

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .0312

DEADLINE FOR RECEIPT: Thursday, July 10, 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:

*In (2)(b), where can the characterization data provided by the Division be found?*

*In (2)(c), where can the US Army Corps of Engineers standards for navigation and dredging be found?*

*In (2)(c), where can the standards referenced on lines 15 through 17 on page 3 be found? What determines whether the US Army Corps of Engineers, the National Oceanic and Atmospheric Administration, or the International Hydrographic Organization standards will be used?*

*In (2)(d), when will the subsurface data not be required in water depths less than 10 feet? Is this the same process as set forth in (2)(c) in that it will be evaluated on a case-by-case basis?*

*In (2)(d), please change "is not" to "shall not be" on line 29.*

*In (4)(b), how is your regulated public made aware of the times that they cannot excavate?*

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

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

Amber Cronk May  
Commission Counsel  
June 26, 2014

1 **15A NCAC 07H .0312 is amended as published in 28:14 NCR 1615-1619 as follows:**

2  
3 **15A NCAC 07H .0312 TECHNICAL STANDARDS FOR BEACH FILL PROJECTS**

4 Placement of sediment along the oceanfront shoreline is referred to in this Rule as “beach fill.” Sediment used  
5 solely to establish or strengthen dunes or to re-establish state-maintained transportation corridors across a barrier  
6 island breach in a disaster area as declared by the Governor is not considered a beach fill project under this Rule.  
7 Beach fill projects including beach nourishment, dredged material disposal, habitat restoration, storm protection, and  
8 erosion control may be permitted under the following conditions:

9 (1) The applicant shall characterize the recipient beach according to the following methodology:

- 10 (a) Characterization of the recipient beach is not required for the placement of sediment  
11 directly from and completely confined to a maintained navigation channel or associated  
12 sediment basins within the active nearshore, beach or inlet shoal system;
- 13 (b) Sediment sampling and analysis shall be used to capture the three-dimensional spatial  
14 variability of the sediment characteristics including grain size, sorting and mineralogy  
15 within the natural system;
- 16 (c) Shore-perpendicular topographic and bathymetric surveying of the recipient beach shall  
17 be conducted to determine the beach profile. Topographic and bathymetric surveying  
18 shall occur along a minimum of five shore-perpendicular transects evenly spaced  
19 throughout the entire project area. Each transect shall extend from the frontal dune crest  
20 seaward to a depth of 20 feet (6.1 meters) or to the shore-perpendicular distance 2,400  
21 feet (732 meters) seaward of mean low water, whichever is in a more landward position.  
22 Transect spacing shall not exceed 5,000 feet (1,524 meters) in the shore-parallel  
23 direction. Elevation data for all transects shall be referenced to the North American  
24 Vertical Datum of 1988 (NAVD 88) and the North American Datum of 1983 (NAD 83);
- 25 (d) No fewer than 13 sediment samples shall be taken along each beach profile transect. At  
26 least one sample shall be taken from each of the following morphodynamic zones where  
27 present: frontal dune, frontal dune toe, mid berm, mean high water (MHW), mid tide  
28 (MT), mean low water (MLW), trough, bar crest and at even depth increments from 6 feet  
29 (1.8 meters) to 20 feet (6.1 meters) or to a shore-perpendicular distance 2,400 feet (732  
30 meters) seaward of mean low water, whichever is in a more landward position. The total  
31 number of samples taken landward of MLW shall equal the total number of samples  
32 taken seaward of MLW;
- 33 (e) For the purpose of this Rule, “sediment grain size categories” are defined as “fine” (less  
34 than 0.0625 millimeters), “sand” (greater than or equal to 0.0625 millimeters and less  
35 than 2 millimeters), “granular” (greater than or equal to 2 millimeters and less than 4.76  
36 millimeters) and “gravel” (greater than or equal to 4.76 millimeters and less than 76

