

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07B .0601

DEADLINE FOR RECEIPT: Thursday, January 14, 2016

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:

What is the difference between a "land use plan" and a "comprehensive plan"? Are these defined elsewhere in rule or statute? Please note that these phrases are used throughout these Rules and the lack of a definition has the potential of creating some confusion.

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: December 31, 2015

1 SUBCHAPTER 7B – ~~CAMA~~ STATE GUIDELINES FOR LAND USE PLANNING

2
3 15A NCAC 07B .0601 is amended as published in 30:06 NCR 620 as follows:

4
5 **15A NCAC 07B .0601 AUTHORITY**

6 This Subchapter establishes the rules that local governments shall follow in developing and adopting a ~~Coastal Area~~
7 ~~Management Act (CAMA) Land Use Plan.~~ land use plan or comprehensive plan that meets the Coastal Resources
8 Commission's (CRC) planning requirements.

9
10 *History Note: Authority G.S. 113A-107(a); 113A-110; 113A-124;*

11 *Eff. August 1, 2002;*

12 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
13 *2015;*

14 *Amended Eff. February 1, 2016.*

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In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), line 6, "county" is lowercase. In (a)(1) and (b) the term is capitalized. Please be consistent.

In (a), what are the "planning requirements adopted by the Coastal Resources Commission"? Are these set forth elsewhere in Rule? Please provide a cross-reference or some other additional information.

In (a)(2), please delete or define "currently."

In (a), line 10, are the "CRC's requirements" the same as those referenced on line 7?

In (a)(2), is the application a form provided by CRC? If so, is the information required in the application contained elsewhere in rule or statute? If not, what information will be required from the municipality?

In some places in this Rule (and in others) you have used "land use plan or comprehensive plan" but in other places you have only used "land use plan." Was this intentional? Again having a definition of the phrases may be helpful, but please be sure that you are consistent in your use.

In (c), from whom are the municipalities seeking certification? What is the process that they are required to go about doing this? Is this set forth elsewhere in rule or statute?

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: December 31, 2015

SECTION .0700 – CAMA LAND USE PLANNING REQUIREMENTS

15A NCAC 07B .0701 is readopted and amended **with changes** as published in 30:06 NCR 620-621 as follows:

15A NCAC 07B .0701 PLANNING OPTIONS




(a) Each county within the coastal area may prepare and adopt a ~~CAMA~~ land use plan or comprehensive plan that meets the planning requirements adopted by the Coastal Resources Commission (CRC). The **CRC [Secretary]** shall prepare and adopt a ~~CAMA Land Use Plan~~ land use plan that meets the CRC's planning requirements for each county that chooses not to prepare and adopt a ~~CAMA Land Use Plan~~ land use plan. Municipalities may develop individual ~~CAMA Land Use Plans~~ land use plans or comprehensive plans that meet the CRC's requirements if:

- (1) the County delegates this authority to the municipality; or
- (2) the **CRC [Secretary]** grants this authority upon application from a municipality that is currently enforcing its zoning ordinance, its subdivision regulations and the State Building Code within its jurisdiction.

(b) ~~The minimum types of plans presumed for municipalities, based on population, growth rates and the presence of Areas of Environmental Concern (AECs) are illustrated in Figure 1. In addition, community characteristics other than those listed in Figure 1, such as extent of growth and resource protection issues (e.g., water quality concerns), shall be considered when determining the type of plan to be prepared.~~

Figure 1: ~~TYPES OF CAMA PLANS PRESUMED FOR MUNICIPALITIES~~

		AREAS OF ENVIRONMENTAL CONCERN (AECs)		
POPULATION	GROWTH RATE*	OCEAN HAZARD AREAS	NON-OCEAN HAZARD AREAS**	DO NOT MEET STATUTORY THRESHOLD IN §113A-110 (e) ***
≥ 5,000	N/A			
≥ 2,500	HIGH			
>1,000 and < 2,500	HIGH			
<1,000	HIGH			
≥ 2,500	MODERATE			
< 2,500	MODERATE			
≥ 2,500	LOW			
< 2,500	LOW			

 *Minimum Core Plan Presumed*
 *Core or Workbook plan*
 *Fold into County CAMA Land Use Plan*

* GROWTH RATE (Source: Office of State Planning)	
High	$\geq 18.4\%$
Moderate	$> 9.2\%$ and $< 18.4\%$
Low	$\leq 9.2\%$
** Estuarine Waters, Coastal Shorelines, Public Trust Areas, and Coastal Wetlands	
*** 113A-110 (e) provides that municipalities may develop individual plans if (1) the County delegates this authority to the municipality or (2) the CRC grants this authority upon application from a municipality that is currently enforcing its zoning ordinance, its subdivision regulations and the State Building Code within its jurisdiction.	

(e) Types of Plans

(1) ~~Workbook plan: This is a simplified CAMA Land Use Plan that addresses the following elements:~~

~~(A) statement of community concerns, aspirations and vision;~~

~~(B) existing land use map;~~

~~(C) land suitability analysis;~~

~~(D) local growth and development policies addressing each Management Topic and applicable Areas of Environmental Concern; and~~

~~(E) future land use map.~~

~~The Division of Coastal Management (DCM) shall provide a workbook plan template to municipalities preparing this type of plan containing all required data and examples of policy alternatives.~~

(2) ~~Core plan: This plan addresses all of the plan elements in Rule .0702 of this Section (Elements of CAMA Core and Advanced Core Land Use Plans) in a complete and thorough manner. This type of plan is the standard CAMA Land Use Plan required for all 20 coastal counties.~~

(3) ~~Advanced core plan: The plan prepared by local governments that, due to consideration of specific local conditions, elect to exceed the core plan requirements in two or more areas. This plan also may be used to help meet the requirements of other planning programs, such as the Environmental Protection Agency's (EPA) Phase II Stormwater requirements or hazard mitigation plans, that address the CAMA goals, or to address issues of local concern, (i.e. location of a new industry or redevelopment after storm events.)~~

~~(d) Counties preparing a CAMA Land Use Plan shall prepare a core plan at a minimum.~~

~~(e) Municipalities that contain AECs may prepare a Workbook Plan, Core Plan, or Advanced Core Plan, depending on the presumptive type of plan shown in Figure 1. However, the type of plan to be prepared may change depending on needs that are identified in the scoping process described in 15A NCAC 07L. Municipalities with Ocean Hazard AECs that choose to plan shall prepare a minimum of a Core Plan. Municipalities with only Non Ocean Hazard AECs that choose to plan shall prepare a Core Plan if they meet the population and growth rate thresholds as shown~~

1 ~~in Figure 1. Municipalities with only Non-Ocean Hazard AECs that choose to plan and are at or below the~~
2 ~~population and growth rate thresholds shown in Figure 1 may prepare a Core Plan or a Workbook Plan.~~

3 ~~(f)(b)~~ A County shall accept a municipality's locally adopted policies and implementation actions for inclusion in
4 the County ~~CAMA Land Use Plan~~ land use plan for the municipality's jurisdiction if requested to do so by any
5 municipality not preparing ~~an individual CAMA Land Use Plan.~~ its own land use plan. Inclusion of a
6 municipality's adopted policies and implementation actions shall occur either at the time of County ~~CAMA Land~~
7 ~~Use Plan~~ land use plan preparation or a subsequent County ~~CAMA Land Use Plan~~ land use plan amendment. The
8 municipality's policies and implementation actions are limited to its jurisdiction and may differ from the County's
9 ~~policies.~~ policies and implementation actions.

10 ~~(g)(c)~~ Municipalities may seek ~~CRC~~ certification for these plans if all requirements found in 15A NCAC 07B and
11 G.S. 113A-110 are met.

12
13 *History Note: Authority G.S. 113A-107(a); 113A-110; 113A-124;*

14 *Eff. August 1, 2002;*

15 *Readopted and Amended Eff. February 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07B .0702

DEADLINE FOR RECEIPT: Thursday, January 14, 2016

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In reviewing these rules, the staff determined that the following technical changes need to be made:

It appears as though many, if not all, action verbs have been removed from this Rule. The sentences are no longer sentences, but directives, some are also incomplete. Please correct this issue throughout this Rule. For example, in (a), line 7, state "The plan shall include a matrix..." As written, this Rule is difficult to read and is unclear.

Page 1, on line 8, since you deleted "following" state "required elements as set forth in this Rule."

In (b), line 9, and (c), line 25, why are "Concerns and Aspirations" and "Emerging Conditions" capitalized?

In (b), lines 9 and 10, what is the point of the language?

