removal of each contiguous section of temporary erosion control structure shall begin at the time that the initial section was installed, in accordance with Part (F) of this Subparagraph.

(H) For purposes of this Rule, a community is considered to be actively pursuing a beach nourishment or an inlet relocation or stabilization project in accordance with G.S. 113A-115.1 if it:

(i) has been issued an active CAMA permit, where necessary, approving such project; or

(ii) has been identified by a U.S. Army Corps of Engineers' Beach Nourishment Reconnaissance Study, General Reevaluation Report, Coastal Storm Damage Reduction Study, or an ongoing feasibility study by the U.S. Army Corps of Engineers and a commitment of local or federal money, when necessary; or

(iii) has received a favorable economic evaluation report on a federal project; or

(iv) is in the planning stages of a project designed by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements and initiated by a local government or community with a commitment of local or state funds to construct the project or the identification of the financial resources or funding bases necessary to fund the beach nourishment, inlet relocation or stabilization project.

If beach nourishment, inlet relocation, or stabilization is rejected by the sponsoring agency or community, or ceases to be actively planned for a section of shoreline, the time extension is void for that section of beach or community and existing sandbags are subject to all applicable time limits set forth in Part (F) of this Subparagraph.

(I) Once a temporary erosion control structure is determined by the Division of Coastal Management to be unnecessary due to relocation or removal of the threatened structure, it shall be removed to the maximum extent practicable by the property owner within 30 days of official notification from the Division of Coastal Management regardless of the time limit placed on the temporary erosion control structure. If the temporary erosion control structure is determined by the Division of Coastal Management to be unnecessary due to the completion of a storm protection project constructed by the U.S. Army Corps of Engineers, a large-scale beach nourishment project, or an inlet relocation or stabilization project, any portion of the temporary erosion control structure exposed above grade shall be removed by the property owner within 30 days of official notification from the Division of Coastal Management regardless of the time limit placed on the temporary erosion control structure.

(J) Removal of temporary erosion control structures is not required if they are covered by sand. Any portion of the temporary erosion control structure that becomes exposed above grade

after the expiration of the permitted time period shall be removed by the property owner within 30 days of official notification from the Division of Coastal Management.

(K) The property owner shall be responsible for the removal of remnants of all portions of any damaged temporary erosion control structure.

(L) Sandbags used to construct temporary erosion control structures shall be tan in color and three to five feet wide and seven to 15 feet long when measured flat. Base width of the temporary erosion control structure shall not exceed 20 feet, and the total height shall not exceed six feet, as measured from the bottom of the lowest bag.

(M) Soldier pilings and other types of devices to anchor sandbags shall not be allowed.

(N) Existing sandbag structures may be repaired or replaced within their originally permitted dimensions during the time period allowed under Part (F) or (G) of this Subparagraph.

(3) Beach Nourishment. Sand used for beach nourishment shall be compatible with existing grain size and in accordance with Rule .0312 of this Section.

(4) Beach Bulldozing. Beach bulldozing (defined as the process of moving natural beach material from any point seaward of the vegetation line to create a protective sand dike or to obtain material for any other purpose) is development and may be permitted as an erosion response if the following conditions are met:

(A) The area on which this activity is being performed shall maintain a slope of adequate grade so as to not endanger the public or the public's use of the beach and shall follow the pre-emergency slope as closely as possible. The movement of material utilizing a bulldozer, front end loader, backhoe, scraper, or any type of earth moving or construction equipment shall not exceed one foot in depth measured from the pre-activity surface elevation;

(B) The activity shall not exceed the lateral bounds of the applicant's property unless permission is obtained from the adjoining land owner(s);

(C) Movement of material from seaward of the mean low water line will require a CAMA Major Development and State Dredge and Fill Permit;

(D) The activity shall not increase erosion on neighboring properties and shall not have an adverse effect on natural or cultural resources;

(E) The activity may be undertaken to protect threatened on-site waste disposal systems as well as the threatened structure's foundations.

(b) Dune Protection, Establishment, Restoration and Stabilization.

(1) No development shall be permitted that involves the removal or relocation of primary or frontal dune sand or vegetation that would adversely affect the integrity of the dune. Other dunes within the ocean hazard area shall not be disturbed unless the development of the property is otherwise impracticable. Any disturbance of these other dunes shall be allowed only to the extent permitted by this Rule.

(2) Any new dunes established shall be aligned to the greatest extent possible with existing adjacent dune ridges and shall be of the same configuration as adjacent natural dunes.

(3) Existing primary and frontal dunes shall not, except for beach nourishment and emergency situations, be broadened or extended in an oceanward direction.

(4) Adding to dunes shall be accomplished in such a manner that the damage to existing vegetation is minimized. The filled areas shall be replanted or temporarily stabilized until planting can be completed.

(5) Sand used to establish or strengthen dunes shall be of the same general characteristics as the sand in the area in which it is to be placed.

(6) No new dunes shall be created in inlet hazard areas. Reconstruction or repair of existing dune systems as defined in Rule .0305 of this Section and within the Inlet Hazard Area may be permitted.

(7) Sand held in storage in any dune, other than the frontal or primary dune, shall remain on the lot or tract of land to the maximum extent practicable and may be redistributed within the Ocean Hazard AEC provided that it is not placed any farther oceanward than the crest of a primary dune, if present, or the crest of a frontal dune.

(8) No disturbance of a dune area shall be allowed when other techniques of construction can be utilized and alternative site locations exist to avoid dune impacts.

(c) Structural Accessways:

(1) Structural accessways shall be permitted across primary or frontal dunes so long as they are designed and constructed in a manner that entails negligible alteration of the primary or frontal dune. Structural accessways shall not be

considered threatened structures for the purpose of Paragraph (a) of this Rule.

(2) An accessway shall be considered to entail negligible alteration of primary or frontal dunes provided that:

(A) The accessway is exclusively for pedestrian use;

(B) The accessway is a maximum of six feet in width;

(C) Except in the case of beach matting for a local, State, or federal government's public access, the accessway is raised on posts or pilings of five feet or less depth, so that wherever possible only the posts or pilings touch the dune, in accordance with any more restrictive local, State, or federal building requirements. Beach matting for a local, State, or federal government's public access shall be installed at grade and not involve any excavation or fill of the dune; and

(D) Any areas of vegetation that are disturbed are revegetated as soon as feasible.

(3) An accessway that does not meet Part (2)(A) and (B) of this Paragraph shall be permitted only if it meets a public purpose or need which cannot otherwise be met and it meets Part (2)(C) of this Paragraph. Public fishing piers are allowed provided all other applicable standards of this Rule are met.

(4) In order to preserve the protective nature of primary and frontal dunes, a structural accessway (such as a "Hatteras ramp") may be provided for off-road vehicle (ORV) or emergency vehicle access. Such accessways shall be no greater than 15 feet in width and may be constructed of wooden sections fastened together, or other materials approved by the Division, over the length of the affected dune area. Installation of a Hatteras ramp shall be done in a manner that will preserve the dune's function as a protective barrier against flooding and erosion by not reducing the volume of the dune.

(5) Structural accessways may be constructed no more than six feet seaward of the waterward toe of the frontal or primary dune, provided they do not interfere with public trust rights and emergency access along the beach. Structural accessways are not restricted by the requirement to be landward of the First Line of Stable and Natural Vegetation as described in Rule .0309(a) of this Section.

(d) Building Construction Standards. New building construction and any construction identified in .0306(a)(5) of this Section and 15A NCAC 07J .0210 shall comply with the following standards:

(1) In order to avoid danger to life and property, all development shall be designed and placed so as to minimize damage due to fluctuations in ground elevation and wave action in a 100-year storm. Any building constructed within the ocean hazard area shall comply with relevant sections of the North Carolina Building Code including the Coastal and Flood Plain Construction Standards and the local flood damage prevention ordinance as required by the National Flood Insurance Program. If any provision of the building code or a flood damage prevention ordinance is inconsistent with any of the following AEC standards, the more restrictive provision shall control.

(2) All building in the ocean hazard area shall be on pilings not less than eight inches in diameter if round or eight inches to a side if square.

(3) All pilings shall have a tip penetration greater than eight feet below the lowest ground elevation under the structure. For those structures so located on or seaward of the primary dune, the pilings shall extend to five feet below mean sea level.

(4) All foundations shall be designed to be stable during applicable fluctuations in ground elevation and wave forces during a 100-year storm. Cantilevered decks and walkways shall meet the requirements of this Part or shall be designed to break-away without structural damage to the main structure.

History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(6)a.,b.,d.; 113A-115.1; 113A-124;
Eff. June 1, 1979;
Temporary Amendment Eff. June 20, 1989, for a period of 180 days to expire on December 17, 1989;
Amended Eff. August 3, 1992; December 1, 1991; March 1, 1990; December 1, 1989;
RRC Objection Eff. November 19, 1992 due to ambiguity;
RRC Objection Eff. January 21, 1993 due to ambiguity;
Amended Eff. March 1, 1993; December 28, 1992;
RRC Objection Eff. March 16, 1995 due to ambiguity;
Amended Eff. April 1, 1999; February 1, 1996; May 4, 1995;
Temporary Amendment Eff. July 3, 2000; May 22, 2000;
Amended Eff. April 1, 2019; May 1, 2013; July 1, 2009; April 1, 2008; February 1, 2006; August 1, 2002;
Readopted Eff. December 1, 2020;
Amended Eff. August 1, 2022; December 1, 2021.

15A NCAC 07H .0309 USE STANDARDS FOR OCEAN HAZARD AREAS: EXCEPTIONS

(a) The following types of development shall be permitted seaward of the oceanfront setback requirements of Rule .0306(a) of this Section if all other provisions of this Subchapter and other state and local regulations are met:

(1) campsites;

(2) driveways and parking areas with clay, packed sand, or gravel;

(3) elevated decks not exceeding a footprint of 500 square feet. Existing decks exceeding a footprint of 500 square feet may be replaced with no enlargement beyond their original dimensions;
(4) beach accessways consistent with Rule .0308(c) of this Section;
(5) unenclosed, uninhabitable gazebos with a footprint of 200 square feet or less;
(6) uninhabitable, single-story storage sheds with a foundation or floor consisting of wood, clay, packed sand or gravel, and a footprint of 200 square feet or less;
(7) temporary amusement stands consistent with Section .1900 of this Subchapter;
(8) sand fences;
(9) swimming pools; and
(10) fill not associated with dune creation that is obtained from an upland source and is of the same general characteristics as the sand in the area in which it is to be placed.

In all cases, this development shall be permitted only if it is landward of the vegetation line or pre-project vegetation line, whichever is applicable; involves no alteration or removal of primary or frontal dunes which would compromise the integrity of the dune as a protective landform or the dune vegetation; is not essential to the continued existence or use of an associated principal development; and meets all other non-setback requirements of this Subchapter.

(b) Where application of the oceanfront setback requirements of Rule .0306(a) of this Section would preclude placement of a structure on a lot existing as of June 1, 1979, the structure shall be permitted seaward of the applicable setback line in Ocean Erodible Areas, State Ports Inlet Management Areas, and Inlet Hazard Areas, but not Unvegetated Beach Areas if each of the following conditions are met:

(1) The development is set back from the ocean the maximum feasible distance possible on the existing lot and the development is designed to minimize encroachment into the setback area;
(2) The development is at least 60 feet landward of the vegetation line, measurement line, or pre-project vegetation line, whichever is applicable;
(3) The development is not located on or oceanward of a frontal dune, but is entirely behind the landward toe of the frontal dune;
(4) The development incorporates each of the following design standards, which are in addition to those required by Rule .0308(d) of this Section;
(A) All pilings shall have a tip penetration that extends to at least four feet below mean sea level;
(B) The footprint of the structure shall be no more than 1,000 square feet, and the total floor area of the structure shall be no more than 2,000 square feet. For the purpose of this Section, roof-covered decks and porches that are structurally attached shall be included in the calculation of footprint;
(C) Driveways and parking areas shall be constructed of clay, packed sand or gravel except in those cases where the development does not abut the ocean and is located landward of a paved public street or highway currently in use. In those cases, other material may be used; and
(D) No portion of a building's total floor area, including elevated portions that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings, may extend oceanward of the total floor area of the landward-most habitable building or structure. The alignment shall be measured from the most oceanward point of the adjacent building or structure's roof line, including roofed decks. An "adjacent" property is one that shares a boundary line with the site of the proposed development. When no adjacent building or structure exists, or the geometry or orientation of a lot or shoreline precludes the placement of a building in line with the landward most adjacent structure of similar use, an average line of construction shall be determined by the Director of the Division of Coastal Management based on an approximation of the average seaward-most positions of the rooflines of adjacent structures along the same shoreline, extending 500 feet in either direction. If no structures exist within this distance, the proposed structure shall meet the applicable setback from the Vegetation Line but shall not be held to the landward-most adjacent structure or an average line of structures. The ocean hazard setback shall extend landward of the vegetation line, static vegetation line or measurement line, whichever is applicable, a distance no less than 60 feet.
(5) All other provisions of this Subchapter and other state and local regulations are met. If the development is to be serviced by an on-site waste disposal system, a copy of a valid permit for such a system shall be submitted as part of the CAMA permit application.

(c) The following types of water dependent development shall be permitted seaward of the oceanfront setback requirements of Rule

.0306(a) of this Section if all other provisions of this Subchapter and other state and local regulations are met:

(1) piers providing public access; and

(2) maintenance and replacement of existing state-owned bridges, and causeways and accessways to such bridges.

(d) Replacement or construction of a pier house associated with an ocean pier shall be permitted if each of the following conditions is met:

(1) The ocean pier provides public access for fishing and other recreational purposes whether on a commercial, public, or nonprofit basis;

(2) Commercial, non-water dependent uses of the ocean pier and associated pier house shall be limited to restaurants and retail services. Residential uses, lodging, and parking areas shall be prohibited;

(3) The pier house shall be limited to a maximum of two stories;

(4) A new pier house shall not exceed a footprint of 5,000 square feet and shall be located landward of mean high water;

(5) A replacement pier house may be rebuilt not to exceed its most recent footprint or a footprint of 5,000 square feet, whichever is larger;

(6) The pier house shall be rebuilt to comply with all other provisions of this Subchapter; and

(7) If the pier has been destroyed or rendered unusable, replacement or expansion of the associated pier house shall be permitted only if the pier is being replaced and returned to its original function.