- 1 millimeters). Each sediment sample shall report percentage by weight of each of these  
2 four grain size categories;
- 3 (f) A composite of the simple arithmetic mean for each of the four grain size categories  
4 defined in Sub-Item (1)(e) of this Rule shall be calculated for each transect. A grand  
5 mean shall be established for each of the four grain size categories by summing the mean  
6 for each transect and dividing by the total number of transects. The value that  
7 characterizes grain size values for the recipient beach is the grand mean of percentage by  
8 weight for each grain size category defined in Sub-Item (1)(e) of this Rule;
- 9 (g) Percentage by weight calcium carbonate shall be calculated from a composite of all  
10 sediment samples along each transect defined in Sub-Item (1)(d) of this Rule. The value  
11 that characterizes the carbonate content of the recipient beach is a grand mean calculated  
12 by summing the average percentage by weight calcium carbonate for each transect and  
13 dividing by the total number of transects. For beaches on which fill activities have taken  
14 place prior to the effective date of this Rule, the Division of Coastal Management shall  
15 consider visual estimates of shell content as a proxy for carbonate weight percent;
- 16 (h) The total number of sediments and shell material greater than or equal to three inches (76  
17 millimeters) in diameter, observable on the surface of the beach between mean low water  
18 (MLW) and the frontal dune toe, shall be calculated for an area of 50,000 square feet  
19 (4,645 square meters) within the beach fill project boundaries. This area is considered a  
20 representative sample of the entire project area and referred to as the “background” value;
- 21 (i) Beaches that received sediment prior to the effective date of this Rule shall be  
22 characterized in a way that is consistent with Sub-Items (1)(a) through (1)(h) of this Rule  
23 and shall use data collected from the recipient beach prior to the addition of beach fill. If  
24 such data were not collected or are unavailable, a dataset best reflecting the sediment  
25 characteristics of the recipient beach prior to beach fill shall be developed in coordination  
26 with the Division of Coastal Management; and
- 27 (j) All data used to characterize the recipient beach shall be provided in digital and hardcopy  
28 format to the Division of Coastal Management upon request.
- 29 (2) The applicant shall characterize the sediment to be placed on the recipient beach according to the  
30 following methodology:
- 31 (a) The characterization of borrow areas including submarine sites, upland sites, and dredged  
32 material disposal areas shall be designed to capture the three-dimensional spatial  
33 variability of the sediment characteristics including grain size, sorting and mineralogy  
34 within the natural system or dredged material disposal area;
- 35 (b) The characterization of borrow sites shall include sediment characterization data provided  
36 by the Division of Coastal Management where available;

- (c) Seafloor surveys shall measure elevation and capture acoustic imagery of the seafloor. Measurement of seafloor elevation shall cover 100 percent of each submarine borrow site and use survey-grade swath sonar (e.g. multibeam or similar technologies) in accordance with current US Army Corps of Engineers standards for navigation and dredging. Seafloor imaging without an elevation component (e.g. sidescan sonar or similar technologies) shall also cover 100 percent of each borrow site and be performed in accordance with US Army Corps of Engineers standards for navigation and dredging. Because shallow submarine areas can provide technical challenges and physical limitations for acoustic measurements, seafloor imaging without an elevation component may not be required for water depths less than 10 feet (3 meters). Alternative elevation surveying methods for water depths less than 10 feet (3 meters) may be evaluated on a case-by-case basis by the Division of Coastal Management. Elevation data shall be tide- and motion-corrected and referenced to NAVD 88 and NAD 83. Seafloor imaging data without an elevation component shall be referenced to the NAD 83. All final seafloor survey data shall conform to standards for accuracy, quality control and quality assurance as set forth either by the US Army Corps of Engineers, the National Oceanic and Atmospheric Administration, or the International Hydrographic Organization. For offshore dredged material disposal sites, only one set of imagery without elevation is required. Sonar imaging of the seafloor without elevation is not required for borrow sites completely confined to maintained navigation channels, sediment deposition basins within the active nearshore, beach or inlet shoal system;
- (d) Geophysical imaging of the seafloor subsurface shall be used to characterize each borrow site and shall use survey grids with a line spacing not to exceed 1,000 feet (305 meters). Offshore dredged material disposal sites shall use a survey grid not to exceed 2,000 feet (610 meters) and only one set of geophysical imaging of the seafloor subsurface is required. Survey grids shall incorporate at least one tie point per survey line. Because shallow submarine areas can pose technical challenges and physical limitations for geophysical techniques, subsurface data may not be required in water depths less than 10 feet (3 meters). Subsurface geophysical imaging is not required for borrow sites completely confined to maintained navigation channels, sediment deposition basins within the active nearshore, beach or inlet shoal system, or upland sites. All final subsurface geophysical data shall use accurate sediment velocity models for time-depth conversions and be referenced to NAD 83;
- (e) Sediment sampling of all borrow sites shall use a vertical sampling device no less than 3 inches (76 millimeters) in diameter. Characterization of each borrow site shall use no fewer than ~~40~~ five evenly spaced cores or one core per 23 acres (grid spacing of 1,000 feet or 305 meters), whichever is greater. Characterization of borrow sites completely

