15A NCAC 07H .0308 IS AMENDED WITH CHANGES UNDER TEMPORARY PROCEDURES AS FOLLOWS:

15A NCAC 07H .0308 SPECIFIC USE STANDARDS FOR OCEAN HAZARD AREAS

(a) Ocean Shoreline Erosion Control Activities:

(1) Use Standards Applicable to all Erosion Control Activities:

(A) All oceanfront erosion response activities shall be consistent with the general policy statements in 15A NCAC 07M .0200.

(B) Permanent erosion control structures may cause significant adverse impacts on the value and enjoyment of adjacent properties or public access to and use of the ocean beach, and, therefore, unless specifically authorized under the Coastal Area Management Act, are prohibited. Such structures include bulkheads, seawalls, revetments, jetties, groins and breakwaters.

(C) Rules concerning the use of oceanfront erosion response measures apply to all oceanfront properties without regard to the size of the structure on the property or the date of its construction.

(D) All permitted oceanfront erosion response projects, other than beach bulldozing and temporary placement of sandbag structures, shall demonstrate sound engineering for their planned purpose.

(E) Shoreline erosion response projects shall not be constructed in beach or estuarine areas that sustain substantial habitat for fish and wildlife species, as identified by natural resource agencies during project review, unless mitigation measures are incorporated into project design, as set forth in Rule .0306(i) of this Section.

(F) Project construction shall be timed to minimize adverse effects on biological activity.

(G) Prior to completing any erosion response project, all exposed remnants of or debris from failed erosion control structures must be removed by the permittee.

(H) Erosion control structures that would otherwise be prohibited by these standards may be permitted on finding by the Division that:

(i) the erosion control structure is necessary to protect a bridge which provides the only existing road access on a barrier island, that is vital to public safety, and is imminently threatened by erosion as defined in provision (a)(2)(B) of this Rule;

(ii) the erosion response measures of relocation, beach nourishment or temporary stabilization are not adequate to protect public health and safety; and

(iii) the proposed erosion control structure will have no adverse impacts on adjacent properties in private ownership or on public use of the beach.

(I) Structures that would otherwise be prohibited by these standards may also be permitted on finding by the Division that:

(i) the structure is necessary to protect a state or federally registered historic site that is imminently threatened by shoreline erosion as defined in provision (a)(2)(B) of this Rule;

(ii) the erosion response measures of relocation, beach nourishment or temporary stabilization are not adequate and practicable to protect the site;

(iii) the structure is limited in extent and scope to that necessary to protect the site; and

(iv) any permit for a structure under this Part (I) may be issued only to a sponsoring public agency for projects where the public benefits outweigh the short or long range adverse impacts. Additionally, the permit shall include conditions providing for mitigation or minimization by that agency of ~~any unavoidable~~ significant adverse impacts on adjoining properties and on public access to and use of the beach.

(J) Structures that would otherwise be prohibited by these standards may also be permitted on finding by the Division that:

(i) the structure is necessary to maintain an existing commercial navigation channel of regional significance within federally authorized limits;

(ii) dredging alone is not practicable to maintain safe access to the affected channel;

(iii) the structure is limited in extent and scope to that necessary to maintain the channel;

(iv) the structure shall not ~~adversely impact~~ have significant adverse impacts on fisheries or other public trust resources; and

(v) any permit for a structure under this Part (J) may be issued only to a sponsoring public agency for projects where the public benefits outweigh the ~~short or long range~~ significant adverse impacts. Additionally, the permit shall include conditions providing for mitigation or minimization by that agency of any unavoidable adverse impacts on adjoining properties and on public access to and use of the beach.

(K) The Commission may renew a permit for an erosion control structure issued pursuant to a variance granted by the Commission prior to 1 July 1995. The Commission may authorize the replacement of a permanent erosion control structure that was permitted by the Commission pursuant to a variance granted by the Commission prior to 1 July 1995 if the Commission finds that:

(i) the structure will not be enlarged beyond the dimensions set out in the permit;

(ii) there is no practical alternative to replacing the structure that will provide the

same or similar benefits; and

(iii) the replacement structure will comply with all applicable laws and with all rules, other than the rule or rules with respect to which the Commission granted the variance, that are in effect at the time the structure is replaced.

(L) Proposed erosion response measures using innovative technology or design shall be considered as experimental and shall be evaluated on a case-by-case basis to determine consistency with 15A NCAC 7M .0200 and general and specific use standards within this Section.

