

1 15A NCAC 07K .0101 is readopted as published in 34:09 NCR 756 as follows:

2
3 **SUBCHAPTER 7K - ACTIVITIES IN AREAS OF ENVIRONMENTAL CONCERN WHICH DO NOT**
4 **REQUIRE A COASTAL AREA MANAGEMENT ACT PERMIT**

5
6 **SECTION .0100 - ACTIVITIES NOT CONSIDERED DEVELOPMENT**

7
8 **15A NCAC 07K .0101 STATUTORY EXCEPTIONS FROM THE DEFINITION OF DEVELOPMENT**

9 No permit shall be required for those activities set out in G.S. 113A-103(5)(b)(1) - (9) as exclusions from the definition
10 of development.

11
12 *History Note: Authority G.S. 113A-103; 113A-118;*

13 *Eff. March 29, 1978;*

14 *Amended Eff. November 1, 1984; March 1, 1980; March 30, 1979;*

15 *Readopted Eff. November 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07K .0103

DEADLINE FOR RECEIPT: Friday, October 15, 2021

NOTE: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In (b)(1), line 11, consider replacing "on which" with "where"

On line 15, please insert a comma after "scraper"

In (b)(4), line 21, what is "significantly" here? And on line 22, what is "significant adverse effect"? Does your regulated public know?

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

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 30, 2021

1 15A NCAC 07K .0103 is readopted as published in 34:09 NCR 756 as follows:

2
3 **15A NCAC 07K .0103 MAINTENANCE AND REPAIR**

4 (a) "Maintenance and "repairs" are specifically excluded from the definition of "development" under the conditions
5 and in the circumstances set out in G.S. 113A-103(5)(b)(5). Individuals required to take such measures within an AEC
6 shall contact the local CAMA representative for consultation before beginning work.

7 (b) Beach bulldozing, defined as the process of moving natural beach material from any point seaward of the first line
8 of stable vegetation, for the purpose of preventing damage to imminently threatened structures as defined in 15A
9 NCAC 07H .0308(a), by the creation of protective sand dunes shall qualify for an exclusion under G.S.
10 113A-103(5)(b)(5) subject to the following limitations:

- 11 (1) The area on which this activity is being performed must maintain a slope that follows the pre-
12 emergency slope as closely as possible so as not to endanger the public or hinder the public's use of
13 the beach. All mechanically disturbed areas shall be graded smooth of ruts and spoil berms that are
14 perpendicular to the shoreline. The movement of material utilizing a bulldozer, front-end loader,
15 back hoe, scraper or any type of earth moving or construction equipment shall not exceed one foot
16 in depth measured from the surface elevation;
- 17 (2) The activity shall not exceed the lateral bounds of the applicant's property without written
18 permission of adjoining landowners;
- 19 (3) Movement of material from seaward of the mean low water line shall not be permitted under this
20 exemption;
- 21 (4) The activity shall not significantly increase erosion on neighboring properties and shall not have a
22 significant adverse effect on natural or cultural resources; and
- 23 (5) The activity may be undertaken to protect threatened on-site waste disposal systems as well as the
24 threatened structure's foundations.

25 (c) Redistribution of sand that results from storm overwash or aeolian transport around buildings, pools, roads, parking
26 areas and associated structures is considered maintenance so long as the sand remains within the Ocean Hazard AEC.
27 Individuals proposing such activities shall consult with the Division of Coastal Management or the local permit officer
28 to determine whether the proposed activity qualifies for the exclusion under G.S. 113A-103(5)(b)(5).