1 confined to maintained navigation channels or sediment deposition basins within the  
2 active nearshore, beach or inlet shoal system shall use no fewer than five evenly spaced  
3 vertical samples per channel or sediment basin, or sample spacing of no more than 5,000  
4 linear feet (1,524 meters), whichever is greater. Two sets of sampling data (with at least  
5 one dredging event in between) from maintained navigation channels or sediment  
6 deposition\_basins within the active nearshore, beach or inlet shoal system may be used to  
7 characterize material for subsequent nourishment events from those areas if the sampling  
8 results are found to be compatible with Sub-Item (3)(a) of this Rule. In submarine  
9 borrow sites other than maintained navigation channels or associated sediment deposition  
10 basins within the active nearshore, beach or inlet shoal system where water depths are no  
11 greater than 10 feet (3 meters), geophysical data of and below the seafloor are not  
12 required, and sediment sample spacing shall be no less than one core per six acres (grid  
13 spacing of 500 feet or 152 meters). Vertical sampling shall penetrate to a depth equal to  
14 or greater than permitted dredge or excavation depth or expected dredge or excavation  
15 depths for pending permit applications. All sediment samples shall be integrated with  
16 geophysical data to constrain the surficial, horizontal and vertical extent of lithologic  
17 units and determine excavation volumes of compatible sediment as defined in Item (3) of  
18 this Rule;

19 (f) For offshore dredged material disposal sites, the grid spacing shall not exceed 2,000 feet  
20 (610 meters). Characterization of material deposited at offshore dredged material disposal  
21 sites after the initial characterization are not required if all of the material deposited  
22 complies with Sub-Item (3)(a) of this Rule as demonstrated by at least two sets of  
23 sampling data with at least one dredging event in between;

24 (g) Grain size distributions shall be reported for all sub-samples taken within each vertical  
25 sample for each of the four grain size categories defined in Sub-Item (1)(e) of this Rule.  
26 Weighted averages for each core shall be calculated based on the total number of samples  
27 and the thickness of each sampled interval. A simple arithmetic mean of the weighted  
28 averages for each grain size category shall be calculated to represent the average grain  
29 size values for each borrow site. Vertical samples shall be geo-referenced and digitally  
30 imaged using scaled, color-calibrated photography;

31 (h) Percentage by weight of calcium carbonate shall be calculated from a composite sample  
32 of each core. A weighted average of calcium carbonate percentage by weight shall be  
33 calculated for each borrow site based on the composite sample thickness of each core.  
34 Carbonate analysis is not required for sediment confined to maintained navigation  
35 channels or associated sediment deposition basins within the active nearshore, beach or  
36 inlet shoal system; and

