

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .0304

DEADLINE FOR RECEIPT: Monday, August 10, 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 Item (1), line 6, I recommend replacing "in which" with "where"

In Item 1, lines 6 and 7, what are "substantial possibility" "excessive erosion" and "significant shoreline fluctuation"? Who makes this determination? Does your regulated public know what this means and how it is applied?

In Sub-Item (1)(a), line 10, do you need to retain "that would be"? Couldn't you state "...recession line established by..."? Or do you not always require a recession line?

On line 11, I suggest replacing the comma after "60" with a semicolon.

Also on line 11, what is "long-term erosion"? Does your regulated public know?

On line 18, I suggest you insert a comma after "declaratory"

I am confused by the language on lines 18-19. You state that in all cases, the rate of shoreline change shall be no less than two feet of erosion per year. On line 12, you state that in cases where the rate is less than two feet per year, the distance is 120 feet landward. Is the language on lines 18 and 19 to state that no one may use a rate of less than two feet per year in the calculation?

On line 21, I could not find the "2011 Long-Term Average Annual Shoreline Rate Update" on the website. Is this still the current term for this map?

In Item (2), line 33, I suggest adding a comma after "inlet"

Also in Item (2), the document referenced on lines 35-36 on Page 1 is an internal document. How has this been incorporated by reference? Is this considered a scientific standard under G.S. 150B-2(8a)h?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: July 27, 2015

On Page 2, line 10, I cannot find this document on your website by searching for the document. Is there another name or specific html that can be referenced?

On line 10, "photocopies" is one word.

In Item (3), why is "Unvegetated Beach Area" capitalized?

Who makes the request for this designation? Or is this done by the Division without requests? And what is the effect of this designation?

In Sub-Item (3)(a), line 20, the "Item" in "Sub-Item" must be capitalized.

In Sub-Item (3)(b), how long is the "specific period of time"? Is this determined by the Commission? And what is based upon? And how will the area return to the "pre-storm designation"? Who will do that?

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: July 27, 2015

1 **15A NCAC 07H .0304 IS PROPOSED IS AMENDED AS PUBLISHED IN 29:19 NCR 2235-2238 AS**
2 **FOLLOWS:**

3
4 **15A NCAC 07H .0304 AECS WITHIN OCEAN HAZARD AREAS**

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

6 (1) Ocean Erodible Area. This is the area in which there exists a substantial possibility of excessive
7 erosion and significant shoreline fluctuation. The oceanward boundary of this area is the mean
8 low water line. The landward extent of this area is determined as follows:

- 9 (a) a distance landward from the first line of stable and natural vegetation as defined in 15A
10 NCAC 07H .0305(a)(5) to the recession line that would be established by multiplying the
11 long-term annual erosion rate times 60, provided that, where there has been no long-term
12 erosion or the rate is less than two feet per year, this distance shall be set at 120 feet
13 landward from the first line of stable natural vegetation. For the purposes of this Rule,
14 the erosion rates are the long-term average based on available historical data. The current
15 long-term average erosion rate data for each segment of the North Carolina coast is
16 depicted on maps entitled "2011 Long-Term Average Annual Shoreline Rate Update"
17 and approved by the Coastal Resources Commission on May 5, 2011 (except as such
18 rates may be varied in individual contested cases, declaratory or interpretive rulings). In
19 all cases, the rate of shoreline change shall be no less than two feet of erosion per year.
20 The maps are available without cost from any Local Permit Officer or the Division of
21 Coastal Management on the internet at <http://www.nccoastalmanagement.net>; and
22 (b) a distance landward from the recession line established in Sub-Item (1)(a) of this Rule to
23 the recession line that would be generated by a storm having a one percent chance of
24 being equaled or exceeded in any given year.