(e) In addition to the development authorized under Paragraph (d) of this Rule, small scale, non-essential development that does not induce further growth in the Ocean Hazard Area, such as the construction of single family piers and small scale erosion control measures that do not interfere with natural oceanfront processes, shall be permitted in the Ocean Hazard Area along those portions of shoreline that exhibit features characteristic of an Estuarine Shoreline. Such features include the presence of wetland vegetation, and lower wave energy and erosion rates than in the adjoining Ocean Erodible Area. Such development shall be permitted under the standards set out in Rule .0208 of this Subchapter. For the purpose of this Rule, small scale is defined as those projects which are eligible for authorization under 15A NCAC 07H .1100, .1200, and 15A NCAC 07K .0203.

(f) Transmission lines necessary to transmit electricity from an offshore energy-producing facility may be permitted provided that each of the following conditions is met:

(1) The transmission lines are buried under the ocean beach, nearshore area, and primary and frontal dunes, all as defined in Rule .0305 of this Section, in such a manner so as to ensure that the placement of the transmission lines involves no alteration or removal of the primary or frontal dunes; and

(2) The design and placement of the transmission lines shall be performed in a manner so as not to endanger the public or the public's use of the beach.

(g) Existing stormwater outfalls as of the last amended date of this rule within the Ocean Hazard AEC that are owned or maintained by a State agency or local government, may be extended oceanward subject to the provisions contained within 15A NCAC 07J .0200. Outfalls may be extended below mean low water and may be maintained in accordance with 15A NCAC 07K .0103. Shortening or lengthening of outfall structures within the authorized dimensions, in response to changes in beach width, is considered maintenance under 15A NCAC 07K .0103. Outfall extensions may be marked with signage and shall not prevent pedestrian or vehicular access along the beach. This Paragraph does not apply to existing stormwater outfalls that are not owned or maintained by a State agency or local government.

History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(6)a; 113A-113(b)(6)b; 113A-113(b)(6)d; 113A-124;
Eff. February 2, 1981;
Amended Eff. April 1, 2020; June 1, 2010; February 1, 2006; September 17, 2002 pursuant to S.L. 2002-116; August 1, 2000; August 1, 1998; April 1, 1996; April 1, 1995; February 1, 1993; January 1, 1991; April 1, 1987;
Readopted Eff. December 1, 2020;
Amended Eff. August 1, 2022.

15A NCAC 07H .0310 USE STANDARDS FOR INLET HAZARD AREAS

(a) Inlet Hazard Areas of Environmental Concern as defined by Rule .0304 of this Section are subject to inlet migration, rapid and severe changes in watercourses, flooding and strong tides. Due to the extremely hazardous nature of the Inlet Hazard Areas, all development within these areas shall be permitted in accordance with the following standards:

(1) All development in the inlet hazard area shall be set back from the vegetation line a distance equal to the setback required in the adjacent ocean hazard area;

(2) Permanent structures shall be permitted at a density of no more than one commercial or residential unit per 15,000 square feet of land area on lots subdivided or created after July 23, 1981;

(3) Only residential structures of four units or less or non-residential structures of less than 5,000 square feet total floor area shall be allowed within the inlet hazard area, except that access roads to those areas and maintenance and replacement of existing bridges shall be allowed;

(4) Established common-law and statutory public rights of access to the public trust lands and waters in Inlet Hazard Areas shall not be eliminated or restricted. Development shall not encroach upon public accessways nor shall it limit the intended use of the accessways; and

(5) All other rules in this Subchapter pertaining to development in the ocean hazard areas shall be

applied to development within the Inlet Hazard Areas.

(b) The inlet hazard area setback requirements shall not apply to the types of development exempted from the ocean setback rules in 15A NCAC 07H .0309(a), or to the types of development listed in 15A NCAC 07H .0309(c).

(c) In addition to the types of development excepted under Rule .0309 of this Section, small scale development that does not induce further growth in the Inlet Hazard Area, such as the construction of single-family piers and small scale erosion control measures that do not interfere with natural inlet movement, may be permitted on those portions of shoreline within a designated Inlet Hazard Area that exhibit features characteristic of Estuarine Shoreline. Such features include the presence of wetland vegetation, lower wave energy, and lower erosion rates than in the adjoining Ocean Erodible Area. Such development shall be permitted under the standards set out in Rule .0208 of this Subchapter. For the purpose of this Rule, small scale is defined as those projects which are eligible for authorization under 15A NCAC 07H .1100, .1200, and 07K .0203.

History Note: Authority G.S. 113A-107; 113A-113(b); 113A-124;
Eff. December 1, 1981;
Emergency Rule Eff. September 11, 1981, for a period of 120 days to expire on January 8, 1982;
Temporary Amendment Eff. October 30, 1981, for a period of 70 days to expire on January 8, 1982;
Amended Eff. April 1, 1999; April 1, 1996; December 1, 1992; December 1, 1991; March 1, 1988;
Readopted Eff. December 1, 2020;
Amended Eff. August 1, 2022.

15A NCAC 07H .1205 SPECIFIC CONDITIONS

(a) Piers and docking facilities may extend or be located up to a maximum of 400 feet waterward from the normal high water line or the normal water level, whichever is applicable.

(b) Piers and docking facilities shall not extend beyond the established pier length along the same shoreline for similar use. This restriction shall not apply to piers and docking facilities 100 feet or less in length unless necessary to avoid interference with navigation or other uses of the waters by the public such as blocking established navigation routes or interfering with access to adjoining properties as determined by the Division of Coastal Management. The length of piers and docking facilities shall be measured from the waterward edge of any wetlands that border the water body.

(c) Piers and docking facilities longer than 200 feet shall be permitted only if the proposed length gives access to deeper water at a rate of at least one foot at each 100 foot increment of pier length longer than 200 feet, or if the additional length is necessary to span some obstruction to navigation. Measurements to determine pier and docking facility lengths shall be made from the waterward edge of any coastal wetland vegetation that borders the water body.

(d) Piers shall be no wider than six feet and shall be elevated at least three feet above any coastal wetland substrate as measured from the bottom of the decking.

(e) The total square footage of shaded impact for docks and mooring facilities (excluding the pier) allowed shall be 8 square feet per linear foot of shoreline with a maximum of 800 square feet. In calculating the shaded impact, uncovered open water slips shall not be counted in the total.

(f) The maximum size of any individual component of the docking facility authorized by this general permit shall not exceed 400 square feet.

(g) Docking facilities shall not be constructed in a designated Primary Nursery Area with less than two feet of water at normal low water level or normal water level under the general permit set forth in this Section without prior approval from the Division of Marine Fisheries or the Wildlife Resources Commission.

(h) Piers and docking facilities located over shellfish beds or submerged aquatic vegetation as defined by the Marine Fisheries Commission may be constructed without prior consultation from the Division of Marine Fisheries or the Wildlife Resources Commission if the following two conditions are met:

(1) Water depth at the docking facility location is equal to or greater than two feet of water at normal low water level or normal water level; and

(2) The pier and docking facility is located to minimize the area of submerged aquatic vegetation or shellfish beds under the structure as determined by the Division of Coastal Management.

(i) Floating piers and floating docking facilities located in Primary Nursery Areas, over shellfish beds, or over submerged aquatic vegetation shall be allowed if the water depth between the bottom of the proposed structure and the substrate is at least 18 inches at normal low water level or normal water level.

(j) Docking facilities shall have no more than six feet of any horizontal dimension extending over coastal wetlands and shall be elevated at least three feet above any coastal wetland substrate as measured from the bottom of the decking.

(k) The width requirements established in Paragraph (d) of this Rule shall not apply to pier structures in existence on or before July 1, 2001 when structural modifications are needed to prevent or minimize storm damage. In these cases, pilings and cross bracing may be used to provide structural support as long as they do not extend more than two feet on either side of the principal structure. These modifications shall not be used to expand the floor decking of platforms and piers.

(l) Boathouses shall not exceed a combined total of 400 square feet and shall have sides extending no further than one-half the height of the walls as measured in a downward direction from the top wall plate or header to the Normal Water Level or Normal High Water and only covering the top half of the walls. Measurements of square footage shall be taken of the greatest exterior dimensions. Boathouses shall not be allowed on lots with less than 75 linear feet of shoreline. Structural boat covers, utilizing frame-supported fabric covering, can be permitted on properties with less than 75 linear feet of shoreline when using screened fabric for side walls.

(m) The area enclosed by a boat lift shall not exceed 400 square feet.

(n) Piers and docking facilities shall be single story. They may be roofed but shall not allow second story use.

(o) Pier and docking facility alignments along federally maintained channels shall also meet Corps of Engineers regulations for construction pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

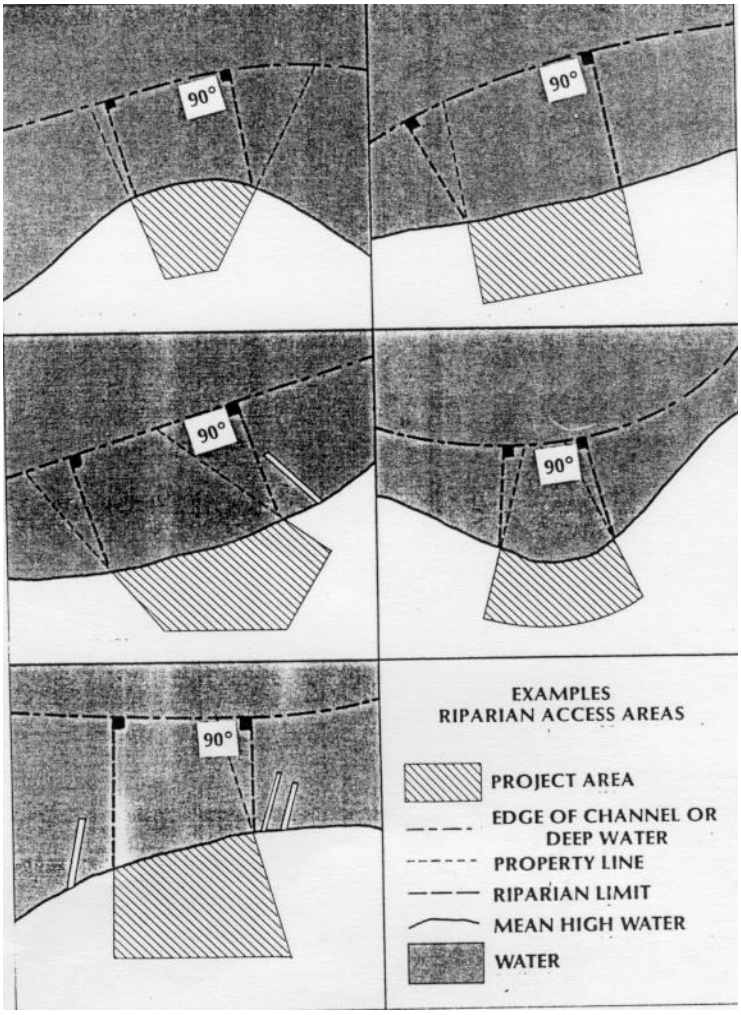
(p) Piers and docking facilities shall in no case extend more than 1/4 the width of a natural water body, human-made canal, or basin. Measurements to determine widths of the water body, human-made canals, or basins shall be made from the waterward edge of any coastal wetland vegetation which borders the water body. The 1/4 length limitation shall not apply when the proposed pier and docking facility is located between longer structures within 200 feet of the applicant's property. However, the proposed pier and docking facility shall not be longer than the pier head line established by the adjacent piers and docking facilities or longer than 1/3 the width of the water body.

(q) Piers and docking facilities shall not interfere with the access to any riparian property, and shall have a minimum setback of 15 feet between any part of the pier and docking facility and the adjacent property lines extended into the water at the points that they intersect the shoreline. The minimum setbacks provided in this Paragraph may be waived by the written agreement of the adjacent riparian owner(s), or when two adjoining riparian owners are co-applicants. Should the adjacent property be sold before construction of the pier commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and submit it to the Division of Coastal Management prior to initiating any development of the pier or docking facility. The line of division of areas of riparian access shall be established by drawing a line along the channel or deep water in front of the property, then drawing a line perpendicular to the line of the channel so that it intersects with the shore at the point the upland property line meets the water's edge. Application of this Rule may be aided by reference to the diagram in Paragraph (t) of this Rule illustrating the Rule as applied to various shoreline configurations. Copies of the diagram may be obtained from the Division of Coastal Management website at http://www.nccoastalmanagement.net.When shoreline configuration is such that a perpendicular alignment cannot be achieved, the pier or docking facility shall be aligned to meet the intent of this Rule to the maximum extent practicable.

(r) Piers and docking facilities shall provide docking space for no more than two boats, as defined in 15A NCAC 07M .0602(a), except when stored on a platform that has already been accounted for within the shading impacts condition of this general permit. Boats stored on floating or fixed platforms shall not count as docking spaces.

(s) Applicants for authorization to construct a pier or docking facility shall provide notice of the permit application to the owner of any part of a shellfish franchise or lease over which the proposed pier or docking facility would extend. The applicant shall allow the lease holder the opportunity to mark a navigation route from the pier to the edge of the lease.