- (i) All data used to characterize the borrow site shall be provided in digital and hardcopy format to the Division of Coastal Management upon request.
- (3) The Division of Coastal Management shall determine sediment compatibility according to the following criteria:
- (a) Sediment completely confined to the permitted dredge depth of a maintained navigation channel or associated sediment deposition basins within the active nearshore, beach or inlet shoal system is considered compatible if the average percentage by weight of fine-grained (less than 0.0625 millimeters) sediment is less than 10 percent;
  - (b) The average percentage by weight of fine-grained sediment (less than 0.0625 millimeters) in each borrow site shall not exceed the average percentage by weight of fine-grained sediment of the recipient beach characterization plus five percent;
  - (c) The average percentage by weight of granular sediment (greater than or equal to 2 millimeters and less than 4.76 millimeters) in a borrow site shall not exceed the average percentage by weight of coarse-sand sediment of the recipient beach characterization plus ~~five~~ 10 percent;
  - (d) The average percentage by weight of gravel (greater than or equal to 4.76 millimeters and less than 76 millimeters) in a borrow site shall not exceed the average percentage by weight of gravel-sized sediment for the recipient beach characterization plus five percent;
  - (e) The average percentage by weight of calcium carbonate in a borrow site shall not exceed the average percentage by weight of calcium carbonate of the recipient beach characterization plus 15 percent; and
  - (f) Techniques that take incompatible sediment within a borrow site or combination of sites and make it compatible with that of the recipient beach characterization shall be evaluated on a case-by-case basis by the Division of Coastal Management.
- (4) Excavation and placement of sediment shall conform to the following criteria:
- ~~(a)~~ ~~Sediment excavation depth from a maintained navigation channel shall not exceed the permitted dredge depth of the channel;~~
  - ~~(b)~~ (a) Sediment excavation depths for all borrow sites shall not exceed the maximum depth of recovered core at each coring location;
  - ~~(c)~~ (b) In order to protect threatened and endangered species, and to minimize impacts to fish, shellfish and wildlife resources, no excavation or placement of sediment shall occur within the project area during times designated by the Division of Coastal Management in consultation with other State and Federal agencies; and
  - ~~(d)~~ (c) Sediment and shell material with a diameter greater than or equal to three inches (76 millimeters) is considered incompatible if it has been placed on the beach during the beach fill project, is observed between MLW and the frontal dune toe, and is in excess of

1                               twice the background value of material of the same size along any 50,000-square-foot  
2                               (4,645 square meter) section of beach.

3  
4   *History Note:*   *Authority G.S. 113-229; 113A-102(b)(1); 113A-103(5)(a); 113A-107(a); 113A-113(b)(5) and (6);*  
5                               *113A-118; 113A-124;*  
6                               *Eff. February 1, 2007;*  
7                               *Amended Eff. August 1, 2014; September 1, 2013; April 1, 2008.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1204

DEADLINE FOR RECEIPT: Thursday, July 10, 2014

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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:

*In (a), to what permit is "this general permit" referring? Is it the permit as set forth in Section 1200? Consider changing the word "this" to a more descriptive term. The words "this general permit" are also used in (b), (d), (e), and (f). Perhaps change "this" to "the" after you have indicated to which general permit you are referring?*

*In (a), please also consider changing "shall not be leased or rented or used for any commercial purpose" to "shall not be leased, rented, or used for any commercial purpose."*

*Is the phrase "because of their greater potential for adverse impact" necessary? If so, it seems out of place where currently positioned and you may want to consider moving this phrase after "shall be reviewed through the major permitting process."*

*In (b), who is an authorized representative and how does your regulated public know who falls within that category? Also, in (b), what is meant by "periodic" and how does DENR determine when it is necessary to make a periodic inspection?*

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

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

Amber Cronk May  
Commission Counsel  
June 26, 2014

1 **15A NCAC 07H .1204 IS AMENDED AS PUBLISHED IN 28:14 NCR 1619 AS FOLLOWS:**

2  
3 **15A NCAC 07H .1204 GENERAL CONDITIONS**

4 (a) Piers and docking facilities authorized by this general permit shall be for the exclusive use of the land owner, or  
5 occupant and shall not be leased or rented or used for any commercial purpose. ~~Except in the cases of shared piers~~  
6 ~~as described in 7H .1205, piers and~~ Piers and docking facilities ~~designed to~~ shall provide docking space for no more  
7 than two ~~boats shall,~~ boats. Docking facilities providing docking space for more than two boats because of their  
8 greater potential for adverse impacts, shall be reviewed through the major permitting process and, therefore, are not  
9 authorized by this general ~~permit.~~ permit, excluding the exceptions described in Rule .1205 of this Section.

10 (b) Individuals shall allow authorized representatives of the Department of Environment and Natural Resources to  
11 make periodic inspections at any time deemed necessary in order to be sure that the activity being performed under  
12 the authority of this general permit is in accordance with the terms and conditions prescribed herein.

13 (c) There shall be no interference with navigation or use of the waters by the public by the existence of piers and  
14 docking facilities.