29
30 *History Note: Authority G.S. 113A-103(5)(b)(5); 113A-118(a);*
31 *Eff. November 1, 1984;*
32 *Amended Eff. March 1, 1985;*
33 *RRC Objection Eff. January 18, 1996 due to ambiguity;*
34 *Amended Eff. February 1, 2019; March 1, 1996;*
35 *Readopted Eff. November 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07K .0202

DEADLINE FOR RECEIPT: Friday, October 15, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On line 4, I take it you are using "minor" to mirror the language in G.S. 113A-103(5)(c):

c. The Commission shall define by rule (and may revise from time to time) certain classes of minor maintenance and improvements which shall be exempted from the permit requirements of this Article, in addition to the exclusions set forth in paragraph b of this subdivision. In developing such rules the Commission shall consider, with regard to the class or classes of units to be exempted:

1. The size of the improved or scope of the maintenance work;
2. The location of the improvement or work in proximity to dunes, waters, marshlands, areas of high seismic activity, areas of unstable soils or geologic formations, and areas enumerated in G.S. 113A-113(b)(3); and
3. Whether or not dredging or filling is involved in the maintenance or improvement.

In (1), line 6, do you need to retain "at least" here? I am only asking because typically, rules set the floor so using "at least" or "at a minimum" is discouraged. However, if you need to retain it, it's fine.

On line 7, as well as (1)(c), line 15, replace "and/or" with "and" or "or", depending upon what you mean. I suspect in both places you mean "or"

Also on line 7, capitalize "state" if you mean NC.

On line 8, what do you mean by "enlarged somewhat"?

On line 8, what is "primarily"?

On lines 9 and 19, consider replacing "will" with "shall"

In (1)(a), line 10, what does "substantially deviate" mean here? Is it what is set forth in the parenthetical language on lines 11 and 12? If so, then I think that can be more clearly stated.

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 30, 2021

Delete the “and” at the end of the line on line 12.

In (1)(c), line 14, what is “newly” here? And the opinions of whom?

On line 15, replace “such” with “the”

In (2), line 18, replace “which” with “that”

Delete the “and” at the end of lines 23, 24, 25, 27, and 28.

In (2)(a)(iv), line 26, what is “necessity” and “significant loss” here? Who will determine this, based upon what?

In (2)(b), line 32, insert a comma after “docks”

Delete the “or” at the end of line 34.

Are you saying that for piers, docks, and boathouses that (i), (ii), or (iii), and (iv), (v), and (vi)? Or should this be all “or”?

Delete the “and” at the end of (2)(b)(iv), Page 2, line 1.

End (2)(b)(vi), line 3, with a period, not a semicolon.

What is the purpose of the language on lines 8-10? What do you mean by “primarily”, “simple modifications”, and “reasonable expression”?

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

1 15A NCAC 07K .0202 is readopted as published in 34:09 NCR 756 as follows:

2
3 **15A NCAC 07K .0202 EXEMPTION: PROJECTS REQUIRING DREDGE: FILL: STATE EASEMENT**

4 The following classes of minor maintenance and improvement are exempted from the major development permit
5 requirement:

6 (1) In-Place Maintenance of Previously-Permitted Projects. These projects are ones for which at least
7 one dredge and fill permit and/or state easement has already been issued and which, though
8 enlarged somewhat in some cases, are still undertaken primarily for maintenance purposes.
9 Projects falling into this category will be exempted from the CAMA major development permit if:

- 10 (a) project dimensions remain the same as or do not substantially deviate from those
11 dimensions authorized under the previously permitted project (not greater than 20
12 percent); and
13 (b) the project is for similar purposes as those of the previously-permitted project; and
14 (c) a change of conditions in the area, newly found facts or newly reached opinions, do not
15 indicate that such action would cause negative impacts to the environment and/or
16 adjacent property owners.

17 (2) Additions/Modifications to Previously Permitted Projects. These projects are ones already in
18 place and permitted which will be added on to or modified in some fashion. Projects falling into
19 this category will be exempted from the CAMA major-development permit if:

20 (a) for bulkheads:

- 21 (i) Bulkhead must be positioned so as not to extend more than an average distance
22 of two feet waterward of the mean high water contour; in no place shall the
23 bulkhead be more than five feet waterward of the mean high water contour; and
24 (ii) All backfill comes from an upland source; and
25 (iii) No marsh area is excavated or filled; and
26 (iv) Work is undertaken because of the necessity to prevent significant loss of
27 private residential property due to erosion; and
28 (v) The bulkhead is constructed prior to any backfilling activities; and
29 (vi) The bulkhead is constructed so as to prevent seepage of backfill materials
30 through the bulkhead; and
31 (vii) The bulkhead is not constructed in the Ocean Hazard AEC.