In (b)(1), line 11, (b)(2), line 14 and (b)(3), line 19, either keep the language "The plan shall include..." or put it somewhere in (b).

In (b)(1), line 12, is the term "dominant growth-related conditions" known to your regulated public?

In (b)(2), line 15, do you need to retain "At a minimum"? Typically, since Rules set the floor, it is discouraged as rule language.

In (b)(3), line 24, please consider "planning vision as determined by the local government."

In (c), line 26, isn't it "basis" rather than "base"?

On line 28, either keep "This element shall describe..." or state "It shall describe..."

Amber Cronk May
Commission Counsel
Date submitted to agency: December 31, 2015

In (c)(1)(A)(iv) and (v), age and income of what? The population? If so, is it not part of the “key population characteristics” in (c)(1)(A)(iii)?

Page 2, (c)(1)(A)(vi), line 1, state “five-year”

In (c)(1)(B), line 3, begin “An estimate...”

In (c)(1)(C), what does this mean? What is “community economic activity”? Does your regulated public know?

In (c)(2)(A)(i), are the AECs set forth elsewhere?

In (c)(2)(A)(vi), line 33, insert a comma after “wetlands”

Page 3, in (c)(2)(A)(ix), line 1, please delete “but not limited to”?

In (c)(2)(B), why are you deleting the language on lines 22-24? It seems to be clearer with explanatory language.

*In (c)(2)(B)(i)(I) and (II), how are these able to be incorporated, as they appear to be policies? **It appears that this would violate the APA, as you are avoiding rulemaking by relying upon policies that can change outside of rulemaking.** Are the cited materials promulgated as rules or specifically exempt from rulemaking? Are you relying upon them as scientific or engineering standards and thus exempted from rulemaking under G.S. 150B-2(8a)h? Assuming you can cite to these, they need to be incorporated by reference under G.S. 150B-21.6, including telling individuals where they can be accessed (online is fine – just give a url) and a cost.*

Page 4, (c)(2)(B)(iii)(I), line 10, please consider keeping the cross-reference you are deleting.

On lines 11 and 14, please consider either “are” or “shall be” (but I am thinking “are” is better) rather than “are being”

In (c)(3), lines 24, 25, and 27, you refer to “patterns” “categories” and “descriptions” Are those three different things? If so, are they defined elsewhere? Does your regulated public understand the difference between them?

Page 5, in (c)(4), please consider keeping what is being deleted on lines 15-16. If not, state “These shall evaluate...”

(c)(4) doesn’t read well. Are these all related to the community facilities?

In (c)(4)(A), line 23, state “It shall describe any documented...” And documented how and by whom? Does your regulated public know?

Again, throughout this Rule, please begin with a noun. "The map shall indicate..." or "The local government shall provide..." Without specifying what you're talking about, the Rule can read poorly and be ambiguous.

In (c)(4)(B), line 31, how does the DOT deem this? How does the regulated public find out?

Page 7, (d), line 1, is the first time you've used "CAMA"? If so, shouldn't it be spelled out?

Can't the language on lines 4 and 5-8 be placed together as one Subparagraph? In (d)(1)(A), line 6, why are the terms "Concerns and Aspirations" and "Existing and Emerging Conditions" capitalized?

In (d)(1)(A), please consider stating "as required in Rule .0702(b) and (c) of this Section."

In (d)(1)(B), line 12, what are the state and federal rules? Is your regulated public familiar with these?

In (d)(1)(C), the language on lines 28-30, can local governments do this? GS 113A-108 and 111 seem to indicate that they cannot.

In (d)(2), line 35, who does this certification?

Page 8, (d)(2), line 3, what are these "objectives"?

In (d)(2)(A)(i), lines 5 and 6, what are "public trust waters"? Is your regulated public familiar with this?

In (d)(2)(A)(ii), line 13, what is "nourishment"? Is your regulated public familiar with this?

In (d)(2)(B)(i), line 23, insert a comma after "safety"

On line 24, what is "capability"?

Page 9, (d)(2)(C), line 6, delete or define "appropriately"?

On line 7, insert a comma after "located"

On line 8, who makes the determination of "protect" v. "restore"?

In (d)(2)(E), line 36, insert a comma after "protect" and how is "where possible" determined?

On line 37, insert a comma after "streams"

Page 10, in (d)(3), line 23, state "The map shall depict..."

On line 25, insert a period after "infrastructure"

On line 26, it shall include designations of what?

Page 11, (e), line 12, keep "This element shall include:"

In (e)(1), line 14, are the policies the "objectives" in (d)(2)?

So that I understand (e)(1) is a description of the future, and (e)(2) is the current state of things?

In (e)(3), line 34, why is the term "Management Topics" capitalized? I know you are looking at (d)(2), but the term isn't capitalized there.

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: December 31, 2015

1 15A NCAC 07B .0702 is readopted and amended as published in 30:06 NCR 621-630 as follows:

2
3 **15A NCAC 07B .0702 ELEMENTS OF CAMA CORE AND ADVANCED CORE LAND USE PLANS**
4 **LAND USE PLAN ELEMENTS**

5 (a) Organization of the Plan. ~~The elements in this Rule provide general direction for development of the CAMA~~
6 ~~Core and Advanced Core Land Use Plans. A detailed Table of Contents shall be included and if the local~~
7 ~~government does not follow the outline described in this Rule, a matrix shall be included~~ Include a matrix in the land
8 use plan or comprehensive plan that shows the ~~exact~~ location of the following required elements.

9 (b) Community Concerns and ~~Aspirations~~: Aspirations. The purpose of this element is to provide an understanding
10 of the underlying planning needs and desires of the community.

11 (1) Significant existing and emerging conditions: ~~The plan shall include a description of~~ Describe the
12 dominant growth-related conditions that influence land use, development, water quality, and other
13 environmental concerns in the planning area.

14 (2) Key issues: ~~The plan shall include a description of~~ Describe the land use and development topics
15 most important to the future of the planning area. At a minimum, this description shall include
16 public access, land use compatibility, infrastructure carrying capacity, natural hazard areas, water
17 quality, and may also include local areas of concern as described in Subparagraph (d)(3) ~~(2)~~ (Land
18 Use Plan Management Topics) of this Rule.

19 (3) A community vision: ~~This shall consist of a description of~~ Describe the general physical
20 appearance and form that represents the local government's plan for the future. ~~The community~~
21 ~~vision shall include statements of general~~ Include objectives to be achieved by the plan. ~~These~~
22 ~~objectives shall serve as the foundation for more specific objectives and policies stated elsewhere~~
23 ~~in the CAMA Land Use Plan. The objectives shall include~~ plan and identify changes that ~~the local~~
24 ~~government feels are~~ may be needed to achieve the planning vision.

25 (c) ~~Analysis of Existing and Emerging Conditions within the planning jurisdiction~~: Conditions. The purpose of this
26 element is to provide a sound factual ~~and analytical~~ base that is necessary to support the land use and development
27 policies included in the plan. ~~The analysis shall be based upon the best available data or mapping information from~~
28 ~~state, federal and local sources. This element shall describe~~ Describe the following:

29 (1) Population, Housing, and Economy. ~~The plan shall include an analysis and~~ Include discussion of
30 the following data and trends:

31 (A) Population:

- 32 (i) Permanent population growth trends using data from the two most recent
33 decennial Censuses;
34 (ii) Current permanent and seasonal population estimates;
35 (iii) Key population characteristics;
36 (iv) Age; and
37 (v) ~~Income~~. Income; and

- (vi) Thirty year projections of permanent and seasonal population in five year increments.
- (B) Housing stock: Estimate current housing stock, including permanent and seasonal units, tenure, and types of units (single-family, multifamily, and manufactured).
- (i) ~~Estimate of current housing stock, including permanent and seasonal units, tenure, and types of units (single family, multifamily, and manufactured); and~~
- (ii) ~~Building permits issued for single family, multifamily, and manufactured homes since last plan update.~~
- (C) Local economy: ~~Employment~~ Describe employment by major sectors and ~~description of~~ community economic activity.
- (D) ~~Projections. Short term (five and ten year) and long term (20 year) projections of permanent and seasonal population.~~
- (2) Natural systems analysis. ~~The purpose of the natural systems analysis is to describe and analyze the systems. Describe the natural features and discuss the environmental conditions of the planning jurisdiction, and to assess their capabilities and limitations for development. This analysis shall jurisdiction to include:~~
- (A) ~~Mapping and analysis of natural~~ Natural features. ~~The 14 digit hydrological units delineated by the Natural Resources Conservation Service shall be used as the basic unit of analysis of natural features. Maps of the following natural features shall be developed with data provided by DCM or other state agencies for analysis and plan development. These maps may be reproduced and included in the CAMA Land Use Plan at the option of the local government. If the maps are not included in the plan, they shall be made available to the public:~~
- (i) Areas of Environmental Concern (AECs);
- (ii) Soil characteristics, including limitations for septic tanks, erodibility, and other factors related to development;
- (iii) Environmental Management Commission (EMC) water quality classifications (SC, SB, SA, HQW, and ORW) and related use support designations, and ~~Division of Environmental Health (DEH)~~ Marine Fisheries (DMF) shellfish growing areas and water quality conditions;
- (iv) Flood and other natural hazard areas;
- (v) Storm surge areas;
- (vi) Non-coastal wetlands including forested wetlands, shrub-scrub wetlands and freshwater marshes;
- (vii) Water supply watersheds or wellhead protection areas;
- (viii) Primary nursery ~~areas, where mapped;~~ areas;

(ix) Environmentally fragile areas, such as, but not limited to wetlands, natural heritage areas, areas containing endangered species, prime wildlife habitats, or maritime forests; and

(x) Additional natural features or conditions identified by the local government.