15 (d) This permit shall not be applicable to proposed construction where the Department determines that the proposed  
16 activity will endanger adjoining properties or significantly affect historic, cultural, scenic, conservation or recreation  
17 values, identified in G.S. 113A-102 and G.S. 113A-113(b)(4).

18 (e) This permit does not eliminate the need to obtain any other required state, local, or federal authorization.

19 (f) Development carried out under this permit shall be consistent with all local requirements, AEC Guidelines, and  
20 local land use plans current at the time of authorization.

21  
22 *History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124;*  
23 *Eff. March 1, 1984;*  
24 *Amended Eff. May 1, 1990;*  
25 *RRC Objection due to ambiguity Eff. May 19, 1994;*  
26 *Amended Eff. August 1, 2014; July 1, 2009; August 1, 1998; July 1, 1994.*  
27

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1205

DEADLINE FOR RECEIPT: Thursday, July 10, 2014

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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:

*In (b), who determines whether the restriction shall be applied as necessary to avoid interference with navigation, etc? How is this determination made?*

*In (c), please change "vegetation, which" to "vegetation that"*

*In (g), is your regulated public familiar with what would be considered "a designated Primary Nursery Area?"*

*Also in (g), how is it determined whether "normal low water level or normal water level" will be used? This phrase is used several times throughout the Rule. Is this something that your regulated public is familiar with? In addition, you may want to consider deleting "whichever is applicable" for consistency purposes (this is not used in 15A 07H .1305, for example). Also, is your regulated public familiar with whether they will need to go to Division of Marine Fisheries or the Wildlife Resources Commission for prior approval? How is this determined?*

*In (h), do you mean to include both (h)(1) and (h)(2) as requirements? If so, please change the period to a semi-colon and add "and" to the end of (h)(1).*

*In (h)(2), who determines whether it is located to minimize the area of vegetation or shellfish beds? Is there a specific process?*

*In (j), are PNAs "Primary Nursing Areas?" If so, please add "PNA" following "Primary Nursing Area in (g).*

*In (k), line 4, page 2, please delete "of" in between "more than" and "two feet."*

*In (o), please provide the citation to the Rivers and Harbors Act?*

*In (p), line 15, please add a comma in between "human-made canals" and "or basins" for purposes of consistency.*

Amber Cronk May  
Commission Counsel  
June 26, 2014

*In (q), to which rule is “the rule” referring in line 23?*

*In (q), how can copies of the diagram be obtained? Are they available online?*

*In (u)(3), please capitalize Rule on line 2, page 4.*

*In (u)(5), what is the CAMA Major full review permit process?*

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

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

1 **15A NCAC 07H .1205 IS AMENDED AS PUBLISHED IN 28:14 NCR 1619-1621 AS FOLLOWS:**

2  
3 **15A NCAC 07H .1205 SPECIFIC CONDITIONS**

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

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

11 (c) Piers and docking facilities longer than 200 feet shall be permitted only if the proposed length gives access to  
12 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  
13 additional length is necessary to span some obstruction to navigation. Measurements to determine pier and docking  
14 facility lengths shall be made from the waterward edge of any coastal wetland vegetation, which borders the water  
15 body.

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

18 (e) The total square footage of shaded impact for docks and mooring facilities (excluding the pier) allowed shall be  
19 8 square feet per linear foot of shoreline with a maximum of 800 square feet. In calculating the shaded impact,  
20 uncovered open water slips shall not be counted in the total.

21 (f) The maximum size of any individual component of the docking facility authorized by this General Permit shall  
22 not exceed 400 square feet.

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

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

29 (1) Water depth at the docking facility location is equal to or greater than two feet of water at normal  
30 low water level or normal water level (whichever is applicable).

31 (2) The pier and docking facility is located to minimize the area of submerged aquatic vegetation or  
32 shellfish beds under the structure.

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

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

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

6 (l) Boathouses shall not exceed a combined total of 400 square feet and shall have sides extending no further than  
7 one-half the height of the walls as measured in a downward direction from the top wall plate or header and only  
8 covering the top half of the walls. Measurements of square footage shall be taken of the greatest exterior  
9 dimensions. Boathouses shall not be allowed on lots with less than 75 linear feet of shoreline.

