

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .0304

DEADLINE FOR RECEIPT: Friday, April 11, 2014

NOTE WELL: *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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

In Sub-Items (1)(a) and (4)(a), you indicate that the maps are available from any Local Permit Officer or the Division of Coastal Management. Where are they located? Is the address for the Division of Coastal Management the same as the address listed in item (3)? Are these maps available somewhere on the internet? If so, please include that information. Please note that if this information is available on the web, it is sufficient to only list the web location and that the document can be accessed free of charge (assuming that is the case).

In Item (3), you indicate that the report is available at the Division of Coastal Management. Is the report available somewhere on the internet? If so, please include that information. Please note that if this information is available on the web, it is sufficient to only list the web location and that the document can be accessed free of charge (assuming that is the case).

Please correct the History Note. It appears as though "Amended Eff. May 1, 2014" was entered in the middle of the Amended Eff. dates, rather than at the beginning.

You may want to consider adding G.S. 113A-107.1 to your Authority in your History Note as this Statute directs the Commission to work with the Division of Coastal Management.

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

Amber Cronk May
Commission Counsel
Date submitted to agency: Friday, March 28, 2014

1 **15A NCAC 07H .0304 IS AMENDED AS PUBLISHED IN NCR 28:07 619-621 AS FOLLOWS:**

2
3 **15A NCAC 07H .0304 AECS WITHIN OCEAN HAZARD AREAS**

4 The ocean hazard AECs contain all of the following areas:

- 5 (1) Ocean Erodible Area. This is the area in which there exists a substantial possibility of excessive
6 erosion and significant shoreline fluctuation. The ~~seaward~~ oceanward boundary of this area is the
7 mean low water line. The landward extent of this area is determined as follows:
- 8 (a) a distance landward from the first line of stable and natural vegetation as defined in 15A
9 NCAC 07H .0305(a)(5) to the recession line that would be established by multiplying the
10 long-term annual erosion rate times 60, provided that, where there has been no long-term
11 erosion or the rate is less than two feet per year, this distance shall be set at 120 feet
12 landward from the first line of stable natural vegetation. For the purposes of this Rule,
13 the erosion rates are the long-term average based on available historical data. The current
14 long-term average erosion rate data for each segment of the North Carolina coast is
15 depicted on maps entitled "2011 Long-Term Average Annual Shoreline Rate Update"
16 and approved by the Coastal Resources Commission on May 5, 2011 (except as such
17 rates may be varied in individual contested cases, declaratory or interpretive rulings). In
18 all cases, the rate of shoreline change shall be no less than two feet of erosion per year.
19 The maps are available without cost from any ~~local permit officer~~ Local Permit Officer or
20 the Division of Coastal Management; and
- 21 (b) a distance landward from the recession line established in Sub-Item (1)(a) of this Rule to
22 the recession line that would be generated by a storm having a one percent chance of
23 being equaled or exceeded in any given year.
- 24 (2) The High Hazard Flood Area. This is the area subject to high velocity waters (including hurricane
25 wave wash) in a storm having a one percent chance of being equaled or exceeded in any given
26 year, as identified as zone V1-30 on the flood insurance rate maps of the Federal Insurance
27 Administration, U.S. Department of Housing and Urban Development.
- 28 (3) Inlet Hazard Area. The inlet hazard areas are natural-hazard areas that are especially vulnerable to
29 erosion, flooding and other adverse effects of sand, wind, and water because of their proximity to
30 dynamic ocean inlets. This area extends landward from the ~~normal~~ mean low water line a distance
31 sufficient to encompass that area within which the inlet ~~shall~~, shall migrate, based on statistical
32 analysis, ~~migrate~~, and shall consider such factors as previous inlet territory, structurally weak areas
33 near the inlet and external influences such as jetties and channelization. The areas identified as
34 suggested Inlet Hazard Areas included in the report entitled INLET HAZARD AREAS, The Final
35 Report and Recommendations to the Coastal Resources Commission, 1978, as amended in 1981,
36 by Loie J. Priddy and Rick Carraway are incorporated by reference ~~without future changes~~ and are
37 hereby designated as Inlet Hazard Areas except ~~that the Cape Fear Inlet Hazard Area as shown on~~

~~the map does not extend northeast of the Baldhead Island marina entrance channel. These areas are extensions for:~~

- ~~(a) the Cape Fear Inlet Hazard Area as shown on the map does not extend northeast of the Bald Head Island marina entrance channel; and~~
- ~~(b) the former location of Mad Inlet, which closed in 1997.~~

~~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 not be less than the width of the adjacent ocean erodible area. This report is available for inspection at the Department of Environment and Natural Resources, Division of Coastal Management, 400 Commerce Avenue, Morehead City, North Carolina. Photo copies are available at no charge.~~

- (4) Unvegetated Beach Area. Beach areas within the Ocean Hazard Area where no stable natural vegetation is present may be designated as an ~~unvegetated beach area~~ Unvegetated Beach Area on either a permanent or temporary basis as follows:

- (a) An area appropriate for permanent designation as an ~~unvegetated beach area~~ Unvegetated Beach Area is a dynamic area that is subject to rapid unpredictable landform change from wind and wave action. The areas in this category shall be designated following studies by the ~~Coastal Resources Commission~~ 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~~ Local Permit Officer or the Division of Coastal Management.
- (b) An area that is suddenly unvegetated as a result of a hurricane or other major storm event may be designated as an ~~unvegetated beach area~~ Unvegetated Beach Area for a specific period of time. At the expiration of the time specified by the Coastal Resources Commission, the area shall return to its pre-storm designation.

~~The Commission designates as temporary unvegetated beach areas those oceanfront areas on Hatteras Island west of the new inlet breach in Dare County in which the vegetation line as shown on Dare County orthophotographs dated 4 February 2002 through 10 February 2002 was destroyed as a result of Hurricane Isabel on September 18, 2003 and the remnants of which were subsequently buried by the construction of an emergency berm. This designation shall continue until such time as stable, natural vegetation has reestablished or until the area is permanently designated as an unvegetated beach area pursuant to Sub Item 4(a) of this Rule.~~

*History Note: Authority G.S. 113A-107; 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;*

1 *Temporary Amendment Eff. October 10, 1996 Expired on July 29, 1997;*
2 *Temporary Amendment Eff. October 22, 1997;*
3 *Amended Eff. February 1, 2013; January 1, 2010, February 1, 2006; October 1, 2004;*
4 *Amended Eff. May 1, 2014; April 1, 2004; August 1, 1998.*