(t) The diagram shown below illustrates various shoreline configurations:



(u) Shared piers or docking facilities shall be allowed, provided that in addition to complying with Paragraphs (a) through (t) of this Rule the following shall also apply:

(1) The shared pier or docking facility shall be confined to two adjacent riparian property owners and the landward point of origination of the structure shall overlap the shared property line;

(2) Shared piers and docking facilities shall be designed to provide docking space for no more than four boats;

(3) The total square footage of shaded impact for docks and mooring facilities shall be calculated using Paragraph (e) of this Rule and in addition shall allow for combined shoreline of both properties;

(4) The property owners of the shared pier shall not be required to obtain a 15-foot waiver from each other as described in Paragraph (q) of this Rule as is applies to the shared riparian line for any work associated with the shared pier, provided that the title owners of both properties have executed a shared pier agreement that has become a part of the permit file; and

(5) The construction of a second access pier or docking facility not associated with the shared pier shall not be authorized under the general permit set forth in this Section.

History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124;
Eff. March 1, 1984;
Amended Eff. December 1, 1991; May 1, 1990; March 1, 1990;
RRC Objection due to ambiguity Eff. March 18, 1993;
Amended Eff. August 1, 1998; April 23, 1993;
Temporary Amendment Eff. December 20, 2001;
Amended Eff. August 1, 2014; July 1, 2009; April 1, 2003;
Readopted Eff. December 1, 2021;
Amended Eff. August 1, 2022.

15A NCAC 07H .1801 PURPOSE

This permit will allow beach bulldozing needed to reconstruct or repair dune systems, as defined in Rule .0305 of this Subchapter. For the purpose of this general permit, "beach bulldozing" is defined as the process of moving natural beach material from any point seaward of the first line of stable vegetation to repair damage to frontal or primary dunes. This general permit is subject to the procedures outlined in Subchapter 07J .1100, and shall not apply where a town or community has a Major Permit for either an ongoing beach bulldozing project or project completed within 30 days of a request for a General Permit.

History Note: Authority G.S. 113-229(cl); 113A-107;113A-113(b); 113A-118.1;
Eff. December 1, 1987;
Amended Eff. September 1, 2016;
Readopted Eff. April 1, 2022;
Amended Eff. August 1, 2022.

15A NCAC 07J .0403 DEVELOPMENT PERIOD/COMMENCEMENT/CONTINUATION

(a) New dredge and fill permits and CAMA Major permits shall expire five years from the date of permit issuance, with the exception of publicly-sponsored, multi-phased beach nourishment projects, which shall expire 10 years from the date of permit issuance. Minor permits, except those authorizing beach bulldozing when authorized through issuance of a CAMA minor permit, shall expire on December 31 of the third year following the year of permit issuance.

(b) CAMA minor permits authorizing beach bulldozing shall expire 30 days from the date of permit issuance. Following permit expiration, the permit holder is entitled to request an extension in accordance with Rule .0404(a) of this Section.

(c) Development After Permit Expiration. Any development undertaken after permit expiration shall be considered unpermitted and shall constitute a violation of G.S. 113A-118 or G.S. 113-229. Any development to be undertaken after permit expiration shall require a new permit or review in accordance with 15A NCAC 07J .0404(c) as determined by the Division.

(d) Commencement of Development in Ocean Hazard AEC. No development shall begin until the oceanfront setback requirement can be established in accordance with 15A NCAC 07H .0306. When the permit holder or an individual receiving an exception is ready to begin development, they shall arrange an onsite meeting with the Division of Coastal Management or Local Permitting Officer to determine the oceanfront setback. This setback determination shall replace the one completed at the time the permit was processed and approved and development shall begin within 60 days from the date of that meeting. In the case of a shoreline change that reduces the determined setback; a new setback determination may be required. To determine if a new setback is required, additional coordination with the Division of Coastal Management or Local Permitting Officer shall be required before development begins.

(e) Any permit that has been suspended as a result of litigation shall be extended at the permit holder's written request for a period equivalent to the period of permit suspension, but not to exceed the development period authorized under Paragraph (a) of this Rule.

History Note: Authority G.S. 113A-118; 113A-124(c)(8); 113-229;
Eff. March 15, 1978;
Amended Eff. August 1, 2002; April 1, 1995; July 1, 1989; March 1, 1985; November 1, 1984;
Readopted Eff. August 1, 2021;
Amended Eff. August 1, 2022.

15A NCAC 07J .0404 DEVELOPMENT PERIOD EXTENSION

(a) For CAMA minor permits authorizing beach bulldozing, the permit holder is entitled to request a one-time 30-day permit extension. No additional extensions shall be granted after the 30-day extension has expired. Notwithstanding this Paragraph, the permit holder is eligible to apply for another minor permit authorizing beach bulldozing following expiration of the 30-day permit extension.

(b) All other CAMA permits may be extended where substantial development, either within or outside the AEC, has begun or is continuing. The permitting authority shall grant as many two-year extensions as necessary to complete the initial development, with the exception that multi-phased beach nourishment projects may be granted ten-year extensions to allow for continuing project implementation. Renewals for maintenance of previously approved dredging projects may be granted for periods not to exceed five years, For the purpose of this Rule, substantial development shall be deemed to have occurred on a project if the permit holder can show that development has progressed beyond basic site preparation, such as land clearing and grading, and construction has begun and is continuing on the primary structure or structures authorized under the permit. For elevated structures in Ocean Hazard Areas, substantial development begins with the placement of foundation pilings, and proof of the local building inspector's certification that the installed pilings have passed a floor and foundation inspection. For residential subdivisions, installation of subdivision roads consistent with an approved subdivision plat shall constitute substantial development.

(c) To request an extension pursuant to Paragraphs (a) and (b) of this Rule, the permit holder shall submit a signed and dated request containing the following:

(1) a statement of the completed and remaining work;

(2) a statement that there has been no change of plans since the issuance of the original permit other than changes that would have the effect of reducing the scope of the project, or previously approved permit modifications;

(3) notice of any change in ownership of the property to be developed and a request for transfer of the permit; and

(4) a statement that the project is in compliance with all conditions of the current permit.

(d) For extension requests where substantial development has not occurred in accordance with Paragraph (b) of this Rule, the Division of Coastal Management may circulate the request to the commenting State resource agencies along with a copy of the original permit application. Commenting State resource agencies will be given 30 days in which to comment on the extension request. Upon the expiration of the commenting period the Division of Coastal Management will notify the permit holder of its actions on the extension request.

(e) Notwithstanding Paragraphs (b) and (d) of this Rule, an extension request may be denied on making findings as required in either G.S. 113A-120 or G.S. 113-229(e). Changes in circumstances or in development standards shall be considered and applied by the Division of Coastal Management in making a decision on an extension request.

(f) The applicant for a major development extension request shall submit, with the request, a check or money order payable to the Department in the sum of one hundred dollars ($100.00).

History Note: Authority G.S. 113A-119; 113A-119.1; 113A-120; 113A-124(c)(8); 113-229(e);
Eff. March 15, 1978;
Amended Eff. August 1, 2002; August 1, 2000; April 1, 1995; March 1, 1991; March 1, 1985; November 1, 1984;
Readopted Eff. August 1, 2021;
Amended Eff. August 1, 2022.

15A NCAC 07J .1201 BEACH MANAGEMENT PLAN APPROVAL

(a) A petitioner subject to a pre-project vegetation line pursuant to 15A NCAC 07H .0305 may petition the Coastal Resources Commission to approve a Beach Management Plan in accordance with the provisions of this Section. A "petitioner" shall be defined as:

(1) Any local government;

(2) Any group of local governments involved in a regional beach fill project; or

(3) Any qualified homeowner's association defined in G.S. 47F-1-103(3) that has the authority to approve the locations of structures on lots within the territorial jurisdiction of the association, and has jurisdiction over at least one mile of ocean shoreline.

(b) A petitioner shall be eligible to submit a request to approve a Beach Management Plan after the completion of construction of the initial large-scale beach fill project(s) as defined in 15A NCAC 07H .0305 that required the creation of a pre-project vegetation line(s). For a pre-project vegetation line in existence prior to the effective date of this Rule, the award-of-contract date of the initial large-scale beach fill project, or the date of the aerial photography or other survey data used to define the pre-project vegetation line, whichever is most recent, shall be used in lieu of the completion of construction date.

(c) A Beach Management Plan applies to all pre-project vegetation lines within the Ocean Hazard Area of the petitioner's jurisdiction.

(d) A complete Beach Management Plan shall consist of a comprehensive document with supporting appendices and data that includes the following:

(1) A review of all beach fill projects in the area of the Beach Management Plan including the initial large-scale beach fill project associated with the pre-project vegetation line, subsequent maintenance of the initial large-scale project(s), and beach fill projects occurring prior to the initial large-scale projects(s). To the extent historical data allows, the summary shall include construction dates, contract award dates, volume of sediment excavated, total cost of beach fill project(s), funding sources, maps, design schematics, pre-and post-project surveys, and a project footprint;

(2) A review of the maintenance needed to achieve a design life of no less than 30 years of shore protection. The plan shall include anticipated maintenance event volume triggers and schedules, long-term volumetric sand needs, annual monitoring protocols, an analysis of the impacts or any erosion control structures, and any relevant maps, tables, diagrams, studies, or reports. The plans and related materials shall be designed and prepared by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements for said work;

(3) Documentation, including maps, geophysical, and geological data, to delineate the planned location and volume of compatible sediment as defined in 15A NCAC 07H .0312 necessary to construct and maintain the large-scale beach fill project defined in Subparagraph (d)(2) of this Rule over its design life. This documentation shall be designed and prepared by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements for said work; and

(4) Identification of the financial resources or funding sources necessary to fund the large-scale beach fill project, over the project design life, such as a dedicated percentage of occupancy taxes, special tax districts, or anticipated federal funding.

(e) Public Comment Requirements. The local jurisdiction shall provide an opportunity for public comments on the Beach Management Plan prior to submission to the Coastal Resources Commission for approval. Written comments on the Beach Management Plan shall be submitted by the local jurisdiction to

the Division along with the request to approve the Beach Management Plan.
(f) A request to approve a Beach Management Plan shall be submitted to the Director of the Division of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557. Written acknowledgement of the receipt of a completed request, including notification of the date of the meeting at which the request will be considered by the Coastal Resources Commission, shall be provided to the petitioner by the Division of Coastal Management.
(g) The Coastal Resources Commission shall consider a request to approve a Beach Management Plan no later than the second scheduled meeting following the date of receipt of a complete request by the Division of Coastal Management, except when the petitioner and the Division of Coastal Management agree upon a later date.

History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;
Eff. March 23, 2009;
Amended Eff. April 1, 2016;
Readopted Eff. September 1, 2021;
Amended Eff. August 1, 2022.

15A NCAC 07J .1202 REVIEW OF THE BEACH MANAGEMENT PLAN APPROVAL REQUEST
(a) The Petitioner shall provide a summary of the Beach Management Plan to be presented to the Coastal Resources Commission. This summary shall include all of the elements required in 15A NCAC 07J .1201.
(b) The Division of Coastal Management shall provide the Commission a review of the Beach Management Plan including a recommendation to grant or deny the request. The Division shall provide the petitioner requesting the approval of a Beach Management Plan an opportunity to review the recommendation prepared by the Division of Coastal Management no less than 10 days prior to the meeting at which it is to be considered by the Coastal Resources Commission.

History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;
Eff. March 23, 2009;
Readopted Eff. September 1, 2021;
Amended Eff. August 1, 2022.

15A NCAC 07J .1203 PROCEDURES FOR APPROVING A BEACH MANAGEMENT PLAN
(a) At the meeting at which approval of a Beach Management Plan is considered by the Coastal Resources Commission, the following shall occur:
(1) The Petitioner shall orally present a summary of the Beach Management Plan described in 15A NCAC 07J .1202; and
(2) The Division of Coastal Management shall orally present its review of the Beach Management Plan and its recommendation to grant or deny the approval request.
(b) The Coastal Resources Commission shall approve a Beach Management Plan if the request contains the information required and meets the criteria presented in 15A NCAC 07J .1201(d)(1) through (d)(4), the Division of Coastal Management recommendation, and public comments on the Beach Management Plan submitted with the request to approve the Beach Management Plan. The final decision of the Coastal Resources Commission shall be made at the meeting at which the matter is heard or in no case later than the next scheduled meeting. The final decision shall be transmitted to the petitioner by registered mail within 10 business days following the meeting at which the decision is reached.
(c) The decision to approve or deny a Beach Management Plan is a final agency decision and is subject to judicial review in accordance with G.S. 113A-123.

History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;
Eff. March 23, 2009;
Readopted Eff. September 1, 2021;
Amended Eff. August 1, 2022.

15A NCAC 07J .1204 REVIEW OF BEACH MANAGEMENT PLANS
(a) Progress Reports. The petitioner that received a Beach Management Plan approval shall provide a progress report to the Coastal Resources Commission every five years from date the Beach Management Plan is approved. The progress report shall address the criteria defined in 15A NCAC 07J .1201(d)(1) through (d)(4) and be submitted in writing to the Director of the Division of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557. The Division of Coastal Management shall provide the petitioner with written acknowledgement of the receipt of a completed progress report, including notification of the meeting date at which the report will be presented to the Coastal Resources Commission.
(b) The Coastal Resources Commission shall review a Beach Management Plan approved under 15A NCAC 07J .1203 every five years from the initial authorization in order to renew its findings for the conditions defined in 15A NCAC 07J .1201(d) through (e). The Coastal Resources Commission shall also consider the following conditions:
(1) Updates to the Beach Management Plan, including performance of past projects and maintenance events, changes in conditions, and design changes to future projects, provided that the changes are designed and prepared by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements for the work;
(2) Design changes to the location and volume of compatible sediment, as defined by 15A NCAC 07H .0312, necessary to construct and maintain the large-scale beach fill project defined in 15A NCAC 07J .1201(d)(2), including design changes defined in this Rule provided that the changes have been designed and prepared by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements for the work; and
(3) Changes in the financial resources or funding sources necessary to fund the large-scale beach

fill project(s)defined in 15A NCAC 07J .1201(d)(2). If the project has been amended to include design changes defined in this Rule, then the Coastal Resources Commission shall consider the financial resources or funding sources necessary to fund the changes.