~~(B)~~ ~~Composite map of environmental conditions:~~

~~(i) Composite map of environmental conditions: The plan shall include a map that shows the extent and overlap of natural features listed in Part (c)(2)(A) of this Rule and, based on the local government's determination of the capabilities and limitations of these features and conditions for development, shows the location of the following three categories of land:~~

~~(I) Class I land containing only minimal hazards and limitations that may be addressed by commonly accepted land planning and development practices;~~

~~(II) Class II land containing development hazards and limitations that may be addressed by methods such as restrictions on types of land uses; special site planning; or the provision of public services; and~~

~~(III) Class III land containing serious hazards for development or lands where the impact of development may cause serious damage to the functions of natural systems.~~

~~(ii) The CAMA Land Use Plan shall describe or list the features or conditions selected by the local government for inclusion in each class.~~

~~(C)(B)~~ Environmental conditions. ~~The plan shall provide an assessment of the following environmental conditions and features and discuss their limitations or opportunities for development:~~

(i) Water quality:

(I) Status and changes of surface water quality, including impaired streams from the most recent N.C. Division of Water ~~Quality Basinwide Water Quality Plans, Resources~~ Basin Planning Branch Reports, Clean Water Act 303(d) ~~List List~~, and other comparable data;

(II) Current situation and trends on permanent and temporary closures of shellfishing waters as determined by the Report of Sanitary Survey by the Shellfish Sanitation and Recreational Water Quality Section of the N.C. Division of ~~Environmental Health; Marine Fisheries;~~

(III) Areas experiencing chronic wastewater treatment system malfunctions; and

(IV) Areas with water quality or public health problems related to non-point source pollution.

- (ii) Natural hazards:
- (I) Areas subject to ~~storm hazards such as~~ recurrent flooding, storm surges and high winds; and
- (II) Areas experiencing significant shoreline erosion as evidenced by the presence of threatened structures or public ~~facilities; and~~ facilities.
- ~~(III) Where data is available, estimates of public and private damage resulting from floods and wind that has occurred since the last plan update.~~
- (iii) Natural resources:
- (I) Environmentally fragile areas ~~(as defined in Part (c)(2)(A)(ix) of this Rule)~~ or areas where resource functions ~~may be~~ are being impacted as a result of development; and
- (II) ~~Areas containing potentially valuable natural resources. Valuable natural resource areas that are being impacted or lost as a result of incompatible development. These may include, but are not limited to the following: beach quality sand deposits, coastal wetlands, protected open space, and agricultural land, that may be impacted or lost as a result of incompatible development. land.~~
- (3) Analysis of Existing Land Use and Development. ~~The purpose of the analysis of land use and development is to describe and quantify existing patterns of land uses, identify potential land use and land use/water use conflicts, determine future development trends, and project future land needs. The plan shall include the following mapping and analysis of existing land use: Include a map and descriptions of the following:~~
- (A) ~~A map of land including the following:~~ Existing land use patterns, which may include the following categories: Residential, commercial, industrial, institutional, public, dedicated open space, vacant, agriculture, ~~forestry, confined animal feeding operations, and undeveloped;~~ and forestry. Land use descriptions shall include estimates of the land area allocated to each land use and characteristics of each land use category.
- (B) ~~The land use analysis shall include the following:~~
- (i) ~~Table that shows estimates of the land area allocated to each land use;~~
- (ii) ~~Description of any land use conflicts;~~
- (iii) ~~Description of any land use water quality conflicts;~~
- (iv) ~~Description of development trends using indicators. These development trends may include, but are not limited to the following: building permits and platted but un-built lots; and~~

- ~~(v) Location of areas expected to experience development during the five years following plan certification by the CRC and a description of any potential conflicts with Class II or Class III land identified in the natural systems analysis.~~
- ~~(C)(B)~~ Historic, cultural, and scenic areas designated by a state or federal agency or by local government. These areas and sites shall be located on either the existing land use map or a separate map; and
- ~~(D) Projections of future land needs. The analysis shall include short term (five and ten year) and long term (20 year) projections of residential land area needed to accommodate the planning jurisdiction's projected future permanent and seasonal population (population projections as defined in Part (c)(1)(D) of this Rule (Analysis of Existing and Emerging Conditions). The projections of land needs may be increased up to 50% to allow for unanticipated growth and to provide market flexibility. For local governments experiencing low or no growth (as shown in Figure 1 in 15A NCAC 07B .0701), the projections of land needs may consider economic strategies in the final calculations.~~
- (4) Analysis of Community Facilities. The purpose of the analysis of community facilities is to ~~evaluate~~ Evaluate existing and planned capacity, location, and adequacy of ~~key~~ community facilities that serve the community's existing and planned population and economic base; that protect important environmental factors such as water quality; and that guide land development in the coastal area. ~~This analysis~~ These shall include:
- (A) Public and private water supply and wastewater systems. ~~The analysis of water and sewer systems shall include a description and map(s) of~~ Describe existing public and private systems, including existing condition and ~~capacity; location of pipelines, documentation of any~~ capacity. Describe any documented overflows, bypasses, or other problems that may degrade water quality or constitute a threat to public ~~health; existing and planned service areas; and future needs based on population projections. If any required information is not available for private systems, the local government shall so state in the plan and this factor may be eliminated from the analysis.~~ health. Indicate future needs based on population projections. Map existing and planned service areas.
- (B) Transportation systems. ~~The analysis of the transportation system shall include a map showing: the existing highway system; any~~ Map the existing and planned multimodal systems and port and airport facilities. Describe any highway segments deemed by the North Carolina Department of Transportation (NCDOT) as having unacceptable service levels; highway levels. Describe highway facilities on the current thoroughfare plan; and plan or facilities on the current transportation improvement program. The analysis shall also assess the impact of planned highway or other transportation facilities on growth levels and development patterns. plan. Describe the impact of existing facilities on land use patterns.

- (C) ~~Stormwater systems. The analysis of public and permitted private stormwater systems shall include identification of existing drainage problems in the planning area; identification of~~ Describe the existing public stormwater management system. Identify existing drainage problems and water quality issues related to point-source discharges of stormwater runoff; and an overview of potential stormwater system requirements for local governments subject to the EPA's Storm Water Phase II Final Rules. runoff.
- (D) ~~Other facilities. The local government may include additional facilities and services such as solid waste and health and safety in the analysis.~~
- (5) ~~Land Suitability Analysis. The purpose of the land suitability analysis is to determine the planning area's supply of land suited for development based on the following considerations: natural system constraints, compatibility with existing land uses and development patterns, the existing land use and development criteria of local, state, and federal agencies and the availability and capacity of water, sewer, stormwater management facilities, and transportation systems. The analysis shall include a land suitability map showing vacant or under-utilized land that is suitable for development. The following factors shall be considered to assess land suitability:~~
- (A) ~~Water quality;~~
- (B) ~~Land Classes I, II, and III summary environmental analysis;~~
- (C) ~~Proximity to existing developed areas and compatibility with existing land uses;~~
- (D) ~~Potential impact of development on areas and sites designated by local historic commissions or the North Carolina Department of Cultural Resources as historic, culturally significant, or scenic;~~
- (E) ~~Land use and development requirements of local development regulations, CAMA Use Standards and other applicable state regulations, and applicable federal regulations; and~~
- (F) ~~Availability of community facilities, including water, sewer, stormwater and transportation.~~
- (6) ~~Review of Current CAMA Land Use Plan. The purpose of the review of the current CAMA Land Use Plan is for the local governing body to review its success in implementing the policies and programs adopted in the plan and the effectiveness of those policies in achieving the goals of the plan. The review shall include consideration of the following factors:~~
- (A) ~~Consistency of existing land use and development ordinances with current CAMA Land Use Plan policies;~~
- (B) ~~Adoption of the land use plan's implementation measures by the governing body; and~~
- (C) ~~Efficacy of current policies in creating desired land use patterns and protecting natural systems.~~
- (d) ~~Plan for the Future. Future Land Use.~~ This element of the plan is intended to guide the development and use of land in the planning jurisdiction in a manner that achieves its goals for the community and CAMA. Policies affecting AECs shall also be used in making CAMA permit decisions. The plan for the future includes the local

~~government's goals, land use and development policies, and future land use map; the goals of the CAMA through local government land use and development policies, including a future land use map.~~

(1) ~~Land use and development goals. The following shall be considered in the development of the plan's goals:~~ Policies.