32 (b) for piers, docks and boathouses:

- 33 (i) The modification or addition is not within 150 feet of the edge of a
34 federally-maintained channel; or
35 (ii) The structure, as modified, is 200 feet or less in total length offshore; or
36 (iii) The structure, as modified, does not extend past the four feet mean low water
37 contour line (four feet depth at mean low water) of the waterbody; and

- (iv) The project as modified, will not exceed six feet width; and
- (v) The modification or addition does not include an enclosed structure; and
- (vi) The project will continue to be used for private, residential purposes;
- (c) for boatramps:
 - (i) The project, as modified, would not exceed 10 feet in width and 20 feet offshore; and
 - (ii) The project will continue to be used for private, residential purposes.

The criteria in the categories listed in this Rule are aimed primarily at exempting from the CAMA permit those projects that are simple modifications intended for private use. These are considered to be a reasonable expression of a waterfront property owner's right of access.

*History Note: Authority G.S. 113A-103(5)(c); 113A-118(a);
Eff. March 29, 1978;
Amended Eff. July 1, 1981;
Readopted Eff. November 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07K .0204

DEADLINE FOR RECEIPT: Friday, October 15, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On line 4, what do you mean by "Generally"?

On line 5, replace "which" with "that"

On line 5, what is "necessary" here? Who determines it, based upon what?

Also on line 5, what are the "minimum air quality standards"? Does your regulated public know or should you incorporate EMC rules by reference here?

On line 6, please replace "such" with "the"

On line 7, consider replacing "will" with "shall"

In (1), line 10, and (2), line 12, replace the comma after "standards" with a semicolon.

And do you mean (1) and (3) or (2) and (3) here? If so, it's fine as written. But if you mean (1), (2), and (3), delete the "or" at the end of (1), line 10.

In (3), line 13, I suggest you replace "Such" with "The"

Also on line 13, what is "significant" here? Does your regulated public know?

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

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 30, 2021

1 15A NCAC 07K .0204 is readopted as published in 34:09 NCR 756 as follows:

2
3 **15A NCAC 07K .0204 EXEMPTIONS FOR PROJECTS REQUIRING AIR QUALITY PERMIT**

4 Modification to Existing Sources or Control Devices. Generally, projects in this category are modifications to
5 facilities or control devices which are necessary for upgrading existing capacities or meeting minimum air quality
6 standards. Existing abatement devices may be modified or new equipment installed; however, the purpose of such
7 modification is not tied to expanding capabilities. Projects falling into this category will be exempted from the CAMA
8 major-development permit if:

- 9 (1) The modification is necessary for upgrading existing capabilities or to meet minimum air quality
10 standards, or
11 (2) The modification involves installation of additional abatement devices necessary to meet minimum
12 air quality standards, and
13 (3) Such modification does not involve significant land-disturbing activities or necessitate surface or
14 subsurface disposal of water.

15
16 *History Note: Authority G.S. 113A-103(5)(c); 113A-118(a);*
17 *Eff. March 29, 1978;*
18 *Readopted Eff. November 1, 2021.*
19

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07K .0205

DEADLINE FOR RECEIPT: Friday, October 15, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In (a), line 4, replace "which" with "that"

On line 5, please capitalize "State" if you mean NC.

In (b), line 6, what is "generally" here?

On line 6, replace "which" with "that"

On lines 6-7, what is "some sort of modification" here?

On line 7, what are the current effluent limitations? Should there be a cross-reference to EMC rules here?

On line 7, who determines if this will "improve" the existing capacities?