(4) Local governments with an unexpired Static Line Exception approved by the Commission may petition the Commission for approval of a Beach Management Plan by supplementing information required under the Static Line Exception to be compliant with the provisions of 15A NCAC 07J .1200 prior to or upon the expiration of the previously approved Static Line Exception.

(c) The Petitioner shall orally present a summary of the progress report the Coastal Resources Commission no later than the second scheduled meeting following the date the report was received, except when a later meeting is agreed upon by the local government or community submitting the progress report and the Division of Coastal Management. The Division of Coastal Management shall provide the Coastal Resources Commission with a review and recommendation of the progress report on whether the conditions defined in 15A NCAC 07J .1201(d)(1) through (d)(4) have been met. The petitioner submitting the progress report shall be provided an opportunity to review the recommendation prepared by the Division of Coastal Management no less than 10 days prior to the meeting at which it is to be considered by the Coastal Resources Commission.

History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;
Eff. March 23, 2009;
Readopted Eff. September 1, 2021;
Amended Eff. August 1, 2022.

15A NCAC 07J .1205 REVOCATION AND EXPIRATION OF BEACH MANAGEMENT PLAN APPROVAL

(a) Beach Management Plan approval shall be revoked if the Coastal Resources Commission determines, after the review of the petitioner's progress report identified in 15A NCAC 07J .1204, that any of the criteria under which the Beach Management Plan is authorized, as defined in 15A NCAC 07J .1201(d)(1) through (d)(4), are not being met.

(b) In the event a progress report is not received by the Division of Coastal Management five years from either the initial approval of the Beach Management Plan or the previous progress report, the Beach Management Plan approval shall be revoked automatically at the end of the five-year interval defined in 15A NCAC 07J .1204(b) for which the progress report was not received.

(c) The revocation or expiration of a Beach Management Plan approval shall be a final agency decision and is subject to judicial review in accordance with G.S. 113A-123.

History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;
Eff. March 23, 2009;
Readopted Eff. September 1, 2021;
Amended Eff. August 1, 2022.

15A NCAC 07J .1206 LOCAL GOVERNMENTS AND COMMUNITIES WITH APPROVED BEACH MANAGEMENT PLANS

A list of CRC approved Beach Management Plans and the conditions under which the pre-project vegetation lines exist, including the date(s) the pre-project vegetation line was defined, shall be maintained by the Division of Coastal Management. A list of Beach Management Plans and the conditions under which the Plans exist, including the date the Plan was approved, the dates the progress reports were received, the design life of the large-scale beach fill project, and the potential expiration dates for the Beach Management Plans shall be maintained by the Division of Coastal Management. Both the pre-project vegetation line list and the Beach Management Plan list shall be available for inspection at the Division of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557.

History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;
Eff. March 23, 2009;
Readopted Eff. September 1, 2021;
Amended Eff. August 1, 2022.

15A NCAC 07J .1301 REQUESTING THE DEVELOPMENT LINE

History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;
Eff. April 1, 2016;
Amended Eff. September 1, 2017;
Readopted Eff. September 1, 2021;
Amended Eff. December 1, 2021;
Repealed Eff. August 1, 2022.

15A NCAC 07J .1302 PROCEDURES FOR APPROVING THE DEVELOPMENT LINE

History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-123; 113A-124;
Eff. April 1, 2016;
Readopted Eff. September 1, 2021;
Repealed Eff. August 1, 2022.

15A NCAC 07J .1303 LOCAL GOVERNMENTS AND COMMUNITIES WITH DEVELOPMENT LINES

History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;
Eff. April 1, 2016;
Readopted Eff. September 1, 2021;
Repealed Eff. August 1, 2022.

15A NCAC 07K .0208 SINGLE FAMILY RESIDENCES EXEMPTED

(a) All single family residences constructed within the Coastal Shorelines Area of Environmental Concern that are more than 40

feet landward of normal high water or normal water level, and involve no land disturbing activity within the 40 feet buffer area are exempted from the CAMA permit requirement as long as this exemption is consistent with all other applicable CAMA permit standards and local land use plans and rules in effect at the time the exemption is granted.

(b) This exemption allows for the construction of a generally shore perpendicular access to the water, provided that the access shall be no wider than six feet. The access may be constructed out of materials such as wood, composite material, gravel, paver stones, concrete, brick, or similar materials. Any access constructed over wetlands shall be elevated at least three feet above any wetland substrate as measured from the bottom of the decking.

(c) Within the AEC for estuarine shorelines contiguous to waters classified as Outstanding Resource Waters (ORW), no CAMA permit shall be required if the proposed development is a single-family residence that has a built upon area of 25 percent or less and is at least 40 feet from waters classified as ORW.

(d) Before beginning any work under this exemption, the CAMA local permit officer or the Department of Environmental Quality representative shall be notified of the proposed activity to allow on-site review. Notification may be by telephone at (252) 808-2808, in person, or in writing to the North Carolina Division of Coastal Management, 400 Commerce Ave., Morehead City, NC 28557. Notification shall include:

(1) the name, address, and telephone number of the landowner and the location of the work, including the county, nearest community, and water body; and

(2) the dimensions of the proposed project, including proposed landscaping and the location of normal high water or normal water level.

(e) In eroding areas, this exemption shall apply only when the local permit officer has determined that the house has been located the maximum feasible distance back on the lot but not less than forty feet.

(f) Construction of the structure authorized by this exemption shall be completed by December 31 of the third year of the issuance date of this exemption.

(g) The elevation of existing structures within the Coastal Shorelines AEC is exempt from CAMA permit requirements as long as the structure is elevated entirely within the existing footprint and is consistent with all other applicable permit standards, local land use plans, and rules in effect at the time the exemption is granted.

History Note: Authority G.S. 113A-103(5)c;
Eff. November 1, 1984;
Amended Eff. February 1, 2019; May 1, 2015; December 1, 2006; December 1, 1991; May 1, 1990; October 1, 1989;
Readopted Eff. August 1, 2021;
Amended Eff. August 1, 2022.

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 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.

15A NCAC 07M .0301 DECLARATION OF GENERAL POLICY

History Note: Authority G.S. 113A-124; 113A-134.1; 113A-134.3;
Eff. March 1, 1979;
Amended Eff. February 1, 2009; January 1, 1998; March 1, 1988; March 1, 1985; July 1, 1982;
Readopted Eff. September 1, 2021;
Repealed Eff. August 1, 2022.

15A NCAC 07M .0302 DEFINITIONS

As used in this Section, the Public Beach and Coastal Waterfront Access Program is to provide public access to the public trust beaches and waters as defined in 15A NCAC 07H .0207(a) and 15A NCAC 07H .0305(a)(1) in the 20 coastal counties described in G.S. 113A-103(2).

(1) "Beach" is defined in 15A NCAC 07H .0305(a)(1).

(2) "Coastal Waterfront Access" includes the acquisition and improvement of properties located in the 20-county area under the Coastal Area Management Act (CAMA) jurisdiction as described in G.S. 113A-103(2) that are adjacent or proximate to coastal waterways to which the public has rights of access or public trust rights.

(3) "Ocean Beach Access" includes the acquisition and improvement of properties adjacent or proximate to the Atlantic Ocean for parking and public passage to the oceanfront.

(4) "Public Trust Areas" is defined in 15A NCAC 07H .0207(a).

(5) A "Local Waterfront Access Plan" identifies access needs and opportunities for public access, determines access and facility requirements, establishes standards, develops project design plans or guidelines, establishes priorities, considers financial resource availability (such as grants, impact fees, or occupancy taxes) and construction timing, and provides a system for evaluation of the plan.

(6) "Certified CAMA Land Use Plan" is defined in 15A NCAC 07B. A local government may identify access needs, develop a local waterfront access plan, and develop local policies to pursue access funding through its land use plan.

(7) "Tier 1 communities" include Tier 1 counties, as determined annually by the North Carolina Department of Commerce as outlined in G.S. 143B-437.08, and the counties respective municipalities. The Division shall use the Tier 1 designation to encourage economic activity in economically distressed communities.

History Note: Authority G.S. 113A-124; 113A-134.3;
Eff. March 1, 1979;
Amended Eff. February 1, 2009; January 1, 1998; March 1, 1988; March 1, 1985; July 1, 1982;
Readopted Eff. September 1, 2021;
Amended Eff. August 1, 2022.

15A NCAC 07M .0303 STANDARDS FOR PUBLIC ACCESS

History Note: Authority G.S. 113A-124; 113A-134.1; 113A-134.3; 153A-277(a); 160A-314(a);
Eff. March 1, 1979;
Amended Eff. March 1, 1988; March 1, 1985; July 1, 1982;
RRC Objection due to lack of necessity and unclear language Eff. October 17, 1991;
Amended Eff. February 1, 2009; August 1, 2007; January 1, 1998; March 1, 1992;
Readopted Eff. September 1, 2021;
Repealed Eff. August 1, 2022.

15A NCAC 07M .0306 LOCAL GOVERNMENT AND STATE INVOLVEMENT IN ACCESS

History Note: Authority G.S. 113A-124; 113A-134.3;
Eff. January 1, 1998;

Amended Eff. February 1, 2009; August 1, 2007;
Readopted Eff. September 1, 2021;
Repealed Eff. August 1, 2022.

15A NCAC 07M .0307 PUBLIC BEACH AND COASTAL WATERFRONT ACCESS PROGRAM

(a) The Division of Coastal Management (DCM) has primary responsibility for administering the Public Beach and Coastal Waterfront Access Program. Subject to the availability of funds, the DCM shall annually solicit pre-application proposals from local governments and shall select competitive projects for final application submittal. Projects from these final applications shall be selected for funding based on criteria in Paragraph (h) of this Rule.

(b) The DCM may use available funds on a non-competitive basis to plan for and provide public access through acquisition and improvements. Prior to expending the funds, the DCM shall hold a public meeting or hearing at a regularly scheduled meeting of the Coastal Resources Commission (CRC) to discuss its proposal. Members of the public shall be invited to comment to the CRC for 60 days prior to the expenditure of non-competitive money by the DCM.

(c) Local governments have responsibility for the selection of public access sites within their jurisdiction. Any local government in the 20-county coastal region having ocean beaches or estuarine or public trust waters within its jurisdiction may apply for access funds for the acquisition and development of beach or coastal waterfront access facilities.

(d) Prior to submitting its final application for a Public Beach and Coastal Waterfront Access grant in accordance with Paragraph (a) of this Rule the local government shall hold a public meeting or hearing at a regularly scheduled meeting of the Commission to discuss its proposal. The local government shall consider public comments prior to its decision to apply for funds from the State.

(e) Eligible projects include:

(1) land acquisition, including acquisition of unbuildable lots as described in G.S. 113A-134.3(a);

(2) development of improvements at new or existing sites that provide public access, such as dune crossovers, piers, boardwalks, parking areas, restrooms, showers, benches, litter receptacles, and bicycle racks;

(3) development of improvements to public access at deteriorating urban waterfronts. Such projects include the establishment or rehabilitation of boardwalk areas, shoreline stabilization measures such as the installation or rehabilitation of bulkheads, and the placement or removal of pilings for the purpose of public safety and increased access and use of the urban waterfront;

(4) reconstruction, replacement, or relocation of existing, damaged facilities;

(5) offsite parking areas servicing access sites within the local government's jurisdiction;

(6) boat ramps and canoe/kayak launch areas provided that the public access facility incorporates pedestrian access to coastal waters; or

(7) maintenance of previously funded access sites. This project category is available only to Tier 1 communities. Such projects include repair and maintenance of access site facilities and amenities to ensure public health and safety. Repair and maintenance does not include activities such as trash removal, grounds keeping, or custodial services, or local government staff salaries.

(f) All projects must meet the standards of handicapped accessibility for individuals with disabilities according to the North Carolina Building Code. Exceptions may be granted where site characteristics impede accessibility improvements.

(g) The following criteria shall be used to select projects that may receive financial assistance:

(1) the applicant demonstrates a need for the project due to a high demand for public access and limited availability within the local government jurisdiction;

(2) the project is identified in the certified CAMA Land Use Plan or local access plan;

(3) the applicant has not received previous assistance from the Public Beach and Coastal Waterfront Access Program grant program or the applicant has received assistance and demonstrated its ability to complete previous projects with funds from the grant program;

(4) the applicant's commitment of matching funds exceeds the required local share of the total project cost provided in Paragraph (h) of this Rule;

(5) the project proposal includes multiple funding sources;

(6) the project location includes donated land with physical limitations, or it has been deemed unbuildable as described in G.S. 113A-134.3(a). Priority shall be given to the acquisition of lands that meet G.S. 113A-134.3(a);

(7) the project acquires land for future access improvements;

(8) the project creates handicapped accessible facilities at new access sites, adds handicapped accessible facilities to existing sites, or replaces deteriorating facilities; and

(9) the project's location is within a Tier 1 community.

(h) The applicant's matching requirements are based on project type and their designations as a Tier 1 community. Match requirements are as follows:

(1) Local government contributions for land acquisition shall be at least 15 percent of the acquisition cost, except for Tier 1 communities which shall have a local government contribution of at least 10 percent of the project cost. At least one-half of the local contribution

shall be cash match, the remainder may be in-kind match.

(2) Local government contributions for access site improvements shall be at least 25 percent of the project costs, except for Tier 1 communities which 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.

(3) Local government contributions for maintenance of previously funded access sites shall be at least 10 percent of the maintenance project costs. At least one-half of the local government contribution shall be cash match, the remainder may be in-kind match. This project type is only available to Tier 1 communities.

(i) Federal and other State funds may be used as the local government cash contribution, provided such funds are not already being used as matching funds for other State programs.

(j) Multi-phase projects shall be considered on their own merits within the pool of applications being reviewed in any year.

(k) Projects selected for funding may not begin until the Department of Environmental Quality and grant recipient sign a contract. An exception may be granted for land acquisition projects when a waiver has been requested by the applicant in writing and approved by the Division of Coastal Management. A waiver shall be in effect for 18 months from the date of approval. A project receiving a waiver shall not receive preferential treatment in funding decisions.