(A) ~~Community concerns and aspirations identified at the beginning of the planning process; and Concerns and Aspirations and Existing and Emerging Conditions shall be considered in the development of local government land use plan policies as required in 7B .0702 (b) and (c).~~

~~(B) — Needs and opportunities identified in the analysis of existing and emerging conditions.~~

~~(2) — Policies:~~

~~(A)(B) Policies included in the land use plan shall be consistent with the goals of the CAMA, shall address the CRC management topics for land use plans, and comply with all state and federal rules. The CAMA Land Use Plan shall demonstrate how the land use and development goals, policies and future land use map, as required in Subparagraph (d)(4) of this Rule, will guide the development and use of land in the planning jurisdiction in a manner that is consistent with the specific management goal(s), planning objective(s) and land use plan requirements of each Management Topic.~~

~~(B) — The plan shall contain a description of the type and extent of analysis completed to determine the impact of CAMA Land Use Plan policies on the management topics; a description of both positive and negative impacts of the land use plan policies on the management topics; and a description of the policies, methods, programs and processes to mitigate any negative impacts on applicable management topics.~~

~~(C) The plan shall contain a statement that the governing body either accepts state and federal law regarding land uses and development in AECs or, that the local government's policies exceed the requirements of state and federal agencies. If local policies exceed the State and Federal requirements, the CAMA Land Use Plan shall identify which policies exceed these requirements and to what extent. If the governing body intends to rely on Federal and State laws and regulations it shall reference these in the plan. Policies that exceed use standards and permitting requirements found in Subchapter 7H, State Guidelines for Areas of Environmental Concern, shall be identified in the plan.~~

~~(3)(2) Land Use Plan Management Topics. The purposes of the CRC management topics are to insure that CAMA Land Use Plans ensure that land use plans support the goals of the CAMA, to define the CRC's expectations for the land use planning process, land use policies, and to give the CRC a substantive provide a basis for land use plan review and certification of CAMA Land Use Plans. certification. Each of the following management topics (Public Access, Land Use Compatibility, Infrastructure Carrying Capacity, Natural Hazard Areas, Water Quality, and Local Areas of Concern) include three components: a management goal, a statement of the CRC's planning~~

~~objective, and requirements for the CAMA Land Use Plans:~~ In addition to the management topics outlined below, plans may also include policies to address local areas of concern. Each management topic includes two components: a management goal and planning objectives.

(A) Public Access:

(i) Management Goal: Maximize public access to the beaches and the public trust waters of the coastal region.

(ii) ~~Planning Objective: Develop comprehensive policies that provide beach and public trust water access opportunities for the public along the shoreline within the planning jurisdiction.~~ Objectives: Policies shall that address access needs and opportunities, include with strategies to develop public access, and identify feasible funding options. access and provisions for all segments of the community, including persons with disabilities. Oceanfront communities shall establish access policies for beach areas targeted for nourishment.

~~(iii) Land Use Plan Requirements: Land use plan policies on ocean and public waterfront access shall establish local criteria for frequency and type of access facilities. These policies shall contain provisions for public access for all segments of the community, including persons with disabilities, and shall establish access criteria for beach areas targeted for nourishment.~~

(B) Land Use Compatibility:

(i) Management Goal: Ensure that development and use of resources or preservation of land ~~minimizes direct and secondary environmental impacts,~~ balance protection of natural resources and fragile areas with economic development, avoids risks to public health, safety and ~~welfare~~ welfare, and ~~is~~ are consistent with the capability of the ~~land based on considerations of interactions of natural and manmade features.~~ land.

(ii) ~~Planning Objective:~~ Objectives: Policies that characterize future land use development patterns and establish mitigation criteria and concepts to minimize conflicts.

~~(I) Adopt and apply local development policies that balance protection of natural resources and fragile areas with economic development.~~

~~(II) Policies shall provide direction to assist local decision making and consistency for zoning, divisions of land, and public and private projects.~~

~~(iii) Land Use Plan Requirements:~~

~~(I) Establish building intensity and density criteria, such as floor area ratio and units per acre, consistent with the land suitability analysis for each land use designation on the Future Land Use Map.~~

~~(II) Establish local mitigation criteria and concepts. These may include, but are not limited to the following: cluster subdivision design, enacting local buffers, impervious surface limits, and innovative stormwater management alternatives.~~

(C) Infrastructure Carrying Capacity:

- (i) Management Goal: Ensure that public infrastructure systems are appropriately sized, located and managed so the quality and productivity of AECs and other fragile areas are protected or restored.

- (ii) ~~Planning Objective: Establish level of service policies and criteria for infrastructure consistent with Part (c)(3)(D) (Projections of Future Land Needs) of this Rule. Objectives: Policies that establish service criteria and ensure improvements minimize impacts to AECs and other fragile areas.~~

~~(iii) Land Use Plan Requirements:~~

- ~~(I) Identify/establish service area boundaries for existing and future infrastructure.~~

- ~~(II) Correlate future land use map categories with existing and planned infrastructure such as wastewater, water infrastructure and transportation.~~

(D) Natural Hazard Areas:

- (i) Management Goal: Conserve and maintain barrier dunes, beaches, flood plains, and other coastal features for their natural storm protection functions and their natural resources giving recognition to public health, safety, and welfare issues.

- (ii) Planning Objective: Develop policies Objectives: Policies that establish mitigation and adaptation concepts and criteria for development and redevelopment, including public facilities, and that minimize threats to life, property, and natural resources resulting from ~~development located in or adjacent to hazard areas, such as those subject to erosion, high winds, storm surge, flooding, or sea level rise.~~ other natural hazards.

~~(iii) Land Use Plan Requirements:~~

- ~~(I) Develop location, density, and intensity criteria for new, existing development and redevelopment including public facilities and infrastructure so that they can better avoid or withstand natural hazards.~~

- ~~(II) Correlate existing and planned development with existing and planned evacuation infrastructure.~~

(E) Water Quality:

- (i) Management Goal: Maintain, protect and where possible enhance water quality in all coastal wetlands, rivers, streams and estuaries.

- (ii) ~~Planning Objective: Adopt policies for coastal waters within the planning jurisdiction to help ensure that water quality is maintained if not impaired and improved if impaired.~~ Objectives: Policies that establish strategies and practices to prevent or control nonpoint source pollution and maintain or improve water quality.

~~(iii) Land Use Plan Requirements:~~

- ~~(I) Devise policies that help prevent or control nonpoint source discharges (sewage and storm water) such as, but not limited to the following: impervious surface limits, vegetated riparian buffers, natural areas, natural area buffers, and wetland protection.~~
- ~~(II) Establish policies and land use categories aimed at protecting open shellfishing waters and restoring closed or conditionally closed shellfishing waters.~~

~~(F) Local Areas of Concern:~~

- (i) Management Goal: Integrate local concerns with the overall goals of CAMA in the context of land use planning.
- (ii) Planning Objective: Identify and address local concerns and issues, such as cultural and historic areas, scenic areas, economic development, downtown revitalization or general health and human services needs.
- (iii) Land Use Plan Requirements: Evaluate local concerns and issues for the development of goals, policies and implementation strategies. These may include timelines and identification of funding options.

(4)(3) Future land use map. ~~This map depicts application of~~ Depict the policies for growth and development, and the desired future patterns of land use and land development with consideration given to natural system constraints and infrastructure policies. ~~The local government shall include such categories and~~ Include designations with descriptions of land uses and development as are required to accurately illustrate the application of its policies. At a minimum, the map shall show the following: development.