In (b)(4), line 14, replace "which" with "that"

On line 14, I suggest replacing "such" with "the"

In (b)(5), line 17, please place an "and" or "or" at the end of the line, depending upon whether you are requiring all 6 of these or just some of them.

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

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 30, 2021

1 15A NCAC 07K .0205 is readopted as published in 34:09 NCR 756 as follows:

2
3 **15A NCAC 07K .0205 EXEMPTIONS FOR PROJECTS REQUIRING THE NPDES**

4 (a) Projects requiring the National Pollution Discharge Elimination System permit are those which will discharge
5 wastewater from an outlet, point source, or disposal system into the surface waters of the state.

6 (b) Modification of Existing Facilities. Projects in this category generally are those facilities which undergo some
7 sort of modification either to meet current effluent limitations or to improve existing capacities. Projects falling into
8 this category will be exempted from the CAMA major-development permit if:

- 9 (1) Modifications are for the purpose of upgrading facilities to meet current effluent limitation
10 standards;
- 11 (2) Modifications are for the purpose of improving existing capacities or providing back up units for
12 existing capacities;
- 13 (3) The modification is for treating waste load types similar to those in the previously permitted activity;
- 14 (4) The final discharge flow which may be associated with such modification remains the same as the
15 discharge flow permitted before modification;
- 16 (5) No additional acreage is necessary for land disposal of dewatered wastes or does not require
17 subsurface pollutant injection;
- 18 (6) No significant land-disturbing activity is involved.

19
20 *History Note: Authority G.S. 113A-103(5)(c); 113A-118(a);*
21 *Eff. March 29, 1978;*
22 *Readopted Eff. November 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07K .0206

DEADLINE FOR RECEIPT: Friday, October 15, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In (a), line 4, I am only asking – do you need the word “Small” here?

In (b), lines 6-7, what is an “application for a letter of authorization”? I see that G.S. 113A-118(d) refers to licensing, approval, certification, or authorization by multiple agencies, but I don’t see that term used elsewhere within the statutes. What is this?

On line 7, when will the Commission determine this? At a meeting?

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

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 30, 2021

1 15A NCAC 07K .0206 is readopted as published in 34:09 NCR 756 as follows:

2
3 **15A NCAC 07K .0206 SMALL DITCHES EXEMPTED**

4 (a) Small ditches used for agricultural or forestry purposes with maximum dimensions equal to or less than six feet
5 (top width) by four feet deep are exempted from the CAMA permit requirement.

6 (b) All ditches with maximum dimensions greater than six feet by four feet will require application for a letter of
7 authorization from the Commission. If the Commission determines that the ditch will affect estuarine or navigable
8 waters, a major development permit will be required.

9 (c) Width and depth dimensions of all ditches will be measured at the ground level.

10
11 *History Note: Authority G.S. 113A-103(5)(a); 113A-118(a);*

12 *Eff. November 1, 1984;*

13 *Readopted Eff. November 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07K .0209

DEADLINE FOR RECEIPT: Friday, October 15, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In (a), line 5, do you need "specifically" here?

On lines 7, (b), line 13, and (c), line 19, please change the citation to G.S. 113A-103(5)(b)(6).

On line 7, what do you mean by "subordinate in area"? Does your regulated public know?

In 11, you state that larger buildings "may" be considered accessory buildings if necessary for customary use. Do you mean "shall"? If not, then will larger buildings necessary for customary use not be considered accessory buildings?

And what does "necessary for customary use" mean here? Does your regulated public know?

In (b), line 12, I do not see that "accessory uses" is defined in Paragraph (a). What do you mean here?

On line 12, what is "directly" here?

On line 13, please insert a comma after "electrical"?

In (c), line 16, what do you mean by "current CRC rules"?

On line 16, please insert a comma after "replaced"

On line 17, what is "similar" here? Who will determine this?

On line 17, insert a comma after "size"

In the History Note, consider simply citing to G.S. 113A-103(5), rather than both (b) and (c). If you want to retain it, please insert parentheses.