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

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

12 (o) Pier and docking facility alignments along federally maintained channels shall also meet Corps of Engineers  
13 regulations for construction pursuant to Section 10 of the Rivers and Harbors Act.

14 (p) Piers and docking facilities shall in no case extend more than 1/4 the width of a natural water body, human-  
15 made canal or basin. Measurements to determine widths of the water body, human-made canals or basins shall be  
16 made from the waterward edge of any coastal wetland vegetation which borders the water body. The 1/4 length  
17 limitation shall not apply when the proposed pier and docking facility is located between longer structures within  
18 200 feet of the applicant's property. However, the proposed pier and docking facility shall not be longer than the  
19 pier head line established by the adjacent piers and docking facilities nor longer than 1/3 the width of the water  
20 body.

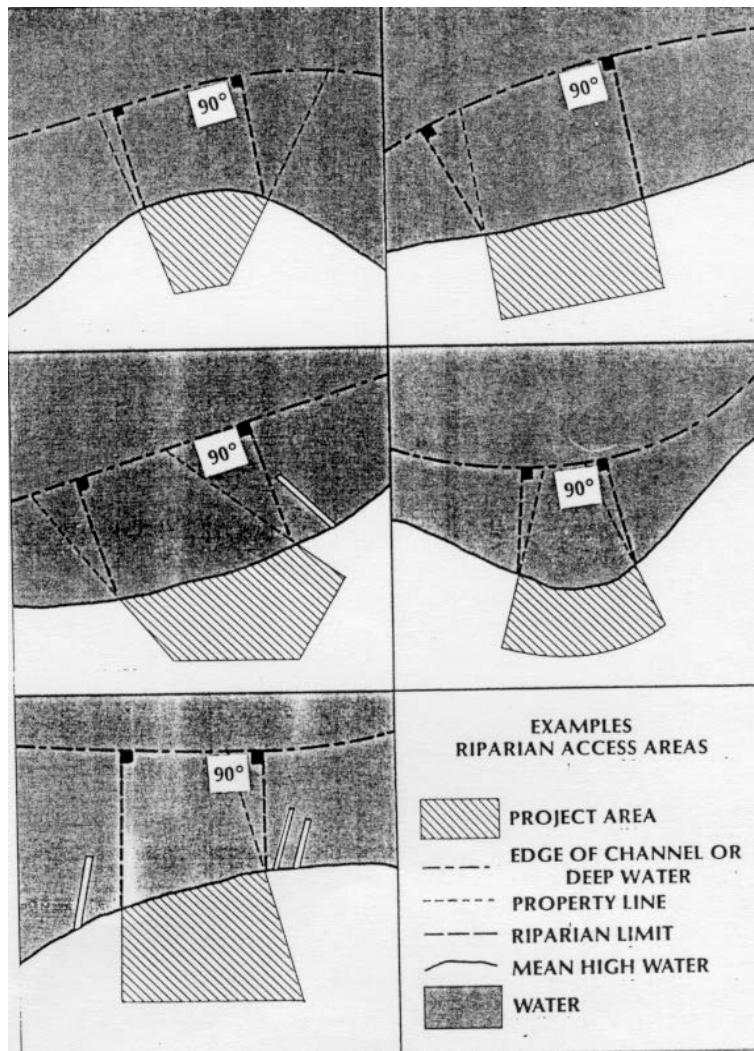
21 (q) Piers and docking facilities shall not interfere with the access to any riparian property, and shall have a  
22 minimum setback of 15 feet between any part of the pier and docking facility and the adjacent property lines  
23 extended into the water at the points that they intersect the shoreline.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

35 (r) Piers and docking facilities shall ~~be designed to provide docking space for no more than two boats.~~ boats (a boat  
36 is defined in 15A NCAC 07M .0602(a) as a vessel or watercraft of any size or type specifically designed to be self-  
37 propelled, whether by engine, sail, oar, paddle or other means, which is used to travel from place to place by water)

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 and encouraged provided that in addition to complying with (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.