- (A) 14 digit hydrological units encompassed by the planning area;
- (B) areas and locations planned for conservation or open space and a description of compatible land uses and activities;
- (C) areas and locations planned for future growth and development with descriptions of the following characteristics:
- (i) predominant and supporting land uses that are encouraged in each area;
 - (ii) overall density and development intensity planned for each area; and
 - (iii) infrastructure required to support planned development in each area.
- (D) areas in existing developed areas for infill, preservation, and redevelopment;

1 ~~(E) — existing and planned infrastructure, including major roads, water, and sewer.~~

2 ~~The local government may use additional or more detailed categories if required to depict its land use policies. If~~
3 ~~the future land use map shows development patterns or land uses that are not consistent with the natural systems~~
4 ~~analysis, or the land suitability analysis, then the plan shall include a description of the steps that the local~~
5 ~~government shall take to mitigate the impacts. In addition, the plan shall include an estimate of the cost of any~~
6 ~~community facilities or services that shall be extended or developed. The amount of land allocated to various uses~~
7 ~~shall be calculated and compared to the projection of land needs. The amount of land area thus allocated to various~~
8 ~~uses may not exceed projected needs as delineated in Part (e)(3)(D) of this Rule (Projections of Future Land Needs).~~

9 (e) Tools for Managing Development. ~~This element of the plan provides a description of~~ The purpose of this
10 element is to describe the management tools ~~that and actions~~ the local government selects ~~and the actions to be taken~~
11 will use to implement the ~~CAMA Land Use Plan.~~ land use plan. ~~It also includes a five year schedule for~~
12 ~~implementation. This element shall include:~~

13 (1) Guide for land use decision-making. Describe the ~~specific role and the status~~ of the land use plan
14 ~~policies and policies, including the~~ future land use ~~plan map map,~~ in local decisions regarding land
15 use and development.

16 (2) Existing development program. Describe the community's existing development management
17 program, including local ordinances, codes, plans and ~~policies, state and federal laws and~~
18 ~~regulations, and the role that the existing management program plays in implementing the plan.~~
19 This description shall also include the community's approach to coordinating these codes and rules
20 to implement the land use and development policies. policies.

21 ~~(3) — Additional tools. Describe any of the following additional tools selected by the local government~~
22 ~~to implement the CAMA land use plan policies:~~

23 ~~(A) — Ordinances:~~

24 ~~(i) — Amendments or adjustments in existing development codes required for~~
25 ~~consistency with the plan;~~

26 ~~(ii) — New ordinances or codes to be developed;~~

27 ~~(B) — Capital improvements program. New, upgraded or expanded community facilities, such~~
28 ~~as but not limited to the following: water, sewer, stormwater, transportation, and other~~
29 ~~facilities, and policies regarding connections to and extensions of community facilities;~~

30 ~~(C) — Acquisition program. Planned acquisition of property, easements, or rights of way; and~~

31 ~~(D) — Specific projects to reach goals.~~

32 ~~(4)(3)~~ Action plan/schedule. plan and implementation schedule. Describe the ~~priority~~ actions that will be
33 taken by the local government to implement ~~the CAMA Land Use Plan and specify~~ policies that
34 meet the CRC's Management Topic goals and objectives. Specify the fiscal year(s) in which each
35 action is anticipated to start and finish. ~~The document shall contain a description of~~ Describe the
36 specific steps ~~that~~ the local government plans to take to ~~involve the public in monitoring~~
37 ~~implementation of the CAMA Land Use Plan,~~ implement the policies, including the adoption and

1 ~~amendment of local ordinances that affect AECs.~~ ordinances, plans, and special projects. The
2 action plan shall be used to prepare the implementation status report for the ~~CAMA Land Use~~
3 ~~Plan.~~ land use plan.
4

5 *History Note: Authority G.S. 113A-102; 113A-107(a); 113A-110, 113A-111, 113A-124;*
6 *Eff. August 1, 2002;*
7 *Amended Eff. April 1, 2003;*
8 *Readopted and Amended Eff. February 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07B .0801

DEADLINE FOR RECEIPT: Thursday, January 14, 2016

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:

The cited authority of G.S. 113A-112 refers to grants. Is this Rule governing grants? If so, please provide clarifying language. Further G.S. 113A-112 refers to the Secretary and the Department, not the Division. Has a delegation pursuant to 113A-124(a) been made? Is this process performed by the Department, through the Division? To what "Division" to being referred? Please provide some additional clarifying information in this Rule as to how this process is actually done. Providing some clarifying information here may also address some clarity issues in the remainder of the Rules in this Section.

On Line 6, introductory language is not needed; therefore, please delete "Procedure for Agency Review and Comment."

On Line 7, what are the "CRC's requirements for land use plans"? Please provide a cross-reference.

On Line 8, what are "other State and Federal Agencies"?

On Line 8, what is meant by "adjacent jurisdictions"?

How is the Division required to provide the information to the CRC, other State and Federal Agencies, and adjacent jurisdictions?

On Line 9, when does the 30 calendar days begin to run?

On Line 10, is the Division providing the comments to the local government within 45 calendar days?

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: December 31, 2015

1 **SECTION .0800 – ~~CAMA~~ LAND USE PLAN AND AMENDMENT REVIEW AND ~~CRC~~ CERTIFICATION**

2
3 15A NCAC 07B .0801 is adopted as published in 30:06 NCR 630 as follows:

4
5 **15A NCAC 07B .0801 STATE REVIEW AND COMMENT ON DRAFT PLAN**

6 Procedure for Agency Review and Comment. The Division shall review all draft land use plans for consistency with
7 the CRC's requirements for land use plans prior to local adoption. The Division shall provide notice to the CRC,
8 other State and Federal Agencies, and adjacent jurisdictions (including non-CAMA areas and if applicable, out of
9 state areas) that the plan is available for review and comment. The review period shall be 30 calendar days. After the
10 review period ends, comments shall be provided to the local government within 45 calendar days.

11
12 History Note: Authority G.S. 113A-112; 113A-124.

13 Eff: February 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07B .0802

DEADLINE FOR RECEIPT: Thursday, January 14, 2016

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), please change "his" to "his or her."

In (a), please format the cross-reference to the rule in accordance with 26 NCAC 02C .0109 or say "Rule .0803(a)(2) of this Section."

In (b), must the adoption occur following the comment period? What are the required timelines?

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: December 31, 2015

1 15A NCAC 07B .0801 is readopted and amended **with changes** as published in 30:06 NCR 630 as follows:

2
3 **15A NCAC 07B .0801 .0802 PUBLIC HEARING AND LOCAL ADOPTION REQUIREMENTS**

4 ~~(a) Public Hearing Requirements. The local government shall provide documentation to DCM that it has followed~~
5 ~~the process required in G.S. 113A-110; and such notice shall include per .0802(b)(3), the disclosure of the public~~
6 ~~opportunity to provide written comment following local adoption of the Land Use Plan.~~

7 (a) Notice of Public Hearing. The local government shall provide the Secretary or his designee written notice of the
8 public hearing for local adoption and a copy of the proposed land use plan or amendment no less than five business
9 days prior to publication of a public hearing notice. The public hearing notice shall include, per 7B .0803(a)(2),
10 disclosure of the public's opportunity to provide written comment to the Secretary following local adoption of the
11 land use plan.

12 ~~(b) Final Plan Content. The final decision on local policies and all contents of the CAMA Land Use Plan consistent~~
13 ~~with the CAMA land use planning rules~~ land use plan or amendment shall be ~~made~~ adopted by the elected body of
14 each participating local government.

15 ~~(c) Transmittal to the CRC, Division for Certification. The local government shall provide the Executive Secretary~~
16 ~~of the CRC with as many copies of or his designee the locally adopted land use plan as the Executive Secretary~~
17 ~~requests, and plan, a certified statement of the local government adoption action no earlier than 45 days and no later~~
18 ~~than 30 days prior to the next CRC meeting. If the local government fails to submit the requested copies of the~~
19 ~~locally adopted land use plan and certified statement to the Executive Secretary within the specified timeframe, the~~
20 ~~local government may resubmit documents within the specified timeframe for consideration at the following CRC~~
21 ~~meeting.~~ action, and documentation that it has followed the public hearing process required in G.S. 113A-110. The
22 locally adopted land use plan or amendment shall be submitted at least 45 calendar days prior to the CRC meeting
23 on which it will be considered for certification.

24 (d) For joint plans originally adopted by each participating jurisdiction, each government retains its sole and
25 independent authority to make amendments to the plan as it affects its jurisdiction.