History Note: Authority G.S. 113A-124; 113A-134.3;
Eff. January 1, 1998;
Amended Eff. February 1, 2009; September 1, 2007; August 1, 2000;
Readopted Eff. September 1, 2021;
Amended Eff. August 1, 2022.

15A NCAC 07M .0308 PUBLIC INVOLVEMENT/NOTICE

History Note: Authority G.S. 113A-124; 113A-134.3;
Eff. January 1, 1998;
Readopted Eff. September 1, 2021;
Repealed Eff. August 1, 2022.

15A NCAC 07M .0310 STANDARDS FOR PUBLIC ACCESS

(a) Public access projects funded through the Public Beach and Coastal Waterfront Access program shall be consistent with public access policies contained in the local government's land use plan as required under 15A NCAC 07B .0702(d)(2)(A), its local waterfront access plan, or a local recreation plan that addresses public access.

(b) Land acquired with Public Beach and Coastal Waterfront Access program funds shall be dedicated in perpetuity for public access and benefit of the general public, and the dedication shall be recorded in the local Register of Deeds by the grantee. Any lease or easement agreement shall extend at least 25 years. If land acquired or improved with Public Beach and Coastal Waterfront Access Program grant funds is sold or otherwise disposed of, the local government shall reimburse the State at a percentage equal to the percentage of grant funds provided for the original purchase or improvement, at current market value at the time of the sale or disposition.

(c) Local governments that receive or have received funding through this grant program shall operate and maintain the public access sites and their facilities in such a manner that public health and safety is ensured for the useful life of that facility as set forth in the individual grant contract.

(d) Local governments with public access sites funded by the Division of Coastal Management pursuant to G.S. 113A-134.3 may charge user fees as long as those fees are used exclusively for the operation, maintenance, and enhancement of existing public access sites, including trash removal, law enforcement and public safety, beach nourishment projects or the provision of new public access sites through acquisition or easement. Local governments shall prepare annual accounting reports for fees generated by Public Beach and Coastal Waterfront Access Program funded access sites and shall make the report available upon request. Any local government that has not made the most recent required accounting report available shall not receive further funding under this program until the inconsistency is corrected.

History Note: Authority G.S. 113A-124; 113A-134.1; 113A-134.3; 153A-277(a); 160A-314(a);
Eff. August 1, 2022.

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15A NCAC 10D .0103 GENERAL REGULATIONS REGARDING HUNTING ON GAME LANDS

(a) Safety Requirements. No person while hunting on any designated game land shall be under the influence of alcohol or any narcotic drug, or fail to comply with restrictions enacted by the National Park Service regarding the use of the Blue Ridge Parkway where it adjoins game lands.

(b) Traffic Requirements. No person shall park a vehicle on game lands in such a manner as to block traffic or gates, or otherwise prevent vehicles from using any roadway.

(c) Tree Stands. It is unlawful to erect or to occupy, for the purpose of hunting, any tree stand or platform attached by nails, screws, bolts, or wire to a tree on any game land designated herein. This prohibition does not apply to lag-screw steps or portable stands that are removed after use with no metal remaining in or attached to the tree.

(d) Time and Manner of Taking. Hunting is allowed on game lands only during the open season for game animals and game birds, unless hunting is allowed by permit. Individual game lands or parts thereof may be closed to hunting or limited to specific dates by this Chapter. Persons shall hunt only with weapons lawful for the open game animal or game bird seasons.

(1) On managed waterfowl impoundments, persons shall:

(A) not enter the posted impoundment areas earlier than 4:00 a.m. on the permitted hunting dates;
(B) not hunt after 1:00 p.m. on such hunting dates;
(C) not set decoys out prior to 4:00 a.m.;
(D) remove decoys by 3:00 p.m. each day; and
(E) not operate any vessel or vehicle powered by an internal combustion engine.

(2) On Sundays, the following shall be prohibited:
(A) hunting with a firearm between 9:30 a.m. and 12:30 p.m.;
(B) the use of a firearm to take deer that are run or chased by dogs;
(C) hunting with a firearm within 500 yards of a place of religious worship, as defined by G.S. 14-54.1(b), or any accessory structure thereof, and
(D) hunting migratory game birds.

On designated youth waterfowl days, youths may hunt on managed waterfowl impoundments from ½ hour before sunrise to sunset. On designated veterans and military waterfowl days, veterans, as defined in 38 USC 101, and members of the Armed Forces on active duty, including members of the National Guard and Reserves on active duty other than for training, with valid credentials may hunt on game lands and impoundments not designated as permit-only areas from ½ hour before sunrise to sunset. Restrictions (1)(A), (1)(C), and (1)(E) in this Paragraph shall apply. On waterfowl impoundments that have a posted "Scouting-only Zone," trapping during the trapping season and waterfowl hunting on designated waterfowl hunting days are the only activities allowed on the portion of the impoundment outside of the posted "Scouting-only Zone."

(e) Definitions:

(1) For purposes of this Subchapter, "Dove Only Area" refers to a Game Land on which doves may be taken and dove hunting is limited to Mondays, Wednesdays, Saturdays, Thanksgiving Day, Christmas Day, and New Year's Days within the federally-announced season.

(2) For purposes of this Subchapter, "Three Days per Week Area" refers to a Game Land on which any game may be taken during the open seasons and hunting is limited to Mondays, Wednesdays, Saturdays, Thanksgiving Day, Christmas Day, and New Year's Days, except for game lands in this Rule that specifically allow hunting on Tuesdays, Thursday, and Fridays. Falconry may also be practiced on Sundays. These "open days" also apply to either-sex deer hunting seasons listed under each game land. Raccoon and opossum hunting may continue until 7:00 a.m. on Tuesdays, until 7:00 a.m. on Thursdays, and until midnight on Saturdays.

(3) For purposes of this Subchapter, "Six Days per Week Area" refers to a Game Land on which any game may be taken on the open days of Monday, Tuesday, Wednesday, Thursday, Friday, and Saturday during the open seasons.

(4) For purposes of this Subchapter, "Seven Days per Week Area" refers to a Game Land on which game may be taken during the open season on Mondays, Tuesdays, Wednesdays, Thursdays, Fridays, Saturdays, and Sundays.

(5) For purposes of this Subchapter, "Four Days per Week Area" refers to a Game Land on which any game may be taken during the open seasons and hunting is limited to Tuesdays, Thursdays, Saturdays, and Sundays. Raccoon and opossum hunting may continue until 7:00 a.m. on Wednesdays, 7:00 a.m. on Fridays, and 7:00 a.m. on Mondays.

(6) For purposes of this Subchapter, "Permit Only" means areas on which species take or activities listed shall be during the applicable season(s) by permit only subject to annual limitations imposed by the Commission to meet wildlife, hunter, or land management objectives, unless otherwise specified. Individuals may apply for available opportunity permits online at ncwildlife.org, by phone, or in person at a wildlife service agent location. The Commission shall issue permits to applicants selected at random by computer in accordance with G.S. 113-264. Permits shall be non-transferrable. All applicable laws and rules regarding the species or activity shall apply.

(f) Hunting with Dogs on Game Lands. Deer shall not be taken with the use of dogs on game lands in counties or parts of counties where taking deer with dogs is prohibited as described in 15A NCAC 10B .0109.

(g) The listed seasons and restrictions apply in the following game lands:

(1) Bertie County Game Land in Bertie County
(A) Six Days per Week Area
(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
(C) Target Shooting is prohibited.

(2) Bladen Lakes State Forest Game Land in Bladen County
(A) Three Days per Week Area
(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
(C) Except for blackpowder firearms, rifles larger than .22 caliber rimfire shall not be used.
(D) On the Singletary Lake Tract, the use of dogs for hunting deer and bear is prohibited.
(E) Wild turkey hunting on the Singletary Lake Tract is by permit only.

(F) Camping is restricted to September 1 through the last day of February and March 31through May 14 in areas both designated and posted as camping areas.

(G) The use of dogs for pursuing or taking foxes shall be prohibited from February 15 through August 1.

(3) Buckhorn Game Land in Orange County

(A) Hunting is by permit only.

(B) Horseback riding is prohibited.

(4) Butner - Falls of Neuse Game Land in Durham, Granville, and Wake counties

(A) Six Days per Week Area

(B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.

(C) Waterfowl shall be taken only on:

(i) the opening and closing days of the applicable waterfowl seasons;

(ii) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and

(iii) Tuesdays, Thursdays, and Saturdays of the applicable waterfowl seasons.

On the posted waterfowl impoundments a special permit is required for all waterfowl hunting after November 1.

(D) Horseback riding is prohibited.

(E) Target shooting is prohibited.

(F) Wild turkey hunting is by permit only, except on those areas posted as an archery zone.

(G) The use of dogs for hunting deer is prohibited on that portion west of NC 50 and south of Falls Lake.

(H) The use of bicycles is restricted to designated areas, except that this restriction does not apply to hunters engaged in the act of hunting during the open days of the applicable seasons for game birds and game animals. On designated bicycle riding areas, the use of bicycles is allowed from May 15 through August 31, and on Sundays only from September 1 through May 14.

(I) Camping and the presence of campers and tents in designated Hunter Camping Areas are limited to September 1 through the last day of February and March 31 through May 14.

(J) Camping is allowed at any time in the designated Mountains-to-Sea Trail Camping Area and shall not exceed a maximum stay of two consecutive nights. Campfires are prohibited in this camping area.

(5) Buxton Woods Game Land in Dare County:

(A) Six Days per Week Area

(B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the first Friday thereafter.

(C) Target shooting is prohibited.

(6) Dan River Game Land in Rockingham County

(A) Three Days per Week Area

(B) Deer hunting is by permit only.

(C) Wild turkey hunting is by permit only.

(D) Horseback riding is prohibited except on those areas posted for equestrian use. People age 16 or older horseback riding on this game land must possess a Game Lands license.

(E) Target shooting is prohibited.

(7) Dover Bay Game Land in Craven County

(A) Six Days per Week Area

(B) Deer of either sex may be taken all the days of the applicable Deer With Visible Antlers season.

(8) Green Swamp Game Land in Brunswick County

(A) Six Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(C) On that portion north of Big Macedonia Road, east of Makatoka Road, south of Little Macedonia Road, and west of Green Swamp Road, hunting and trapping is by permit only.

(D) Pursuing or chasing deer or bear with dogs for the purposes of training or hunting is prohibited on that portion of the game land that is north of Big Macedonia Road, east of Makatoka Road, south of Little Macedonia Road, and west of Green Swamp Road.

(9) Headwaters State Forest Game Land in Transylvania County

(A) Six Days per Week Area

(B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season

(10) Hill Farm Game Land in Stokes County- hunting and trapping is by permit only.

(11) Holly Shelter Game Land in Pender County

(A) Six Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(C) Waterfowl may be taken only on the following days:

(i) the opening and closing days of the applicable waterfowl seasons;
(ii) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and
(iii) Tuesdays and Saturdays of the applicable waterfowl seasons.

(D) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas designated and posted as camping areas.

(E) On that portion north of the Bear Garden Road, west of Shaw Road to Baby Branch, east of the Northeast Cape Fear River, south of NC 53 and west of NC 50, deer hunting and bear hunting are permit only.

(F) The use of dogs for hunting deer and bear is prohibited:
(i) all open days on that portion of the game land that is south of Baby Branch extending west to Stag Park Road, west of Shaw Road, north of Meeks Road extending west to Stag Park Road and east of Stag Park Road; and
(ii) on Tuesdays, Thursdays, and Fridays, with the exception of Thanksgiving, Christmas, and New Year's days, and except for the area north of Bear Garden Road, west of Shaw Road to Baby Branch, east of the Northeast Cape Fear River, south of NC 53 and west of NC 50, where the use of dogs for deer and bear hunting is by permit only.

(G) Hunting and vehicular access on the Pender 4 Tract is restricted from September 1 to the last day of February and April 1 to May 15 to individuals that possess valid hunting opportunity permits, unless otherwise authorized by the Wildlife Resources Commission.

(H) Hunters who possess a Disabled Access Permit may operate an All Terrain Vehicle on and within 100 yards of trails designated for Disabled Sportsman Access.

(I) Target shooting is prohibited, except on the Holly Shelter Shooting Range.

(J) Geocaching is restricted to closed days for taking bear, deer, turkey, and waterfowl.

(12) J. Morgan Futch Game Land in Tyrrell County - hunting and trapping is by permit only.

(13) Kerr Scott Game Land in Wilkes County
(A) Six Days per Week Area
(B) Use of centerfire rifles is prohibited.
(C) Use of blackpowder firearms, shotguns, or rifles for hunting deer during the applicable Deer With Visible Antlers Season is prohibited.
(D) Tree stands shall not be left overnight; and no screws, nails, or other objects penetrating the bark shall be used to attach a tree stand or blind to a tree.
(E) Deer of either sex may be taken on all open days of the applicable Deer With Visible Antlers season.
(F) Hunting on posted waterfowl impoundments is by permit only.
(G) The use of firearms for hunting wild turkey is prohibited.

(14) Lantern Acres Game Land in Tyrrell and Washington counties
(A) Six Days per Week Area
(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
(C) Wild turkey hunting is by permit only.
(D) The use of dogs for hunting deer on the Godley Tract is prohibited.
(E) Waterfowl hunting on posted waterfowl impoundments is by permit only.

(15) Neuse River Game Land in Craven County
(A) Six Days per Week Area
(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
(C) Camping is allowed any time within 100 yards of the Neuse River on that portion of the game land that lies west of NC-43.

(16) Pungo River Game Land in Hyde County
(A) Six Days per Week Area
(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(17) Rendezvous Mountain State Forest Game Land in Wilkes County
(A) Three Days per Week Area
(B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Wednesday thereafter.
(C) Bear hunting is prohibited.

(18) Rhodes Pond Game Land in Cumberland and Harnett counties

(A) Hunting is by permit only.
(B) Swimming is prohibited on the area.