Also in the History Note, there is no G.S. 113A-120(8). Do you mean 113A-120(a)(8)? But if so, how is that applicable here?

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

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 30, 2021

1 15A NCAC 07K .0209 is readopted as published in 34:09 NCR 756 as follows:

2
3 **15A NCAC 07K .0209 EXEMPTION / ACCESSORY USES / MAINTENANCE REPAIR /**
4 **REPLACEMENT**

5 (a) Accessory buildings customarily incident to an existing structure are specifically excluded from the definition of
6 development if the work does not involve filling, excavation, or the alteration of any sand dune or beach as set out in
7 G.S. 113A-103(5)b.6. Accessory buildings are subordinate in area and purpose to the principal structure and do not
8 require, or consist of the expansion of the existing structure as defined by an increase in footprint or total floor area of
9 the existing structure. A building with a footprint of 100 square feet or less is considered an accessory building as long
10 as it is customarily incident to and subordinate in area and purpose to the principal structure. Buildings of a larger size
11 may be considered accessory buildings if necessary for customary use.

12 (b) Accessory uses as defined in Paragraph (a) of this Rule and that are directly related to the existing dominant use,
13 but not within the exclusion set out in G.S. 113A-103(5)b.6., and that require no plumbing, electrical or other service
14 connections and do not exceed 200 square feet are exempt from the CAMA minor development permit requirement if
15 they meet the criteria set out in Paragraph (d) of this Rule.

16 (c) Any structure, or part thereof, consistent with current CRC rules may be maintained, repaired or replaced in a
17 similar manner, size and location as the existing structure without requiring a permit, unless the repair or replacement
18 would be in violation of the criteria set out in Paragraph (d) of this Rule. This exemption applies to those projects that
19 are not within the exclusion for maintenance and repairs as set out in G.S. 113A-103(5)b.5., Rule .0103 of this
20 Subchapter and Rule 07J .0210.

21 (d) In order to be eligible for the exemptions described in Paragraphs (b) and (c), of this Rule, the proposed
22 development activity must meet the following criteria:

- 23 (1) the development must not disturb a land area of greater than 200 square feet on a slope of greater
24 than 10 percent;
- 25 (2) the development must not involve removal, damage, or destruction of threatened or endangered
26 animal or plant species;
- 27 (3) the development must not alter naturally or artificially created surface drainage channels;
- 28 (4) the development must not alter the land form or vegetation of a frontal dune;
- 29 (5) the development must not be within 30 feet of normal water level or normal high water level; and
- 30 (6) the development must be consistent with all applicable use standards and local land use plans in
31 effect at the time the exemption is granted.

32
33 *History Note: Authority G.S. 113A-103(5)b; 113A-103(5)c; 113A-111; 113A-118(a); 113A-120(8);*

34 *Eff. November 1, 1984;*

35 *Amended Eff. August 1, 2007; March 1, 2006; July 1, 2004; August 1, 2002; August 1, 2000;*

36 *Readopted Eff. November 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07K .0210

DEADLINE FOR RECEIPT: Friday, October 15, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On lines 4 and 5, what are these "Areas that Sustain Remnant Species" "Complex Natural Areas" and "Unique Geologic Formations" categories? Where are they set forth in rule or law? If they are defined in other Rules, please insert a cross-reference.

And please insert commas within the quotation marks with after "Species" and "Areas" and delete the semicolon after "Species"

On line 6, what do you mean by, "specifically incorporated in the Coastal Resources Commission's statement of designation"? What is this? Is it part of a permit? If not, what authority are you relying upon to have a statement that controls? Do you instead mean to refer to rules where these areas are defined?

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

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 30, 2021

1 15A NCAC 07K .0210 is readopted as published in 34:09 NCR 756 as follows:

2
3 **15A NCAC 07K .0210 NOMINATION CATEGORIES EXCLUDED: MINOR PERMIT EXEMPTION**

4 The minor development permit exemptions in this Section are not applicable to the "Areas That Sustain Remnant
5 Species"; "Complex Natural Areas" and "Unique Geologic Formations" categories of areas of environmental concern
6 unless specifically incorporated in the Coastal Resources Commission's statement of designation.