26
27 *History Note: Authority G.S. 113A-107(a); 113A-110; 113A-124;*
28 *Eff. August 1, 2002.*
29 *Amended Eff. January 1, 2007; February 1, 2006;*
30 *Readopted and Amended Eff. February 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07B .0803

DEADLINE FOR RECEIPT: Thursday, January 14, 2016

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:

Please provide some additional language in (a) that identifies what Sub-Paragraphs (a)(1) through (a)(4) are doing.

In (a)(1), what is the recommendation whether to recommend certification on not based on? Also, what are the "procedures and conditions for certification"? Please provide a cross-reference or some other additional information.

In (a)(2), line 28, by whom shall the objections be considered? Are the written comments not required to be considered as the objections are?

In (a)(3)(A), what do you mean by the "current federal approved North Carolina Coastal Management Program"? Where can this be found?

In (a)(3)(B), please make "Rules" lower-case.

In (a)(3)(D), what is considered a "Management Topic"? Why is this capitalized?

In (a)(D), please add a comma following "certification requirements."

In (b), please add a comma in between "amendment" and "the local government."

In (c)(1), (c)(2), and (c)(3), please change the period following "Local Administration", "Joint Administration", and "Division Administration" to a colon. Please also change the period at the end of each Sub-Paragraph to a semi-colon. Please also add "or" at the end of (c)(2).

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: December 31, 2015

1 15A NCAC 07B .0802 is readopted and amended with changes as published in 30:06 NCR 630-631 as follows:

2
3 **15A NCAC 07B .0802 .0803 PRESENTATION TO COASTAL RESOURCES COMMISSION FOR**
4 **CERTIFICATION AND USE OF THE PLAN**

5 ~~(a) Re Certification: If the CRC adopts new CAMA Land Use Plan rules, plans shall be updated within six years of~~
6 ~~the effective date of the new rules. If a scoping process is held, a summary shall be provided to the CRC along with~~
7 ~~the request for re-certification of the existing CAMA Land Use Plan.~~

8 ~~(b)(a) Committee Designated by CRC to Review Local~~ [Secretary] CRC Certification of Land Use Plans: Plans and
9 Amendments:

10 (1) ~~The appropriate DCM Division District Planner shall submit a written report to the committee~~
11 ~~designated by the CRC as to the type of plan being presented, highlight any unique characteristics~~
12 ~~of the plan, identify any land use conflicts with adjacent planning jurisdictions or other~~
13 ~~state/federal agencies, identify any inaccuracy or inconsistency of items in the plan, and~~
14 ~~recommend certification, conditional certification, or non certification.~~ [Secretary] CRC on the
15 ~~locally adopted land use plan or amendment and either recommend certification or identify how~~
16 ~~the plan or amendment does not meet the procedures and conditions for certification.~~

17 (2) ~~The local government shall submit its draft Land Use Plan to the committee designated by the~~
18 ~~CRC.~~

19 ~~(3)(2)~~ The public shall have an opportunity to submit written objections, comments, or statements of
20 ~~support prior to action by the committee designated by the CRC. objections or comments on the~~
21 ~~locally adopted land use plan or amendment prior to action by the~~ [Secretary] CRC. Written
22 ~~objections shall be received by DCM no less than 15 business days prior to the next scheduled~~
23 ~~CAMA Land Use Plan review meeting and the Division no more than 30 calendar days after local~~
24 ~~adoption of the land use plan or amendment, shall be limited to the criteria for CRC certification~~
25 ~~as defined in Subparagraph (e)(3) (a)(3) of this Rule. Written objections Rule, and shall identify~~
26 ~~the specific plan elements that are opposed. A copy of any Written objections or comments shall~~
27 ~~be sent by the DCM Division to the local government submitting the CAMA Land Use Plan. land~~
28 ~~use plan or amendment. Written objections shall be considered in the certification of the local land~~
29 ~~use plan or amendment.~~

30 ~~(4)(3)~~ ~~The local government may withdraw the submitted CAMA Land Use Plan from CRC~~
31 ~~consideration at any time before review. The~~ [Secretary] CRC shall certify land use plans and
32 ~~amendments following the procedures and conditions specified in this Rule. The~~ [Secretary] CRC
33 ~~shall certify plans and amendments which:~~

34 (A) are consistent with the current federally approved North Carolina Coastal Management
35 Program;

36 (B) are consistent with the Rules of the CRC;

37 (C) do not violate state or federal law; and

38 (D) contain policies that address each Management Topic.

- (4) If the land use plan or amendment does not meet certification requirements the [Secretary] CRC shall within 45 calendar days inform the local government how the plan or amendment does not meet the procedures and conditions for certification.
- (b) Copies of the Plan. Within 90 calendar days of certification of the land use plan or an amendment the local government shall provide one printed and one digital copy of the land use plan to the Division. Amendments shall be incorporated in all copies of the plan. The dates of local adoption, certification, and amendments shall be published on the cover.
- (c) Use of the Plan. Once certified, the land use plan shall be utilized in the review of CAMA permits in accordance with G.S. 113A-111. Local governments shall have the option to exercise their enforcement responsibility by choosing from the following:
- (1) Local administration. The local government reviews CAMA permits for consistency with the land use plan.
- (2) Joint administration. The local government identifies policies, including the future land use map and implementation actions that will be used by the Division for CAMA permit consistency reviews.
- (3) Division administration. The Division reviews CAMA permits for consistency with the land use plan policies, including the future land use map and implementation actions.
- (d) Plan updates and Amendments. Local governments shall determine the scope, timing, and frequency of plan updates and amendments.
- ~~(e) CRC Certification:~~
- (1) ~~The CRC shall certify the CAMA Land Use Plan following the procedures and conditions specified in this Rule.~~
- (2) ~~Provided the locally adopted land use plan has been received by the Executive Secretary no earlier than 45 days and no later than 30 days prior to the next CRC meeting, the CRC shall certify, conditionally certify or not certify the plan at that meeting or mutually agreed upon date. If the CRC fails to take action as specified above the plan shall be certified.~~
- (3) ~~The CRC shall certify plans which:~~
- (A) ~~are consistent with the current federally approved North Carolina Coastal Management Program;~~
- (B) ~~are consistent with the Rules of the CRC;~~
- (C) ~~do not violate state or federal law;~~
- (D) ~~contain policies that address each Management Topic. If a local government cannot meet any CAMA Land Use Plan requirement contained within Paragraphs (d) and (e) of 15A NCAC 07B .0702 the plan shall include a description of the analysis that was undertaken, explain the reason(s) the requirement could not be met, and the local government's alternative plan of action to address the CAMA Land Use Plan requirements. If such description(s) are not included in the plan, it shall not be certified; and~~

1 ~~(E) — contain a local resolution of adoption that includes findings which demonstrate that~~
2 ~~policy statements and the Future Land Use Plan Map (FLUP) have been evaluated, and~~
3 ~~determine that no internal inconsistencies exist.~~

4 ~~(d) Non-Certification: If the plan is not certified the CRC shall within 30 days inform the local government as to~~
5 ~~how the plan might be changed so certification can be granted. Until the plan is certified, the pre-existing certified~~
6 ~~CAMA Land Use Plan shall remain in effect.~~

7 ~~(e) Conditional Certification: If the plan is conditionally certified, the CRC shall within 30 days provide the local~~
8 ~~government with condition(s) that shall be met for certification. Until the condition(s) is met on a conditionally~~
9 ~~certified plan, the pre-existing certified CAMA Land Use Plan shall remain in effect. When the local government~~
10 ~~complies with all conditions for a conditionally certified plan, as determined by the Executive Secretary of the CRC,~~
11 ~~plan certification is automatic with no further action needed by the CRC.~~

12
13 *History Note: Authority G.S. 113A-107(a); 113A-110; 113-111; 113A-124;*
14 *Eff. August 1, 2002;*
15 *Amended Eff. April 1, 2008; September 1, 2006;*
16 *Readopted and Amended Eff. February 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07B .0804

DEADLINE FOR RECEIPT: Thursday, January 14, 2016

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:

G.S. 113A-112 applies to grants. Are these required implementation status reports only for those jurisdictions that have received grants under this Article? If so, please provide some clarifying language in this Rule.

Please note that there cannot be a Paragraph (a) without a Paragraph (b). Please re-format accordingly.

In (a), line 4, to whom is the report to be submitted?

In (a), line 6, to what "action plan" is being referred? Please provide a cross-reference to the requirement of an action plan.

In (a)(1), insert a comma after "federal" on line 8.