(19) Roanoke River Wetlands in Bertie, Halifax, Martin, and Northampton counties
(A) Hunting and trapping is by Permit only.
(B) Vehicles are prohibited on roads or trails except those operated on Commission business or by permit holders.
(C) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas both designated and posted as camping areas, provided, however, that camping is allowed at any time within 100 yards of the Roanoke River on the state-owned portion of the game land.
(D) Target Shooting is prohibited.

(20) Roanoke Island Marshes Game Land in Dare County-Hunting is by permit only.

(21) Rockfish Creek Game Land in Hoke County
(A) Three Days per Week Area
(B) Deer of either sex may be taken with archery equipment on open hunting days from the Saturday on or nearest September 10 to the fourth Friday before Thanksgiving Day.
(C) Deer of either sex may be taken with blackpowder firearms on open hunting days beginning the fourth Saturday before Thanksgiving Day through the Wednesday of the second week thereafter.
(D) The Deer With Visible Antlers season consists of the open hunting days from the second Saturday before Thanksgiving Day through the third Saturday after Thanksgiving Day.
(E) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season.
(F) The use of dogs for hunting deer is prohibited.
(G) Wild turkey hunting is by permit only.
(H) Taking fox squirrels is prohibited.
(I) Target shooting is prohibited.

(22) Rocky Run Game Land in Onslow County - Hunting is by permit only.

(23) Sandy Mush Game Land in Buncombe and Madison counties.
(A) Three Days per Week Area
(B) Deer of either sex may be taken the first open Saturday of the applicable Deer with Visible Antlers season.
(C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15.
(D) Dogs shall only be trained on Mondays, Wednesdays, and Saturdays and only as allowed in 15A NCAC 10D .0102(f).
(E) Dove hunting is by permit only from the opening day through the second Saturday of dove season.
(F) Target shooting is prohibited.

(24) Second Creek Game Land in Rowan County-hunting is by permit only.

(25) Suggs Mill Pond Game Land in Bladen and Cumberland counties
(A) Hunting and trapping is by permit only.
(B) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas both designated and posted as camping areas.
(C) Entry is prohibited on scheduled hunt or trapping days except for:
(i) hunters or trappers holding special hunt or trapping permits; and
(ii) persons using Campground Road to access Suggs Mill Pond Lake at the dam.
(D) During the period of November 1 through January 31, except on Sundays, the use of vessels on Suggs Mill Pond Lake and Little Singletary Lake is limited to waterfowl hunting only by waterfowl hunters possessing a valid and current Hunting Opportunity Permit issued by the Wildlife Resources Commission pursuant to G.S. 113-264(d).
(E) During the period of November 1 through March 15, the use of vessels on managed waterfowl impoundments is limited to waterfowl hunting only by waterfowl hunters possessing a valid and current Hunting Opportunity Permit issued by the Wildlife Resources Commission pursuant to G.S. 113-264(d).

(26) Tar River Game Land in Edgecombe County
(A) Hunting is by permit only
(B) Target Shooting is prohibited

(27) Texas Plantation Game Land in Tyrrell County - hunting and trapping is by permit only.

(28) Vance Game Land in Vance County
(A) Six Days per Week Area
(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(C) The use of dogs, centerfire rifles, and handguns for hunting deer is prohibited on the Nutbush Peninsula tract.

(29) Voice of America Game Land in Beaufort County
(A) Hunting and trapping is by permit only.
(B) Target Shooting is prohibited.

(30) White Oak River Game Land in Onslow County
(A) Three Days per Week Area
(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
(C) Except as provided in Part (D) of this Subparagraph, waterfowl in posted waterfowl impoundments shall be taken only on the following days:
(i) the opening and closing days of the applicable waterfowl seasons;
(ii) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and
(iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
(D) Beginning on the first open waterfowl season day in October through the end of all waterfowl seasons, a permit is required for hunting posted waterfowl impoundments.
(E) The Huggins Tract and Morton Tracts have the following restrictions:
(i) access on Hargett Avenue and Sloan Farm Road requires a valid Hunting Opportunity Permit issued by the Wildlife Resources Commission pursuant to G.S. 113-264(d);
(ii) hunting is by permit only; and
(iii) the use of dogs for hunting deer is prohibited.
(F) Wild turkey hunting is by permit only.
(G) Target Shooting is prohibited.

(31) Whitehall Plantation Game Land in Bladen and Pender counties
(A) Hunting and trapping is by permit only.
(B) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas both designated and posted as camping areas.
(C) Pursuing or chasing deer or bear with dogs for the purposes of training or hunting is prohibited on the Long Ridge Tract.

(h) On permitted type hunts, deer of either sex may be taken on the hunt dates indicated on the permit. Completed applications shall be received by the Commission not later than the first day of September next preceding the dates of hunt. Permits shall be issued by random computer selection, shall be mailed to the permittees prior to the hunt, and are nontransferable. A hunter making a kill shall validate the kill and report the kill to a wildlife cooperator agent or by phone.

(i) The following game lands and refuges are closed to all hunting except to those individuals who have obtained a valid and current permit from the Wildlife Resources Commission:
(1) Bertie, Halifax and Martin counties—Roanoke River Wetlands;
(2) Bertie County—Roanoke River National Wildlife Refuge;
(3) Bladen County—Suggs Mill Pond Game Lands;
(4) Dare County—Dare Game Lands (Those parts of bombing range posted against hunting);
(5) Dare County—Roanoke Sound Marshes Game Lands; and
(6) Henderson and Transylvania counties—DuPont State Forest Game Lands.

(j) Access to Hunting Creek Swamp Waterfowl Refuge in Davie County requires written permission from the Commission. Written permission may be granted only when entry onto the Waterfowl Refuge will not compromise the primary purpose for establishing the Waterfowl Refuge and the person requesting entry can demonstrate a valid need or the person is a contractor or agent of the Commission conducting official business. "Valid need" includes issues of access to private property, scientific investigations, surveys, or other access to conduct activities in the public interest.

(k) Feral swine may be taken by licensed hunters during the open season for any game animal or game bird using any legal manner of take allowed during those seasons. Dogs may not be used to hunt feral swine except on game lands that allow the use of dogs for hunting deer or bear, and during the applicable deer or bear season.

(l) Youth Waterfowl Day. On the day declared by the Commission to be Youth Waterfowl Day, youths may hunt on any game land and on any impoundment without a special hunt permit, including permit-only areas, except where prohibited in Paragraph (h) of this Rule.

(m) Veterans and Military Waterfowl Days. On the day declared by the Commission to be Veterans and Military Waterfowl Days, veterans, as defined in 38 USC 101, and members of the Armed Forces on active duty, including members of the National Guard and Reserves on active duty other than for training, with valid credentials may hunt on game lands and impoundments not designated as permit-only areas.

(n) Permit Hunt Opportunities for Disabled Sportsmen. The Commission may designate special hunts for participants of the disabled sportsman program by permit. The Commission may schedule these permit hunts during the closed season. Hunt dates and species to be taken shall be identified on each permit. If the

hunt has a limited weapon choice, the allowed weapons shall be stated on each permit.

(o) As used in the rules of this Subchapter, horseback riding includes all equine species.

(p) When waterfowl hunting is authorized on Christmas and New Years' Day and those days fall on Sundays, the open waterfowl hunting day shall be the following day.

History Note: Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305;
Eff. February 1, 1976;
Temporary Amendment Eff. October 3, 1991;
Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; September 1, 1995; July 1, 1995; September 1, 1994; July 1, 1994;
Temporary Amendment Eff. October 1, 1999; July 1, 1999;
Amended Eff. July 1, 2000;
Temporary Amendment Eff. July 1, 2002; July 1, 2001;
Amended Eff. August 1, 2002 (approved by RRC on 06/21/01 and 04/18/02);
Temporary Amendment Eff. June 1, 2003;
Amended Eff. June 1, 2004 (this replaces the amendment approved by RRC on July 17, 2003);
Amended Eff. August 1, 2018; August 1, 2017; August 1, 2016; May 1, 2015; August 1, 2014; January 1, 2013; August 1, 2012; August 1, 2011; August 1, 2010; May 1, 2009; May 1, 2008; May 1, 2007; October 1, 2006; August 1, 2006; May 1, 2006; February 1, 2006; June 1, 2005; October 1, 2004;
Temporary Amendment Eff. August 1, 2018;
Amended Eff. August 1, 2020; August 1, 2019;
Temporary Amendment Eff. September 25, 2020;
Temporary Amendment Eff. August 1, 2021;
Amended Eff. October 1, 2022.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 65 – BOARD OF RECREATIONAL THERAPY LICENSURE

21 NCAC 65 .0301 MINIMUM LEVEL OF EDUCATION AND COMPETENCY FOR LICENSED RECREATIONAL THERAPIST

(a) For the purposes of G.S. 90C-27(a), a candidate for licensure as a recreational therapist shall have graduated from an accredited college or university with a baccalaureate degree or higher and with a major or specialization in recreational therapy or therapeutic recreation. The academic major or specialization shall be verified by an official transcript.

(b) For the purposes of this Rule, the following terms mean:

(1) An "academic major" is defined as a degree in recreational therapy or therapeutic recreation.

(2) A "specialization in recreational therapy or therapeutic recreation" is defined as a degree in recreation and leisure studies, or recreation, or health and physical education, or health and human performance with a specialization, also known as an option, emphasis, or concentration, in therapeutic recreation or recreational therapy.

(3) An "accredited college or university" is defined as a college or university accredited by an accreditation body recognized by the United States Department of Education or by the Committee on Accreditation of Recreational Therapy Education (CARTE) under the Commission of Accreditation of Allied Health Education (CAAHEP).

(c) An academic major or specialization is defined by the following components:

(1) Coursework for a degree or specialization in recreational therapy or therapeutic recreation shall reflect six courses, three hours per course in which the title, course description, and course outline reflects recreational therapy or therapeutic recreation content related to the "APIE(D) Process". Course titles may include Introduction or Foundations, Assessment, Planning, Implementation, Evaluation, Research, and Advancement of the Profession. Topics that should be addressed in classes should include, ethics, standards of practice, documentation. Recreational Therapy/Therapeutic Recreation coursework offered in North Carolina must be taught by a licensed recreational therapist (LRT) or out of state by a Certified Therapeutic Recreation Specialist (CTRS™) by the National Council of Therapeutic Recreation Certification (NCTRC). For candidates for licensure who have passed the NCTRC examination and were certified by the NCTRC as a CTRS™, a therapeutic recreation or recreational therapy content course taught is considered the same as a therapeutic recreation or recreational therapy content course taken.

(2) "Supportive coursework" are courses, not including the recreational therapy or therapeutic recreation content courses. Supportive courses for a degree or specialization in recreational therapy or therapeutic recreation shall include three semester hours of anatomy and physiology, three semester hours of abnormal psychology, three semester hours of human growth and development across the lifespan, and nine semester hours in the area of health and human services. Health and human services coursework may include content in the areas of education, ethics, and other courses related to the practice of recreational therapy.

(3) In addition to the coursework required in Subparagraphs (c)(1) and (2) of this Rule, a field placement course shall be required for an academic major or specialization in therapeutic recreation or recreational therapy.

(A) A "field placement course," sometimes called an "internship course," is a course taken for college or university credit and shall require clinical education in an agency providing therapeutic recreation services to clients. The field placement or internship course shall meet the criteria for a field placement set forth by the NCTRC in the NCTRC Standards publication herein incorporated by reference including any subsequent amendments and editions. A copy of the NCTRC field placement requirements may be obtained at no cost on the NCTRC website at: https://www.nctrc.org/wp-content/uploads/2017/09/InternshipInterruptionGuidelines.pdf.

(B) A "university supervisor" of a field placement course is defined as the university faculty assigned to supervise the student and course from the university. If the university is in North Carolina, university supervisors shall be licensed by the North Carolina Board of Recreational Therapy Licensure (NCBRTL) throughout the entire internship experience.

(C) An "agency supervisor" is the recreational therapist or therapeutic recreation specialist, in an agency providing therapeutic recreation or recreational therapy services to patients or clients, assigned to provide clinical supervision to the field placement student from the agency. Supervisors of students completing field placements in North Carolina shall be licensed by the NCBRTL throughout the entire internship experience.

(D) "Successful performance" in a field placement course is defined as a grade of D or Pass awarded by the university supervisor. "Successful performance from the agency supervisor" is defined by an overall rating of "Achieves Expectations" documented on the Clinical Performance Appraisal and Summary Reference Form, (CPASRF) that may be accessed at the Board's website, www.ncbrtl.org or by contacting the Board. The CPASRF includes the content and performance criteria from the American Therapeutic Recreation Association Standards of Practice (ATRA SOP), as set forth in Rule .0203 of this Chapter. The CPASRF is provided by the Board or at the Board's website www.ncbrtl.org.

(d) Candidates for licensure who have been certified as a CTRS™ by NCTRC and have completed all recreational therapy or therapeutic recreation content courses, and all support content course requirements, but cannot locate their internship supervisor, shall file an Internship Supervisor Location Appeals Form and shall be issued a license to practice as a recreational therapist if they verify a minimum of one year of successful performance as a recreational therapist or therapeutic recreation specialist during which time they were a CTRS™ by the NCTRC. Successful work performance shall be verified to the NCBRTL on a CPASRF provided by NCBRTL. "Successful performance" is defined as an overall rating completed by the agency supervisor of "Achieves Expectations" on the CPASRF.

(e) Successful passage of the NCTRC examination shall be determined by the NCTRC. Applicants for licensure shall submit evidence of successful passage of the NCTRC examination to the NCBRTL. Evidence of successful passage of the NCTRC examination shall be copy of his or her NCTRC certificate or a successful passage notification letter from NCTRC.

History Note: Authority G.S. 90C-22(2)(i); 90C-22(7); 90C-24(a)(13); 90C-27(a);
Temporary Adoption Eff. December 1, 2005;
Eff. June 1, 2006;
Amended Eff. March 1, 2016; October 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 21, 2018;
Amended Eff. August 1, 2022.