- 1 (3) The total square footage of shaded impact for docks and mooring facilities shall be calculated  
2 using (e) of this rule and in addition shall allow for combined shoreline of both properties.
- 3 (4) The property owners of the shared pier shall not be required to obtain a 15-foot waiver from each  
4 other as described in subparagraph (q) of this rule as is applies to the shared riparian line for any  
5 work associated with the shared pier, provided that the title owners of both properties have  
6 executed a shared pier agreement that has become a part of the permit file.
- 7 (5) The construction of a second access pier or docking facility not associated with the shared pier  
8 shall require authorization through the CAMA Major full review permit process.

9

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

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1305

DEADLINE FOR RECEIPT: Thursday, July 10, 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:

*Is "normal high water level, or normal water level contour" in (c) the same as "normal high water lever or normal water level" in (b)? If so, please make the wording consistent.*

*In (c), how is it determined what materials will be approved by department personnel? Is this process set forth in another rule? This language is also in (j).*

*In (d), to what permit is "this permit" referring?*

*In (j), please add a comma after "steel sheet pile" for purposes of consistency.*

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

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

Amber Cronk May  
Commission Counsel  
June 26, 2014

15A NCAC 07H .1305 IS AMENDED AS PUBLISHED IN 28:14 NCR 1621-1622 AS FOLLOWS:

SECTION .1300 – GENERAL PERMIT TO ~~MAINTAIN, REPAIR AND~~ CONSTRUCT BOAT RAMPS  
ALONG ESTUARINE AND PUBLIC TRUST SHORELINES AND INTO ESTUARINE AND PUBLIC  
TRUST WATERS

15A NCAC 07H .1305 SPECIFIC CONDITIONS

(a) Boat ramps shall be no wider than 15 feet and ~~must not extend farther than 20 feet below the mean high water level contour in tidal areas, or the normal water level contour in nontidal areas.~~ shall not extend more than 20 feet waterward of the normal high water level or normal water level.

(b) Excavation and ground disturbing activities above and below the ~~mean~~ normal high water level or normal water level will be limited to that absolutely necessary to establish adequate ramp slope and provide a ramp no greater in size than specified by this general permit.

(c) Placement of fill materials below the ~~mean~~ normal high water level, or normal water level contour, will be limited to the ramp structure ~~itself.~~ and any associated riprap groins. Boat ramps may be constructed of concrete, wood, steel, clean riprap, marl, or any other acceptable materials as approved by department personnel. No coastal wetland vegetation shall be excavated or filled at any time during ~~construction and subsequent use of the proposed ramp.~~ construction.

(d) This permit allows for up to a six-foot wide launch access dock (fixed or floating) immediately adjacent to a new or existing boat ramp. The length shall be limited to the length of the permitted boat ramp (with a maximum length of 20 feet waterward of the normal high water level or normal water level). No permanent slips are authorized by this permit.

(e) Groins shall be allowed as a structural component on one or both sides of a new or existing boat ramp to reduce scouring. The groins shall be limited to the length of the permitted boat ramp (with a maximum length of 20 feet waterward of the normal high water level or normal water level).

(f) The height of sheetpile groins shall not exceed one foot above normal high water level or normal water level and the height of riprap groins shall not exceed two feet above normal high water level or normal water level.

(g) Riprap groins shall not exceed a base width of five feet.

(h) Material used for groin construction shall be free from loose dirt or any other pollutant. Riprap material must be of sufficient size to prevent its movement from the approved alignment by wave action or currents.

(i) “L” and “T” sections shall not be allowed at the end of groins.

(j) Groins shall be constructed of granite, marl, concrete without exposed rebar, timber, vinyl sheet pile, steel sheet pile or other suitable equivalent materials approved by the Division of Coastal Management.

(k) Boat ramps and their associated structures authorized under this permit shall not interfere with the access to any riparian property and shall have a minimum setback of 15 feet between any part of the boat ramp or associated structures and the adjacent property owners’ areas of riparian access. The minimum setbacks provided in the rule may be waived by the written agreement of the adjacent riparian owner(s), or when two adjoining riparian owners

1 are co-applicants. Should the adjacent property be sold before construction of the boat ramp or associated structures  
2 commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and  
3 submit it to the Division of Coastal Management prior to initiating any development of the boat ramp or associated  
4 structures authorized under this permit.

5  
6 *History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124;*  
7 *Eff. August 1, 2014; March 1, 1984.*