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: December 31, 2015

1 15A NCAC 07B .0804 is adopted as published in 30:06 NCR 632 as follows:

2
3 **15A NCAC 07B .0804 REQUIRED PERIODIC IMPLEMENTATION STATUS REPORTS**

4 (a) Jurisdictions with a locally adopted and certified land use plan shall submit an Implementation Status Report
5 every two years from the date of initial certification. This report shall be based on implementation actions that meet
6 the CRC's Management Topic goals and objectives, as indicated in the action plan. The Implementation Status
7 Report shall also identify:

8 (1) All local, state, federal and joint actions that have been undertaken successfully to implement its
9 certified land use plan;

10 (2) Any actions that have been delayed and the reasons for the delays;

11 (3) Any unforeseen land use issues that have arisen since certification of the land use plan; and

12 (4) Consistency of existing land use and development ordinances with current land use plan policies.

13
14 History Note: Authority G.S. 113A-112; 113A-124;

15 Eff. February 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07L .0102

DEADLINE FOR RECEIPT: Thursday, January 14, 2016

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 Rule necessary? Do you need it to give your regulated public general information concerning the grant program?

On Line 4, is DENR not now DEQ?

On Line 7, did you intend on adding "or comprehensive plans" after "land use plans"?

On Line 8, is "and encouraged" necessary?

Line 8, please change "Funds are to be used..." to "Funds ~~are to~~ shall be used..."

On Line 9, did you intend on including "comprehensive" after "land use" so that it reads "local land use and comprehensive planning and management programs..."

On Line 9, where can the 20 counties defined by the CAMA be found?

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: December 31, 2015

1 15A NCAC 07L .0102 is amended as published in 30:06 NCR 632 as follows:
2

3 **15A NCAC 07L .0102 PURPOSE**

4 The purpose of the Rules in this Subchapter is to establish the criteria and procedures for funding the DENR
5 program of grants for local ~~Coastal Area Management Act (CAMA)~~ land use plans or comprehensive plans and
6 coastal planning and management projects within North Carolina's coastal area. These funds are made available to
7 assist local governments in developing and implementing ~~CAMA~~ land use plans and management strategies for their
8 coastal resources, as mandated and encouraged by the CAMA. Funds are to be used in refining and carrying out
9 local land use planning and management programs by local governments within the 20 counties defined by the
10 CAMA.

11
12 *History Note: Authority G.S. 113A-112; 113A-124;*

13 *Eff. September 1, 1978;*

14 *Amended Eff. February 1, 2016; August 1, 2002; June 1, 1980.*
15

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07B .0502

DEADLINE FOR RECEIPT: Thursday, January 14, 2016

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 this Rule necessary? Don't all proposed projects have to comply with CAMA, rules, land use plans, etc absent this Rule?

On Line 4, please change "must" to "shall."

Also on Line 4, you have said "CAMA" while in other places in these Rules you have said "the CAMA." Please be consistent.

On Line 4, what is meant by "standards"? Do you mean the rules?

On Line 5, what is meant by "certified" in certified local land use plans?

On line 6, what is the "state's federally approved coastal management program"?

Is your regulated public familiar with all of the requirements referenced in this Rule?

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: December 31, 2015

1 15A NCAC 07L .0502 is amended as published in 30:06 NCR 632 as follows:

2
3 **15A NCAC 07L .0502 CONSISTENCY WITH PLANS AND RULES**

4 All proposed projects must be consistent ~~with, CAMA,~~ with CAMA, state rules and standards implementing
5 CAMA, certified local ~~CAMA~~ land use plans ~~certified by the Coastal Resources Commission (CRC),~~ and the state's
6 federally approved coastal management program.

7
8 *History Note: Authority G.S. 113A-112; 113A-124;*

9 *Eff. August 1, 2002;*

10 *Amended Eff. February 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07B .0503

DEADLINE FOR RECEIPT: Thursday, January 14, 2016

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:

Please note the references to DENR throughout this Rule. Should this not be DEQ?

Why is (a) necessary? It seems as though it would be appropriate to combine (a) and (b) into one paragraph.

In (b)(1) and (b)(2), please delete or define "directly."

In Sub-Paragraphs (b)(1), (b)(2), and (b)(3), how is DEQ making the determination regarding the priority? Is it based on the information contained in Paragraph (c)? If so, please clarify.

In (c)(1), what are the CRC management topics? Where can these be found?

In (c)(2), where can the "AEC standards be found? Have these been incorporated by reference elsewhere in your rules?

In (c)(5), please delete or define "successful."

In (c)(6), to what program are you referring by "this program"?

In language in Paragraph (d) does not seem to fit within this Rule. Please provide some clarifying language as to how this information is to be used within the parameters of this Rule?

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: December 31, 2015

1 15A NCAC 07L .0503 is amended as published in 30:06 NCR 632-633 as follows:

2
3 **15A NCAC 07L .0503 PRIORITIES FOR FUNDING ~~CAMA~~ LAND USE PLANS AND**
4 **IMPLEMENTATION PROJECTS**

5 (a) In funding local planning and management grants, DENR shall follow the general priorities set out in 15A
6 NCAC 07L .0503(b). Examples of the types of eligible projects are listed and have been placed in the appropriate
7 priority category. ~~Any applications for project funding not specifically identified and placed in a priority category~~
8 ~~shall be assigned the appropriate priority category by DENR upon receipt of the application. Funding priorities and~~
9 ~~eligibility for the Sustainable Communities Component of the planning program are described in 15A NCAC 07L~~
10 ~~.0512.~~

11 (b) General priority categories for local planning and management grants are as follows:

- 12 (1) The highest priority includes projects directly mandated by statute, including initial and updated
13 ~~CAMA~~ land use plans, local participation in projects initiated by DENR, and projects DENR
14 indicates urgently need local attention in order to meet CRC management topics. ~~In general,~~
15 ~~grants for projects in this priority category, except CAMA Workbook land use plans, shall be~~
16 ~~funded for no more than 85 percent of the total project cost, although lower funding percentages~~
17 ~~may be awarded. The type of CAMA land use plan to be funded and the corresponding~~
18 ~~percentage of funding shall be based on community characteristics as determined during the~~
19 ~~scoping process described in 15A NCAC 07L .0505 to be held prior to project application.~~
- 20 (2) The second priority includes projects directly related to carrying out the explicit goals of CAMA,
21 for which DENR indicates there is a high priority for local actions or projects which are coastally
22 dependent (water-related) or projects to implement ~~the CAMA~~ a land use plan such as public
23 facilities planning or land use regulations preparation. ~~Grants for projects in this category shall be~~
24 ~~for no more than 65 percent of the total project cost, although lower funding percentages may be~~
25 ~~awarded.~~
- 26 (3) The third priority includes projects related to improving local coastal management and land use
27 management capabilities. ~~Grants for projects in this priority category shall be for no more than 50~~
28 ~~percent of the total project cost, although lower funding percentages may be awarded.~~

29 (c) In addition, DENR shall take into consideration the following factors listed in order of importance to establish
30 priorities for individual projects within the general priority categories:

- 31 (1) project's contribution towards meeting CRC management topics;
32 (2) the extent to which the project includes measures of environmental protection beyond Areas of
33 Environmental Concern (AEC) standards;
34 (3) applicant's urgency of need;
35 (4) past history of applicant's implementation of CAMA planning and management activities;
36 (5) feasibility of successful completion of project by the applicant;
37 (6) past experience with this program as well as present management and administrative capabilities;

(7) potential applicability of the project to other coastal area municipalities and counties; and

(8) geographic distribution of applicants.

~~(d) In priority categories two and three, the proportion of the grant award to total project costs shall be the same for all similar projects. For example, if one waterfront access plan is funded at a 60 percent level, all waterfront access plans shall be funded at a 60 percent level. The only exception to this involves multi year projects which may receive a lower level of funding within a given priority category after the initial year.~~

~~(e) (d) Generally, available funds shall first be allocated to projects in priority category one; then, if there are funds remaining, grants shall be made to projects in priority category two; and then, if there are funds remaining, grants may be made to projects in priority category three. However, the factors listed in Paragraph (c) of this Rule shall also be considered in funding decisions. Sustainable Communities projects shall be funded as described in 15A NCAC 07L .0512. The North Carolina Department of Commerce's Tier designations, as outlined by the Lee Act (G.S. 105-129.3) shall be used to determine the economic status of counties. Local government contributions for land use plan and implementation projects shall be at least 25 percent of the project costs except for Tier 1 designated counties and their respective municipalities which shall have a local government contribution of at least 10 percent of the project costs. At least one half of the local contribution shall be cash match; the remainder may be in-kind match.~~

~~(f) (e) Any local government whose CAMA land use plan is not certified by the CRC due to failure to meet the criteria listed in 15A NCAC 07B .0803 or that has not submitted the most recent Required Periodic Implementation Status Report as described in 15A NCAC 07B, shall not receive further funding under this program until these inconsistencies are corrected.~~

~~(g) Any local government that is not implementing its certified CAMA land use plan shall not receive additional funding under this program. CAMA land use plan implementation shall be documented through periodic Implementation Status Reports provided to the Division of Coastal Management (DCM), as described in 15A NCAC 07L .0511 (Required Periodic Implementation Status Reports). A local government that is deemed by the DCM Planner to not have implemented its current CAMA land use plan may seek a review by the Director of the DCM to determine if the current CAMA land use plan implementation is acceptable to receive future funding.~~

~~(h) All funding decisions shall be based on availability and amount of state and federal appropriations.~~

History Note: Authority G.S. 113A-112; 113A-124;

Eff. August 1, 2002;

Amended Eff. February 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07B .0504

DEADLINE FOR RECEIPT: Thursday, January 14, 2016

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:

Please consider combining Paragraphs (a) and (b).