21 NCAC 65 .0501 LICENSURE FEES

(a) A cashier's check, money order, certified check, an employer's check, or online payment is acceptable for the initial application licensure fees.

(b) Fees are nonrefundable and payable to the North Carolina Board of Recreational Therapy Licensure. A cashier's check, money order, certified check, an employer's check, personal checks, or online payment shall be accepted for payment of renewal fee and record maintenance fee.

(c) The Board shall collect the following fees:

(1) Initial Application for Licensure Fee
  (A) Licensed Recreational Therapist $100.00
  (B) Licensed Recreational Therapy Assistant $50.00
(2) Licensure renewal fees (due every two years)
  (A) Licensed Recreational Therapist $85.00
  (B) Licensed Recreational Therapy Assistant $40.00
(3) Inactive status $45.00
(4) Record Maintenance fee (due non- renewal year)
  (A) Licensed Recreational Therapist $80.00
  (B) Licensed Recreational Therapy Assistant $40.00

History Note:Authority G.S. 90C-24(a)(3); 90C-24(a)(10); 90C-28;
Temporary Adoption Eff. December 6, 2005;
Eff. December 1, 2006;
Amended Eff. March 1, 2016; September 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 21, 2018;
Amended Eff. August 1, 2022.

21 NCAC 65 .0701 REINSTATEMENT OF LAPSED LICENSE

(a) A recreational therapist or a recreational therapy assistant whose license has lapsed and who desires reinstatement of that license shall:

(1) Complete a reinstatement application form provided by the Board with current contact and employment information within 60 days of expiration of the license, missed submissions of the Record Maintenance Fee, or missed submissions of the Renewal application and fee with proof of continuing education in accordance with Rule .0601 of this Chapter;
(2) Submit evidence of satisfaction of all court conditions resulting from any misdemeanor or felony conviction(s), if applicable;
(3) Submit evidence of meeting education and competency requirements pursuant to Rule .0301 or Rule .0302 as applicable at the time of application;
(4) Submit evidence of meeting continuing education requirements in accordance with Rule .0601; and
(5) Submit payment of application fee and any missed Renewal or Record Maintenance licensure fees.

(b) Persons whose license is suspended for failure to renew must not practice recreational therapy and must not hold themselves out as licensed by the Board until they apply for and receive reinstatement of their license by the Board.

(c) The Board shall inform the applicant in writing of the Board's decision within 30 days after the application deadline and the Board finds the complete application shows the requirements have been met.

History Note: Authority G.S. 90C-24(a)(3); 90C-28; 90C-30;
Temporary Adoption Eff. December 1, 2005;
Eff. December 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 21, 2018;
Amended Eff. August 1, 2022; March 1, 2020.

This Section contains information for the meeting of the Rules Review Commission ????, 2021 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 984-236-1850. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate
Jeanette Doran (Chair)
Robert A. Bryan, Jr. (2nd Vice Chair)
Jeff Hyde
Robert A. Rucho

Appointed by House
Andrew P. Atkins (1st Vice Chair)
Wayne R. Boyles, III
Barbara A. Jackson
Randy Overton
Paul Powell

COMMISSION COUNSEL

Brian Liebman	984-236-1948
Lawrence Duke	984-236-1938
William W. Peaslee	984-236-1939

RULES REVIEW COMMISSION MEETING DATES

September 15, 2022	November 17, 2022
October 20, 2022	December 15, 2022

AGENDA
RULES REVIEW COMMISSION
Thursday, September 15, 2022, 9:00 A.M.
1711 New Hope Church Rd., Raleigh, NC 27609

I. Ethics reminder by the chair as set out in G.S. 138A-15(e)

II. Approval of the minutes from the last meeting

III. Follow-up matters
- A. Board of Agriculture - 02 NCAC 52J .0201, .0205, .0208, .0301, .0408, .0418, .0419, .0702, .0704 (Peaslee)
- B. Medical Care Commission - 10A NCAC 13B .3801, .3903, .4103, .4104, .4106, .4305, .4603, .4801, .4805, .5102, .5105, .5406, .5408, .5411 (Liebman)
- C. Sheriffs' Education and Training Standards Commission – 12 NCAC 10B .0704 (Peaslee)
- D. Environmental Management Commission - 15A NCAC 02B .0208, .0212, .0214, .0215, .0216, .0218, (Duke)
- E. Environmental Management Commission - 15A NCAC 02H .1301, .1401, .1402, .1403, .1404, .1405 (Liebman)
- F. Environmental Management Commission - 15A NCAC 02P .0101, .0102, .0103, .0201, .0202, .0301, .0302, .0401, .0402, .0403, .0404, .0405, .0406, .0407 (Liebman)
- G. Coastal Resources Commission - 15A NCAC 07H .0501, .0502, .0503, .0504, .0505, .0506, .0507, .0508, .0509, .0510, .0601, .0602, .0603, .0604; 07I .0204, .0302, .0305, .0306, .0401, .0402, .0406, .0504, .0505, .0506, .0507, .0508, .0509, .0510, .0511, .0601, .0602, .0701, .0702; 07J .0102, .0201, .0203, .0204, .0206, .0207, .0208, .0209, .0210, .0211, .0301, .0302, .0312, .0602, .0603, .0604, .0605, .0701, .0702, .0703 (Liebman)
- H. Coastal Resources Commission - 15A NCAC 07H .1301, .1302, .1303, .1304, .1305, .1401, .1402, .1403, .1404, .1405, .1501, .1502, .1503, .1504, .1505, .1601, .1602, .1603, .1604, .1605, .2001, .2002, .2003, .2004, .2005, .2101, .2102, .2103, .2104, .2105, .2201, .2202, .2203, .2204, .2205, .2301, .2302, .2303, .2304, .2305, .2401, .2402, .2403, .2404, .2405, .2601, .2602, .2603, .2604, .2605, .2701, .2702, .2703, .2704, .2705 (Duke)
- I. Coastal Resources Commission - 15A NCAC 07M .0201, .0202, .0401, .0402, .0403, .0503, .0601, .0602, .0603, .0701, .0702, .0703, .0704, .0705, .0801, .0802, .0902, .1001, .1002, .1101, .1102, .1201, .1202 (Peaslee)

IV. Review of Filings (Permanent Rules) for rules filed between July 21, 2022 through August 22, 2022
- Board of Agriculture (Peaslee)
- State Board of Elections (Peaslee)
- Medical Care Commission (Liebman)
- Radiation Protection Commission (Liebman)

- Commission for Public Health 41A (Liebman)
- Criminal Justice Education and Training Standards Commission (Duke)
- Private Protective Services Board (Liebman)
- Wildlife Resources Commission (Duke)
- Commission for Public Health 18A (Liebman)
- Board of Chiropractic Examiners (Duke)
- Board of Dental Examiners (Peaslee)
- Board of Pharmacy (Liebman)
- State Human Resources Commission (Liebman)

V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting

VI. Existing Rules Review

VII. Commission Business
- Pre-review Discussion
- Election of Commission Officers
  - Next meeting: October 20, 2022

Commission Review

Log of Permanent Rule Filings
July 21, 2022 through August 22, 2022

AGRICULTURE, BOARD OF

The rules in Chapter 52 concern the veterinary division.

The rules in Subchapter 52B cover animal diseases, treatment, and protection including quarantine (.0100), admission of livestock to North Carolina (.0200), brucellosis regulations (.0300), equine infectious anemia (.0400), poultry diseases (.0500), poultry hatcheries (.0600); and scrapie disease (.0700).

Importation Requirements: Wild Animals	02	NCAC	52B	.0212
Amend*				
Importation Requirements: Rabbits, or Any Species in the ...	02	NCAC	52B	.0214
Adopt*				

The rules in Chapter 61 concern sanitation of bedding.

Definitions	02	NCAC	61	.0101
Amend*				
Authorized Sanitizing Processes	02	NCAC	61	.0102
Amend*				
Recordkeeping for Sanitization	02	NCAC	61	.0104
Adopt*				
Storage of Secondhand or Previously-Used Materials	02	NCAC	61	.0106
Amend*				
License Fees and Applications	02	NCAC	61	.0109
Amend*				
Durable Materials for Tags	02	NCAC	61	.0111
Adopt*				

ELECTIONS, STATE BOARD OF

The rules in Chapter 4 concern voting equipment including use of mechanical voting machines (.0100); use of punch-card voting equipment (.0200); and approval and operation of voting systems (.0300).

Authorized Access to Voting System Information in Escrow	08	NCAC	04	.0308

Adopt*

Nondisclosure Agreement for Review of Information in Escrow 08 NCAC 04 .0309
Adopt*

MEDICAL CARE COMMISSION

The rules in Subchapter 13F concern licensing of homes for the aged and infirm and include definitions (.0100); licensing (.0200); physical plant (.0300); staff qualification (.0400); staff orientation training, competency and continuing education (.0500); staffing (.0600); admission and discharge (.0700); resident assessment and care plan (.0800); resident care and services (.0900); medication (.1000); Resident's funds and refunds (.1100); policies; records and reports (.1200); special care units for alzheimer and related disorders (.1300); special care units for mental health disorders (.1400); use of physical restraints and alternatives (.1500); rated certificates (.1600); administrator certification and renewal (.1700); and infection prevention and control (.1800).

Qualifications of Activity Director 10A NCAC 13F .0404
Readopt with Changes*

Other Staff Qualifications 10A NCAC 13F .0407
Readopt with Changes*

Personal Care Training and Competency 10A NCAC 13F .0501
Readopt with Changes*

Personal Care Training Content and Instructors 10A NCAC 13F .0502
Repeal*

Medication Administration Competency 10A NCAC 13F .0503
Readopt without Changes*

Competency Validation for Licensed Health Professional Su... 10A NCAC 13F .0504
Amend*

Assessment Training 10A NCAC 13F .0508
Amend*

Activities Program 10A NCAC 13F .0905
Amend*

Medication Storage 10A NCAC 13F .1006
Readopt without Changes*

Controlled Substances 10A NCAC 13F .1008
Readopt without Changes*

Pharmaceutical Services 10A NCAC 13F .1010
Readopt without Changes*

Facilities to Report Resident Deaths 10A NCAC 13F .1207
Amend*

The rules in Subchapter 13G concern licensing of family care homes including definitions (.0100); licensing (.0200); the building (.0300); staff qualifications (.0400); staffing orientation, training, competency and continuing education (.0500); staffing of the home (.0600); admission and discharge (.0700); resident assessment and care plan (.0800); resident care and services (.0900); medications (.1000); management and resident's funds and refunds (.1100); policies, records and reports (.1200); use of physical restraints and alternatives (.1300); rated certificates (.1600); and infection prevention and control (.1700)..

Qualifications of Activity Coordinator 10A NCAC 13G .0404
Readopt with Changes*

Other Staff Qualifications 10A NCAC 13G .0406
Readopt with Changes*

Personal Care Training and Competency 10A NCAC 13G .0501
Readopt with Changes*

Personal Care Training and Competency Program Approval 10A NCAC 13G .0502
Readopt/Repeal*

Medication Administration Competency Evaluation 10A NCAC 13G .0503
Readopt without Changes*

Competency Validation for Licensed Health Professional Su... 10A NCAC 13G .0504
Readopt with Changes*

Training on Cardio-Pulmonary Resuscitation 10A NCAC 13G .0507
Readopt with Changes*

Assessment Training 10A NCAC 13G .0508
Readopt without Changes*

Licensed Health Professional Support 10A NCAC 13G .0903
Readopt without Changes*

Activities Program 10A NCAC 13G .0905
Readopt with Changes*

Self-Administration of Medications 10A NCAC 13G .1005
Readopt without Changes*

Medication Storage 10A NCAC 13G .1006
Readopt without Changes*

Facilities to Report Resident Deaths 10A NCAC 13G .1208
Readopt without Changes*

RADIATION PROTECTION COMMISSION

The rules in Chapter 15 are from the Radiation Protection Commission and include general provisions (.0100); registration of radiation machines, facilities and services (.0200); licensing of radioactive material (.0300); safety requirements for industrial radiography operations (.0500); x-rays in the healing arts (.0600); use of radioactive sources in the healing arts (.0700); requirements for analytical x-ray equipment (.0800); requirements for particle accelerators (.0900); notices, instructions, reports and inspections (.1000); fees (.1100); land disposal of radioactive waste (.1200); requirements for wire-line service operators and subsurface-tracer studies (.1300); tanning facilities (.1400); licenses for disposal site access (.1500); and standards for protections against radiation (.1600).

Well Logging, Wireline-Service Operations, and Subsurface... 10A NCAC 15 .1301
Readopt with Changes*

Definitions 10A NCAC 15 .1302
Readopt/Repeal*

Written Agreements Required 10A NCAC 15 .1303
Readopt/Repeal*

Limits on Levels of Radiation 10A NCAC 15 .1304
Readopt/Repeal*

Storage Precautions 10A NCAC 15 .1305
Readopt/Repeal*

Transport Precautions 10A NCAC 15 .1306
Readopt/Repeal*

Radiation Survey Instruments 10A NCAC 15 .1307
Readopt/Repeal*

Leak Testing of Sealed Sources 10A NCAC 15 .1308
Readopt/Repeal*

Quarterly Inventory 10A NCAC 15 .1309
Readopt/Repeal*

Utilization Records 10A NCAC 15 .1310
Readopt/Repeal*

Design: Performance: and Certification Criteria 10A NCAC 15 .1311
Readopt/Repeal*

Labeling 10A NCAC 15 .1312
Readopt/Repeal*

Inspection and Maintenance 10A NCAC 15 .1313
Readopt/Repeal*

Training Requirements 10A NCAC 15 .1314
Readopt/Repeal*

Operating and Emergency Procedures 10A NCAC 15 .1315
Readopt/Repeal*

Personnel Monitoring 10A NCAC 15 .1316
Readopt/Repeal*

Security 10A NCAC 15 .1317
Readopt/Repeal*

Handling Tools 10A NCAC 15 .1318
Readopt/Repeal*

Subsurface-Tracer Studies 10A NCAC 15 .1319
Readopt/Repeal*

Particle Accelerators 10A NCAC 15 .1320
Readopt/Repeal*

Radiation Surveys 10A NCAC 15 .1321
Readopt/Repeal*

Documents and Records Required at Field Stations 10A NCAC 15 .1322
Readopt/Repeal*

Documents and Records Required at Temporary Jobsites 10A NCAC 15 .1323
Readopt/Repeal*

Notification of Incidents: Abandonment: and Lost Sources 10A NCAC 15 .1324
Readopt/Repeal*

Subjects in Training Courses for Logging Supervisors 10A NCAC 15 .1325
Readopt/Repeal*

Energy Compensation Sources 10A NCAC 15 .1326
Readopt/Repeal*

Tritium Neutron Generator Target Sources 10A NCAC 15 .1327
Readopt/Repeal*

PUBLIC HEALTH, COMMISSION FOR

The rules in Chapter 41 concern epidemiology health.