(2) Temporary Erosion Control Structures:

(A) Permittable temporary erosion control structures shall be limited to sandbags placed landward of mean high water and parallel to the shore.

(B) Temporary erosion control structures as defined in Part (2)(A) of this Subparagraph ~~shall~~ may be used to protect ~~only~~ imminently threatened roads and associated right of ways, and buildings and their associated septic systems. A structure is considered imminently threatened if its foundation, septic system, or right-of-way in the case of ~~roads,~~ roads is less than 20 feet away from the erosion scarp. Buildings and roads located more than 20 feet from the erosion scarp or in areas where there is no obvious erosion scarp may also be found to be imminently threatened when site conditions, such as a flat beach profile or accelerated erosion, increase the risk of imminent damage to the structure. Temporary erosion control structures may be used to protect properties that are experiencing erosion when there are no imminently threatened structures on the property if an adjacent property has an existing temporary erosion control structure that is in compliance with the Commission's rules. Temporary erosion control structures used to protect property without imminently threatened structures shall be sited to align with and be no further [~~oceanward~~] waterward than the most landward adjacent temporary erosion control structure.

(C) ~~Temporary~~ Nothwithstanding Part (B) of this Subparagraph, temporary erosion control structures shall be used to protect only the principal structure and its associated septic system, but not appurtenances such as pools, gazebos, decks or any amenity that is allowed as an exception to the erosion setback requirement.

(D) Temporary erosion control structures may be placed ~~seaward~~ waterward of a septic system when there is no alternative to relocate it on the same or adjoining lot so that it is landward of or in line with the structure being protected.

(E) ~~Temporary erosion control structures shall not extend more than 20 feet past the sides of the structure to be protected.~~ The landward side of such temporary erosion control structures shall not be located more than 20 feet ~~seaward~~ waterward of the structure to be protected or the right-of-way in the case of roads. If a building or road is found to be

imminently threatened and at an increased risk of imminent damage due to site conditions such as a flat beach profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet ~~seaward~~ waterward of the structure being protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal Management or their designee in accordance with Part (2)(A) of this Subparagraph.

(F) Temporary erosion control structures may remain in place for up to two years after the date of approval if they are protecting a building with a total floor area of 5000 sq. ft. or less and its associated septic system, or, for up to five years for a building with a total floor area of more than 5000 sq. ft. and its associated septic system. Temporary erosion control structures may remain in place for up to five years if they are protecting a bridge or a road. The termination date of all permits for contiguous temporary erosion control structures on the same property shall be the same and shall be the latest termination date of any of the permits. The property owner shall be responsible for removal of the temporary structure within 30 days of the end of the allowable time period.

(G) Temporary sandbag erosion control structures may remain in place for up to eight years from the date of approval if they are located in a community that is actively pursuing a beach nourishment project, or if they are located in an Inlet Hazard Area adjacent to an inlet for which a community is actively pursuing an inlet relocation or stabilization project in accordance with G.S. 113A-115.1. For purposes of this Rule, a community is considered to be actively pursuing a beach ~~nourishment,~~ nourishment or an inlet relocation or stabilization project if it has:

(i) been issued an active CAMA permit, where necessary, approving such project; or

(ii) been identified by a U.S. Army Corps of Engineers' Beach Nourishment Reconnaissance Study, General Reevaluation Report, Coastal Storm Damage Reduction ~~Study~~ Study, or an ongoing feasibility study by the U.S. Army Corps of Engineers and a commitment of local or federal money, when necessary; or

(iii) received a favorable economic evaluation report on a federal project; or

(iv) is in the planning stages of a project designed by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements and initiated by a local government or community with a commitment of local or state funds to construct the project and the identification of the financial resources or funding bases necessary to fund the beach ~~nourishment,~~ nourishment or the inlet relocation or stabilization project.

If beach ~~nourishment,~~ nourishment or inlet relocation or stabilization is rejected by the sponsoring agency or community, or ceases to be actively planned for a section of

shoreline, the time extension is void for that section of beach or community and existing sandbags are subject to all applicable time limits set forth in Part (F) of this Subparagraph. The termination date of all permits for contiguous temporary erosion control structures on the same property shall be the same and shall be the latest termination date of any of the permits.

