

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07K .0208

DEADLINE FOR RECEIPT: Thursday, April 9, 2015

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 (a), line 4, you are changing "Estuarine Shoreline..." to "Coastal Shoreline..." I note that that G.S. 113A, Article 7, states "Estuarine Shoreline" in G.S. 113A-115.1. Does your regulated public know what this is?

Also, why is the term "Coastal Shoreline Area of Environmental Concern" capitalized?

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

Also on line 5, I take it your regulated public knows what "normal" high water or water levels are?

It appears that the language on lines 8 -12 should be its own Paragraph, as it deals with the specific exemption for constructing access to the water. If this will not create confusion for cross-references, I recommend making this Paragraph (b). If you do this, I suggest changing the first sentence into sentences, ending after "six feet" and then stating, "The access may be..."

On line 8, I recommend stating, "this exemption allows for the construction..."

On line 8, what is a "generally shore perpendicular access..."? Does your regulated public know?

On line 9, state "provided" rather than "providing"

On line 11, typically the use of "at least" is not favored in rules, as they set the minimum standards. However, from context, I take it you need this language?

On line 12, what is "substrate"?

In (b), line 13, I take it "AEC" means "Area of Environmental Concern"?

On line 14, replace "which" with "that"

Amanda J. Reeder
Commission Counsel
Date submitted to agency: March 25, 2015

In (b)(2), line 17, I take it you need to retain “at least”?

In (c), lines 19 and 20, replace “must” with “shall”

On lined 19-20, how is this notification made? Do you have an address rule that sets forth the telephone number or address?

On line 20, insert a comma after “person”

In (c)(1), line 22, insert a comma after “community” and add an “and” at the end of the line.

End (c)(2), line 24, with a period.

In (d), my understanding of G.S. 113A-101 is that local officials will share enforcement of the statutes and rules with the Commission and Department. Is the intent of (d) is to ensure this concurrent enforcement occurs?

§ 113A-101. Cooperative State-local program.

This Article establishes a cooperative program of coastal area management between local and State governments. Local government shall have the initiative for planning. State government shall establish areas of environmental concern. With regard to planning, State government shall act primarily in a supportive standard-setting and review capacity, except where local governments do not elect to exercise their initiative. Enforcement shall be a concurrent State-local responsibility. (1973, c. 1284, s. 1; 1975, c. 452, s. 5; 1981, c. 932, s. 2.1.)

In (e), I think you mean “the exemption in this Rule” on line 29, since the authorization is coming from the rule.

On line 30, how is the exemption issued? I don’t see any method for asking for an exemption in this Rule, only giving notice that is being exercised. Is this covered by another Rule or law?

Also on line 30, what “general authorization” are you referring to? What is it?

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: March 25, 2015

1 **15A NCAC 07K .0208 IS AMENDED AS PUBLISHED IN 29:11 NCR 1306-1307 AS FOLLOWS:**

2
3 **15A NCAC 07K .0208 SINGLE FAMILY RESIDENCES EXEMPTED**

4 (a) All single family residences constructed within the ~~Estuarine~~ Coastal Shoreline Area of Environmental Concern
5 which are more than 40 feet landward of normal high water or normal water level, and involve no land disturbing
6 activity within the 40 feet buffer area are exempted from the CAMA permit requirement as long as this exemption is
7 consistent with all other applicable CAMA permit standards and local land use plans and rules in effect at the time
8 the exemption is granted. This exemption does allow for the construction of ~~an~~ a generally shore perpendicular
9 access to the water in accordance with Rule 07H .0209(d)(10): water, providing that the access shall be no wider
10 than six feet and may be constructed out of materials such as wood, composite material, gravel, paver stones,
11 concrete, brick, or similar materials. Any access constructed over wetlands shall be elevated at least three feet above
12 any wetland substrate as measured from the bottom of the decking.

13 (b) Within the AEC for estuarine shorelines contiguous to waters classified as Outstanding Resource Waters
14 (ORW), no CAMA permit shall be required if the proposed development is a single-family residence which has a
15 built upon area of 25 percent or less and:

- 16 (1) has no stormwater collection system; and
17 (2) is at least 40 feet from waters classified as ORW.

18 (c) Before beginning any work under this exemption, the Department of Environment and Natural Resources
19 representative must be notified of the proposed activity to allow on-site review. Notification may be by telephone,
20 in person or in writing. Notification must include:

- 21 (1) the name, address, and telephone number of the landowner and the location of the work, including
22 the county, nearest community and water body;
23 (2) the dimensions of the proposed project, including proposed landscaping and the location of normal
24 high water or normal water level;
25 ~~(3) confirmation that a written statement has been obtained, signed by the adjacent riparian property~~
26 ~~owners indicating that they have no objections to the proposed work.~~

27 (d) In eroding areas, this exemption shall apply only when the local permit officer has determined that the house has
28 been located the maximum feasible distance back on the lot but not less than forty feet.

29 (e) Construction of the structure authorized by this exemption shall be completed ~~within one year~~ by December 31
30 of the third year of the issuance date of this permit exemption or the general authorization expires.

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32 *History Note: Authority G.S. 113A-103(5) c;*
33 *Eff. November 1, 1984;*
34 *Amended Eff. April 1, 2015; December 1, 2006; December 1, 1991; May 1, 1990; October 1,*
35 *1989.*