25 ~~(2) The High Hazard Flood Area. This is the area subject to high velocity waters (including hurricane~~
26 ~~wave wash) in a storm having a one percent chance of being equaled or exceeded in any given~~
27 ~~year, as identified as zone V1-30 on the flood insurance rate maps of the Federal Insurance~~
28 ~~Administration, U.S. Department of Housing and Urban Development.~~

29 ~~(3)~~(2) Inlet Hazard Area. The inlet hazard areas are natural-hazard areas that are especially vulnerable to
30 erosion, flooding and other adverse effects of sand, wind, and water because of their proximity to
31 dynamic ocean inlets. This area extends landward from the mean low water line a distance
32 sufficient to encompass that area within which the inlet shall migrate, based on statistical analysis,
33 and shall consider such factors as previous inlet territory, structurally weak areas near the inlet and
34 external influences such as jetties and channelization. The areas identified as suggested Inlet
35 Hazard Areas included in the report entitled INLET HAZARD AREAS, The Final Report and
36 Recommendations to the Coastal Resources Commission, 1978, as amended in 1981, by Loie J.

1 Priddy and Rick Carraway are incorporated by reference and are hereby designated as Inlet Hazard
2 Areas except for:

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

6 In all cases, the Inlet Hazard Area shall be an extension of the adjacent ocean erodible areas and in
7 no case shall the width of the inlet hazard area be less than the width of the adjacent ocean
8 erodible area. This report is available for inspection at the Department of Environment and
9 Natural Resources, Division of Coastal Management, 400 Commerce Avenue, Morehead City,
10 North Carolina or at the website referenced in Sub-item (1)(a) of this Rule. Photo copies are
11 available at no charge.

12 ~~(4)~~(3) Unvegetated Beach Area. Beach areas within the Ocean Hazard Area where no stable natural
13 vegetation is present may be designated as an Unvegetated Beach Area on either a permanent or
14 temporary basis as follows:

- 15 (a) An area appropriate for permanent designation as an Unvegetated Beach Area is a
16 dynamic area that is subject to rapid unpredictable landform change from wind and wave
17 action. The areas in this category shall be designated following studies by the Division of
18 Coastal Management. These areas shall be designated on maps approved by the Coastal
19 Resources Commission and available without cost from any Local Permit Officer or the
20 Division of Coastal Management on the internet at the website referenced in Sub-item
21 (1)(a) of this Rule.
- 22 (b) An area that is suddenly unvegetated as a result of a hurricane or other major storm event
23 may be designated as an Unvegetated Beach Area for a specific period of time. At the
24 expiration of the time specified by the Coastal Resources Commission, the area shall
25 return to its pre-storm designation.

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27 *History Note: Authority G.S. 113A-107; 113A-107.1; 113A-113; 113A-124;*
28 *Eff. September 9, 1977;*
29 *Amended Eff. December 1, 1993; November 1, 1988; September 1, 1986; December 1, 1985;*
30 *Temporary Amendment Eff. October 10, 1996;*
31 *Amended Eff. April 1, 1997;*
32 *Temporary Amendment Eff. October 10, 1996 Expired on July 29, 1997;*
33 *Temporary Amendment Eff. October 22, 1997;*
34 *Amended Eff. September 1, 2015; May 1, 2014; February 1, 2013; January 1, 2010, February 1,*
35 *2006; October 1, 2004; April 1, 2004; August 1, 1998.*
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1 **15A NCAC 07K .0213 IS REPEALED AS PUBLISHED IN 29:19 NCR 2235-2238 AS FOLLOWS:**

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3 **15A NCAC 07K .0213 SINGLE FAMILY RESIDENCES EXEMPTED FROM THE CAMA PERMIT**
4 **REQUIREMENTS WITHIN THE HIGH HAZARD FLOOD AREA OF ENVIRONMENTAL CONCERN**

5

6 *History Note: Authority G.S. 113A-103(5)(a); 113A-113(b)(6); 113A-118(d)(2); 113A-119.1;*

7 *Eff. August 1, 2002;*

8 *Repealed Eff. September 1, 2015.*