7
8 *History Note: Authority G.S. 113A-103(5)(c); 113A-118(a);*

9 *Eff. November 1, 1984;*

10 *Readopted Eff. November 1, 2021.*

1 15A NCAC 07K .0211 is readopted as published in 34:09 NCR 756 as follows:

2
3 **15A NCAC 07K .0211 JOCKEY'S RIDGE AEC**

4 All development in the Jockey's Ridge area of environmental concern designated pursuant to 15A NCAC 7H .0507
5 that is not within any other designated area of environmental concern shall be exempt from CAMA major and minor
6 permit requirements provided it does not involve the removal of more than ten cubic yards of sand per year from the
7 area within the AEC boundary.

8
9 *History Note: Authority G.S. 113A-103(5)c.;*

10 *Eff. March 1, 1988;*

11 *Readopted Eff. November 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07K .0212

DEADLINE FOR RECEIPT: Friday, October 15, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In (1), line 7, I suggest stating "sand or the protection..."

In (2), line 8, please insert a comma after "beach"

On line 10, what do you mean by "established common law rights ... of public access"? Does your regulated public know?

In (3), line 12, please insert a comma after "traps"

In (4), line 14, please delete the comma after "unsecured"

On line 14, what does "immediately" mean here? Is this upon discovery?

In (5), line 16, what is "thin" here?

In (6), line 19, who determines "as far landward as possible"?

End (6)(a), line 21, with a semicolon, not a period.

I am just checking – it's (6)(a) and (b) and (d), or (6)(a), (6)(c), and (6)(d)? If so, it's fine as written, but I am checking that you meant "or" at the end of (6)(b) and "and" at the end of (6)(c).

In (6)(c), line 26, what does the parenthetical language mean?

On line 26, I suggest stating "... accessways), shall be spaced..." (Inserting a comma and deleting the "and")

In (6)(d), line 33, please state "identified in Sub-Item (c) of this Item."

In the History Note, please insert a parenthesis in the citation: G.S. 113A-103(5)(c);

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

1 15A NCAC 07K .0212 is readopted as published in 34:09 NCR 756 as follows:

2
3 **15A NCAC 07K .0212 INSTALLATION AND MAINTENANCE OF SAND FENCING**

4 Sand fences that are installed and maintained subject to the following criteria are exempt from the permit requirements
5 of the Coastal Area Management Act:

- 6 (1) Sand fencing may only be installed for the purpose of: building sand dunes by trapping wind blown
7 sand; the protection of the dune(s) and vegetation (planted or existing).
- 8 (2) Sand fencing shall not impede existing public access to the beach, recreational use of the beach or
9 emergency vehicle access. Sand fencing shall not be installed in a manner that impedes or restricts
10 established common law and statutory rights of public access and use of public trust lands and
11 waters.
- 12 (3) Sand fencing shall not be installed in a manner that impedes, traps or otherwise endangers sea turtles,
13 sea turtle nests or sea turtle hatchlings.
- 14 (4) Non-functioning, damaged, or unsecured, sand fencing shall be immediately removed by the
15 property owner.
- 16 (5) Sand fencing shall be constructed from evenly spaced thin wooden vertical slats connected with
17 twisted wire, no more than 5 feet in height. Wooden posts or stakes no larger than 2" X 4" or 3"
18 diameter shall support sand fencing.
- 19 (6) Location. Sand fencing shall be placed as far landward as possible to avoid interference with sea
20 turtle nesting, existing public access, recreational use of the beach, and emergency vehicle access.
 - 21 (a) Sand fencing shall not be placed on the wet sand beach area.
 - 22 (b) Sand fencing installed parallel to the shoreline shall be located no farther waterward than
23 the crest of the frontal or primary dune; or
 - 24 (c) Sand fencing installed waterward of the crest of the frontal or primary dune shall be
25 installed at an angle no less than 45 degrees to the shoreline. Individual sections of sand
26 fence shall not exceed more than 10 feet in length (except for public accessways) and shall
27 be spaced no less than seven feet apart, and shall not extend more than 10 feet waterward
28 of the following locations, whichever is most waterward, as defined in 15A NCAC 7H
29 .0305: the first line of stable natural vegetation, the toe of the frontal or primary dune, or
30 erosion escarpment of frontal or primary dune; and
 - 31 (d) Sand fencing along public accessways may equal the length of the accessway, and may
32 include a 45 degree funnel on the waterward end. The waterward location of the funnel
33 shall not exceed 10 feet waterward of the locations identified in Item (6)(c) of this Rule.