The rules in Subchapter 41A concern communicable disease control and include reporting of communicable diseases (.0100); control measures for communicable diseases including special control measures (.0200-.0300); immunization (.0400); purchase and distribution of vaccine (.0500); special program/project funding (.0600); licensed nursing home services (.0700); communicable disease grants and contracts (.0800); and biological agent registry (.0900).

Reporting of COVID-19 Diagnostic Test Results 10A NCAC 41A .0107
Amend*

CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

The rules in Chapter 9 are from the Criminal Justice Education and Training Standards Commission. This Commission has primary responsibility for setting statewide education, training, employment, and retention standards for criminal justice personnel (not including sheriffs).

The rules in Subchapter 9A cover the Commission organization and procedure (.0100) and enforcement of the rules (.0200).

Definitions 12 NCAC 09A .0103
Amend*

The rules in Subchapter 9B cover minimum standards for: employment (.0100); schools and training programs (.0200); criminal justice instructors (.0300); completion of training (.0400); school directors (.0500); and certification of post-secondary criminal justice education programs (.0600).

Background Investigations	12	NCAC	09B	.0102
Amend*				
Medical Examination	12	NCAC	09B	.0104
Amend*				
Employment Interview	12	NCAC	09B	.0105
Amend*				
Documentation of Educational Requirements	12	NCAC	09B	.0106
Amend*				
Criminal History Record	12	NCAC	09B	.0111
Amend*				
Minimum Standards for Local Confinement Personnel	12	NCAC	09B	.0114
Amend*				
Minimum Standards for Juvenile Court Counselors and Chief...	12	NCAC	09B	.0116
Amend*				
Minimum Standards for Juvenile Justice Officers	12	NCAC	09B	.0117
Amend*				
Certification of Diversion Investigator and Supervisors	12	NCAC	09B	.0314
Amend*				
Military Transferees	12	NCAC	09B	.0701
Amend*				

The rules in Subchapter 9C concern the administration of criminal justice education and training standards including responsibilities of the criminal justice standards division (.0100); forms (.0200); certification of criminal justice officers (.0300); accreditation of criminal justice schools and training courses (.0400); minimum standards for accreditation of associate of applied science degree programs incorporating basic law enforcement training (.0500); and equipment and procedures (.0600).

Agency Reporting of Drug Screening Results	12	NCAC	09C	.0310
Amend*				

PRIVATE PROTECTIVE SERVICES BOARD

The rules in Chapter 16 are from the Private Protective Services Board and cover organization and general provisions (.0100); licenses and trainee permits (.0200); security guard patrol and guard dog service (.0300); private investigator: electronic countermeasures (.0400); polygraph (.0500); psychological stress evaluator (PSE) (.0600); unarmed security guard registration (.0700); armed security guard firearm registration permit (.0800); trainer certificate (.0900); recovery fund (.1000); training and supervision for private investigator associates (.1100); continuing education (.1300); and armed armored car service guards firearm registration permit (.1400).

Renewal of Armed Security Guard Firearm Registration Permit	14B	NCAC	16	.0806
Amend*				
Renewal of a Firearms Trainer Certificate	14B	NCAC	16	.0904
Amend*				
Renewal of an Unarmed Trainer Certificate	14B	NCAC	16	.0911
Amend*				

WILDLIFE RESOURCES COMMISSION

The rules in Chapter 10 are promulgated by the Wildlife Resources Commission and concern wildlife resources and water safety.

The rules in Subchapter 10A cover general WRC practices and procedures including petitions for rulemaking (.0400); declaratory rulemaking (.0500); warning tickets (.1000); waivers (.1100); emergency powers (.1200); wildlife poacher reward fund (.1300); interstate wildlife violator compact (wcv) (.1400); and evidence (.1500).

Replacement Costs of Wildlife 15A NCAC 10A .1502
Adopt*

The rules in Subchapter 10B are hunting and trapping rules and cover general hunting and wildlife provisions (.0100), hunting specific animals (.0200), trapping (.0300), tagging furs (.0400), chronic wasting disease management (.0500).

Importation of Wild Animals, Birds, and Native Reptiles a... 15A NCAC 10B .0101
Amend*

Wildlife Taken for Depredations 15A NCAC 10B .0106
Readopt with Changes*

Black Bear 15A NCAC 10B .0107
Readopt with Changes*

Chasing Deer with Dogs in Certain Counties 15A NCAC 10B .0109
Readopt with Changes*

Replacement Costs of Wildlife Resources 15A NCAC 10B .0117
Readopt/Repeal*

Sale of Wildlife 15A NCAC 10B .0118
Readopt with Changes*

Taking Deer and Bear with Handguns 15A NCAC 10B .0120
Readopt with Changes*

State Hunting License Exemptions 15A NCAC 10B .0126
Readopt with Changes*

Possession of Wildlife Killed Accidentally or Found Dead 15A NCAC 10B .0127
Readopt with Changes*

Foxes (Gray and Red) 15A NCAC 10B .0212
Readopt with Changes*

Falconry 15A NCAC 10B .0216
Readopt with Changes*

Pistol Seasons 15A NCAC 10B .0217
Readopt/Repeal*

Feral Swine 15A NCAC 10B .0223
Readopt with Changes*

Prohibited Taking 15A NCAC 10B .0302
Readopt with Changes*

Bag Limits 15A NCAC 10B .0304
Readopt with Changes*

Traps 15A NCAC 10B .0305
Readopt with Changes*

Definitions 15A NCAC 10B .0401
Readopt with Changes*

Trappers and Hunters 15A NCAC 10B .0404
Readopt with Changes*

Fur Dealers 15A NCAC 10B .0405
Readopt with Changes*

Misuse of Tags 15A NCAC 10B .0406
Readopt with Changes*

The rules in Subchapter 10C cover inland fishing including jurisdictional issues involving the Marine Fisheries Commission (.0100); general rules (.0200); game fish in inland fishing waters (.0300); nongame fish in inland fishing

waters (.0400); primary nursery areas (.0500); and anadromous fish spawning areas (.0600); game fish in coastal fishing waters (.0700)..

Reciprocal License Agreement 15A NCAC 10C .0203
Readopt with Changes*

Trotlines, Jug Hooks, and Set Hooks 15A NCAC 10C .0206
Readopt with Changes*

Spawning Areas 15A NCAC 10C .0208
Readopt with Changes*

Fish Collectors 15A NCAC 10C .0214
Readopt with Changes*

Replacement Costs of Wildlife Resources - Fish 15A NCAC 10C .0215
Readopt/Repeal*

State Inland Fishing License Exemptions 15A NCAC 10C .0216
Readopt with Changes*

The rules in Subchapter 10F cover motorboats and water safety including boat registration (.0100); safety equipment and accident reports (.0200); and local water safety regulations covering speed limits, no-wake restrictions, restrictions on swimming and other activities, and placement of markers for designated counties or municipalities (.0300).

Dare County 15A NCAC 10F .0310
Amend*

The rules in Subchapter 10H concern activities regulated by the Commission including controlled hunting preserves for domestically raised game birds (.0100), holding wildlife in captivity (.0300), commercial trout ponds (.0400), fish propagation (.0700), falconry (.0800), game bird propagators (.0900), taxidermy (.1000), furbearer propagation (.1100), controlled fox hunting preserves (.1200), reptiles and amphibians (.1300), wildlife captivity and rehabilitation (.1400), wildlife and alligator control agents (.1500).

Wildlife Control Technician 15A NCAC 10H .1510
Adopt*

PUBLIC HEALTH, COMMISSION FOR

The rules in Chapter 18 cover environmental aspects of health such as sanitation (18A), mosquito control (18B), water supplies (18C), and water treatment facility operators (18D).

The rules in Subchapter 18A deal with sanitation and include handling, packing and shipping of crustacean meat (.0100) and shellfish (.0300 and .0400); operation of shellstock plants and reshippers (.0500); shucking and packing plants (.0600); depuration mechanical purification facilities (.0700); wet storage of shellstock (.0800); shellfish growing waters (.0900); summer camps (.1000); grade A milk (.1200); hospitals, nursing homes, rest homes, etc. (.1300); mass gatherings (.1400); local confinement facilities (.1500); residential care facilities (.1600); protection of water supplies (.1700); lodging places (.1800); sewage treatment and disposal systems (.1900); migrant housing (.2100); bed and breakfast homes (.2200); delegation of authority to enforce rules (.2300); public, private and religious schools (.2400); public swimming pools (.2500); restaurants, meat markets, and other food handling establishments (.2600); child day care facilities (.2800); restaurant and lodging fee collection program (.2900); bed and breakfast inns (.3000); lead poisoning prevention (.3100); tattooing (.3200); adult day service facilities (.3300); primitive camps (.3500); rules governing the sanitation of resident camps (.3600); and private drinking water well sampling (.3800).

Definitions 15A NCAC 18A .1301
Readopt with Changes*

Approval of Plans 15A NCAC 18A .1302
Readopt with Changes*

Inspections 15A NCAC 18A .1304
Readopt with Changes*

Grading Residential Care Facilities in Institutions 15A NCAC 18A .1305
Readopt with Changes*

Public Display of Grade Card Readopt with Changes*	15A	NCAC	18A	.1306
Reinspections Readopt with Changes*	15A	NCAC	18A	.1307
Scoring System Readopt with Changes*	15A	NCAC	18A	.1308
Floors Readopt with Changes*	15A	NCAC	18A	.1309
Walls and Ceilings Readopt with Changes*	15A	NCAC	18A	.1310
Lighting and Ventilation Readopt with Changes*	15A	NCAC	18A	.1311
Toilet: Handwashing: and Bathing Facilities Readopt with Changes*	15A	NCAC	18A	.1312
Water Supply Readopt with Changes*	15A	NCAC	18A	.1313
Drinking Water Facilities: Ice Handling Readopt with Changes*	15A	NCAC	18A	.1314
Liquid Wastes Readopt with Changes*	15A	NCAC	18A	.1315
Solid Wastes: Premises Medical Wastes Readopt with Changes*	15A	NCAC	18A	.1316
Pest Control: Pesticides Readopt with Changes*	15A	NCAC	18A	.1317
Medical Supplies Readopt with Changes*	15A	NCAC	18A	.1318
Furnishings and Laundry Readopt with Changes*	15A	NCAC	18A	.1319
Activity Kitchens, Rehabilitation Kitchens, and Nourishme... Readopt with Changes*	15A	NCAC	18A	.1320
Food Supplies Readopt with Changes*	15A	NCAC	18A	.1321
Food Protection in Activity Kitchens, Rehabilitation Kitc... Readopt with Changes*	15A	NCAC	18A	.1323
Employees Readopt with Changes*	15A	NCAC	18A	.1324
Incorporated Rules Readopt with Changes*	15A	NCAC	18A	.1327

CHIROPRACTIC EXAMINERS, BOARD OF

The rules in Chapter 10 include organization of the Board (.0100); the practice of chiropractic (.0200); rules of unethical conduct (.0300); rule-making procedures (.0400); investigation of complaints (.0500); contested cases and hearings in contested cases (.0600-.0700); and miscellaneous provisions (.0800).

North Carolina Examination Amend*	21	NCAC	10	.0203
Determination of Probable Cause Amend*	21	NCAC	10	.0503
Fee Schedule Adopt*	21	NCAC	10	.0803

DENTAL EXAMINERS, BOARD OF

The rules in Subchapter 16I concern the annual renewal and continuing education requirements of the dental hygienist license.

Continuing Education on Substance Abuse and Mental Health 21 NCAC 16I .0206
Adopt*

The rules in Subchapter 16R concern annual renewal of license and continuing education requirements of dentists (.0100 and .0200).

Continuing Education on Substance Abuse and Mental Health 21 NCAC 16R .0206
Adopt*

PHARMACY, BOARD OF

The rules in Chapter 46 cover organization of the board (.1200); general definitions (.1300); hospitals and other health facilities (.1400); admission requirements and examinations (.1500); licenses and permits (.1600); drugs dispensed by nurse and physician assistants (.1700); prescriptions (.1800); forms (.1900); administrative provisions (.2000); elections (.2100); continuing education (.2200); prescription information and records (.2300); dispensing in health departments (.2400); miscellaneous provisions (.2500); devices (.2600); nuclear pharmacy (.2700); compounding (.2800); product selection (.2900); disposal of unwanted drugs (.3000); clinical pharmacist practitioner (.3100); impaired pharmacist peer review program (.3200); and registry of pharmacist technicians (.3300).

Definitions 21 NCAC 46 .1317
Amend*

Drugs and Devices to be Dispensed 21 NCAC 46 .2403
Repeal*

STATE HUMAN RESOURCES COMMISSION

The rules in Subchapter 1C concern personnel administration including general employment policies (.0200); appointment (.0400); work schedule (.0500); secondary employment (.0700); requirements for teleworking programs (.0800); employee recognition programs (.0900); and separation (.1000).

Separation 25 NCAC 01C .1007
Amend*