In (a), please change "will" to "shall."

Please also add some clarifying language in either this Rule or in 15A NCAC 07L .0503 as to how the Sub-Paragraphs (b)(1) through (b)(3) of .0503 and Paragraph (b) of .0504 go together. It seems as though the information should all be contained in the same Rule.

In (b)(1)(A), please delete "specifically."

In (b)(1)(A), please correct the reference to "DENR."

In (b)(1) and (b)(2), please delete any and all "but not limited to."

In (b)(1) and (b)(2), please consider removing the parenthesis from all applicable places and changing the language from "(these may include, but are not limited to...)" to "(these which may include include, but are not limited...)" A full example of this language in (b)(1)(2) would be as follows:

Adopting, amending, or updating CAMA land use plans to reflect changed conditions (these which may include include, but are not limited to: necessary data collection, public participation, and policy development). development.

Please note that this would be applicable to (b)(1)(B), (b)(2)(B), (b)(2)(C), (b)(2)(E), (b)(2)(F), (b)(3)(D), and (b)(3)(F).

Please add an "and" in the following places:

In (b)(2)(B) – in between "studies," and "legal studies..."

Amber Cronk May
Commission Counsel
Date submitted to agency: December 31, 2015

In (b)(2)(E) – in between “use studies,” and “cost analysis”

In (b)(2)(F) – in between “protection,” and “environmental impact...”

In (b)(3)(D) – in between “port planning” and “sport and commercial fishing...”

In (b)(3)(f) – in between “internal coordination” and “city-county coordination”

In (b)(2)(D), what is meant by “locally significant environmental areas”?

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

1 15A NCAC 07L .0504 is amended as published in 30:06 NCR 633-634 as follows:
2

3 **15A NCAC 07L .0504 ELIGIBLE PROJECTS**

4 (a) The lists in Paragraph (b) of this Rule constitute types of projects that will be considered for funding. Each type
5 of project listed has been assigned to one of the priority categories described in 15A NCAC 07L .0503 (Priorities
6 For Funding ~~CAMA~~ Land Use Plans and Implementation Projects.) These lists are not intended to be exhaustive or
7 restrictive. Local governments may apply for funds for any related projects that will improve local planning and
8 management capabilities.

9 (b) Examples of eligible projects and their associated priority category include:

10 (1) Priority Category-Type 1

11 (A) Those activities specifically designated by DENR on an annual basis, following
12 consultation with the CRC and local governments, to be necessary to bring local plans
13 into compliance with state rules for land use planning;

14 (B) Adopting, amending, or updating ~~CAMA~~ land use plans to reflect changed conditions
15 (these may include, but are not limited to: necessary data collection, public participation,
16 policy development).

17 (2) Priority Category-Type 2

18 (A) Adopting or amending ordinances to further secure compliance with state rules in AECs;

19 (B) Beach access plans and studies (these may include, but are not limited to: inventory and
20 identification of sites, design of access improvements, acquisition plans and studies, legal
21 studies necessary to determine the extent of public use rights);

22 (C) Erosion control plans and studies (these may include, but are not limited to: mapping,
23 erosion rate measurement, design of protection strategies for public lands, cost-benefit
24 analysis, relocation plans and strategies);

25 (D) Studies and planning leading to the nomination of new AECs as described in 15A NCAC
26 07H .0503, or locally significant environmental areas;

27 (E) Waterfront redevelopment and renewal plans and studies including feasibility studies, site
28 design studies, and plans and studies for improving or enhancing water-front parks and
29 public areas (these may include, but are not limited to: site design, use studies, cost
30 analysis);

31 (F) Preparing, adopting, or amending ordinances necessary to carry out certified ~~CAMA~~ land
32 use plans, state rules, and the state coastal zone management plan (including but not
33 limited to regulations on or for zoning, subdivision, stormwater management, dune
34 protection beyond AEC standards, sanitation, building, mobile homes, historic
35 preservation, signs, natural area protection, environmental impact ~~statements~~);
36 statements.

37 ~~(G) Hazard mitigation plans.~~

38 (3) Priority Category-Type 3

- 1 (A) Initial water and sewer plans and studies;
2 (B) Land use related capital facilities programming;
3 (C) Base mapping as a management tool;
4 (D) Other planning, studies, and data acquisition supportive of coastal planning and
5 management including but not limited to public education or involvement on coastal
6 issues; solid waste planning; port planning; sport and commercial fishing studies;
7 (E) Enforcement of ordinances adopted to carry out certified ~~CAMA~~ land use plans;
8 (F) Coordination of local coastal management activities with other local management
9 activities (these may include, but are not limited to: internal coordination, city-county
10 coordination);
11 (G) Other coastally related management projects.
12

13 *History Note: Authority G.S. 113A-112; 113A-124;*
14 *Eff. August 1, 2002;*
15 *Amended Eff. February 1, 2016.*
16

1 15A NCAC 07L .0505 - .0514 are repealed as published in 30:06 NCR 634-638 as follows:

2
3 **15A NCAC 07L .0505 SCOPING OF PLANNING NEEDS**

4 **15A NCAC 07L .0506 PUBLIC PARTICIPATION**

5 **15A NCAC 07L .0507 MINIMUM CAMA LAND USE PLANNING AND FUNDING REQUIREMENTS**

6 **15A NCAC 07L .0508 STATE TECHNICAL ASSISTANCE, REVIEW AND COMMENT ON**
7 **PRELIMINARY DRAFT PLAN**

8 **15A NCAC 07L .0509 INTERGOVERNMENTAL COORDINATION**

9 **15A NCAC 07L .0510 PUBLIC HEARING AND LOCAL ADOPTION REQUIREMENTS**

10 **15A NCAC 07L .0511 REQUIRED PERIODIC IMPLEMENTATION STATUS REPORTS**

11 **15A NCAC 07L .0512 SUSTAINABLE COMMUNITIES COMPONENT OF THE PLANNING**
12 **PROGRAM**

13 **15A NCAC 07L .0513 PROJECT DURATION**

14 **15A NCAC 07L .0514 RELATION TO OTHER FUNDING**

15
16 *History Note: Authority G.S. 113A-112; 113A-124;*

17 *Eff. August 1, 2002;*

18 *Repealed Eff. February 1, 2016.*

1 15A NCAC 07L .0601 - .0603 are repealed as published in 30:06 NCR 638-639 as follows:

2
3 **15A NCAC 07L .0601 APPLICATION FORM**

4 **15A NCAC 07L .0602 ASSISTANCE IN COMPLETING APPLICATIONS AND SUBMITTAL**

5 **15A NCAC 07L .0603 PROCEDURE FOR APPROVAL AND DISAPPROVAL**

6
7 *History Note: Authority G.S. 113A-112; 113A-124;*

8 *Eff. August 1, 2002;*

9 *Repealed Eff. Febraury 1, 2016.*

1 15A NCAC 07L .0701 - .0705 are repealed as published in 30:06 NCR 639 as follows:

2
3 **15A NCAC 07L .0701 CONTRACT AGREEMENT**

4 **15A NCAC 07L .0702 PROGRESS REPORTS AND GRANT MONITORING**

5 **15A NCAC 07L .0703 PAYMENT**

6 **15A NCAC 07L .0704 PROJECT COMPLETION REPORT**

7 **15A NCAC 07L .0705 ACCOUNTABILITY**

8
9 *History Note: Authority G.S. 113A-112; 113A-124*

10 *Eff. August 1, 2001;*

11 *Repealed Eff. February 1, 2016.*