34
35 *History Note: Authority G.S. 113A-103(5)c.;*
36 *Eff. August 1, 2002;*
37 *Readopted Eff. November 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07K .0401

DEADLINE FOR RECEIPT: Friday, October 15, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In (a), line 7, who is the "Chief of Engineers"?

On line 9, what do you mean by "consistent"?

Also on line 9, who will determine what is "the maximum extent practicable"?

On lines 9 and 10, what is the "North Carolina Management Plan"? Is it the plan referenced throughout G.S. 113A, Article 7?

In (b), line 11, replace "which" with "that"

On line 12, what is "necessary" here? Who determines it?

On line 12, what is "safe" navigation? Does your regulated public know?

On line 12, replace "which" with "that"

On lines 12-13, who authorizes these project dimensions?

On line 13, what are the "pertinent" documents and who determines this?

On line 13, delete "but are not limited to," so the line reads "Such activities may include hydraulic pipeline dredging, ..."

On line 14, please insert a comma after "materials"

On line 15, please insert a comma after "dredging"

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

1 15A NCAC 07K .0401 is readopted as published in 34:09 NCR 756 as follows:

2
3 **SECTION .0400 - CLASSES OF FEDERAL AGENCY ACTIVITIES EXEMPTED FROM THE PERMIT**
4 **REQUIREMENT**

5
6 **15A NCAC 07K .0401 MAINTENANCE OF FEDERAL NAVIGATION CHANNELS**

7 (a) Operation and maintenance of all federal navigation channels subject to the authority of the Chief of Engineers
8 acting through the Secretary of the Army are hereby granted an exemption from the CAMA permit requirement.
9 Activities exempted by this requirement must be consistent to the maximum extent practicable with the North Carolina
10 Management Plan.

11 (b) For the purposes of this Section, operation and maintenance activities shall mean only those activities which are
12 necessary to allow safe navigation over existing water courses and which take place within authorized project
13 dimensions as defined in pertinent project documents. Such activities may include, but are not limited to, hydraulic
14 pipeline dredging, sidecase dredging, mechanical dredging, disposition of dredged materials and activities necessary
15 to accomplish dredging such as laying pipes to move material from the dredging site to the disposal area.

16
17 *History Note: Authority G.S. 113A-103(5)(c);*
18 *Eff. June 18, 1979;*
19 *Amended Eff. September 6, 1979;*
20 *Readopted Eff. November 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07K .0402

DEADLINE FOR RECEIPT: Friday, October 15, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In the History Note, G.S. 113A-124(c)(5) was repealed via Session Law 1987-827. Please provide an updated citation for authority for this Rule.

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

1 15A NCAC 07K .0402 is readopted as published in 34:09 NCR 756 as follows:

2
3 **15A NCAC 07K .0402 FEDERAL AGENCY ACTIVITIES EXEMPTED**

4 All federal agency development activities in areas of environmental concern are hereby granted an exemption from
5 the CAMA permit requirement.

6
7 *History Note: Authority G.S. 113A-124(c)(5);*

8 *Eff. June 18, 1979;*

9 *Amended Eff. April 22, 1980; September 6, 1979;*

10 *Readopted Eff. November 1, 2021.*