(H) Once the temporary erosion control structure is determined by the Division of Coastal Management to be unnecessary due to relocation or removal of the threatened structure, a storm protection project constructed by the U.S. Army Corps of Engineers, a large-scale beach nourishment ~~project,~~ project or an inlet relocation or stabilization project, it shall be removed by the property owner within 30 days of official notification from the Division of Coastal Management regardless of the time limit placed on the temporary erosion control structure.

(I) Removal of temporary erosion control structures is not required if they are covered by dunes with stable and natural vegetation.

(J) The property owner shall be responsible for the removal of remnants of all portions of any damaged temporary erosion control structure.

(K) Sandbags used to construct temporary erosion control structures shall be tan in color and three to five feet wide and seven to 15 feet long when measured flat. Base width of the structure shall not exceed 20 feet, and the height shall not exceed six feet.

(L) Soldier pilings and other types of devices to anchor sandbags shall not be allowed.

(M) An imminently threatened structure may be protected only once, regardless of ownership, unless the threatened structure is located in a community that is actively pursuing a beach nourishment project, or in an Inlet Hazard Area and in a community that is actively pursuing an inlet relocation or stabilization project in accordance with Part (G) of this Subparagraph. Existing temporary erosion control structures located in Inlet Hazard Areas may be eligible for an additional ~~eight-year~~ eight-year permit extension provided that the structure being protected is still imminently threatened, the temporary erosion control structure is in compliance with requirements of this ~~Subchapter~~ Subchapter, and the community in which it is located is actively pursuing a beach ~~nourishment,~~ nourishment or an inlet relocation or stabilization project in accordance with Part (G) of this Subparagraph. In the case of a building, a temporary erosion control structure may be extended, or new segments constructed, if additional areas of the building become imminently threatened. Where temporary structures are installed or extended incrementally, the time period for removal under Part (F) or (G) of this Subparagraph shall begin at the time the ~~initial~~ most recent erosion control structure is installed. For the purpose of this Rule:

(i) a building and septic system shall be considered as separate structures.

(ii) a road or highway shall be allowed to be incrementally protected as sections become imminently threatened. The time period for removal of each contiguous section of sandbags shall begin at the time that the most recent section is installed in accordance with Part (F) or (G) of this Subparagraph.

(N) Existing sandbag structures may be repaired or replaced within their originally permitted dimensions during the time period allowed under Part (F) or (G) of this Subparagraph. Existing sandbag structures that were legally placed [~~but have~~] pursuant to permits that have since expired [~~permits~~] may be replaced, [~~repaired~~] repaired, or modified within their permit [~~dimensions,~~] dimensions if the status of the permit is being litigated by the property owner in [~~state or~~] state, [~~federal~~] federal, or administrative court.

(3) Beach Nourishment. Sand used for beach nourishment shall be compatible with existing grain size and in accordance with 15A NCAC 07H .0312.

(4) Beach Bulldozing. Beach bulldozing (defined as the process of moving natural beach material from any point ~~seaward~~ waterward of the first line of stable vegetation to create a protective sand dike or to obtain material for any other purpose) is development and may be permitted as an erosion response if the following conditions are met:

(A) The area on which this activity is being performed shall maintain a slope of adequate grade so as to not endanger the public or the public's use of the ~~beach and shall follow the pre-emergency slope as closely as possible.~~ beach. The movement of material utilizing a bulldozer, front end loader, backhoe, scraper, or any type of earth moving or construction equipment shall not exceed one foot in depth measured from the pre-activity surface elevation;

(B) The activity shall not exceed the lateral bounds of the applicant's property unless he has permission of the adjoining land owner(s);

(C) Movement of material from ~~seaward~~ waterward of the mean low water line will require a CAMA Major Development and State Dredge and Fill Permit;

(D) The activity shall not increase erosion on neighboring properties and shall not have an adverse effect on natural or cultural resources;

(E) The activity may be undertaken to protect threatened on-site waste disposal systems as well as the threatened structure's foundations.

(b) Dune Establishment and Stabilization. Activities to establish dunes shall be allowed ~~so long as~~ if the following conditions are met:

(1) Any new dunes established shall be aligned to the greatest extent possible with existing adjacent dune ridges and shall be of the same general configuration as adjacent natural dunes.

(2) Existing primary and frontal dunes shall not, except for beach nourishment and emergency situations, be broadened or extended in an ~~oceanward~~ waterward direction.

(3) Adding to dunes shall be accomplished in such a manner that the damage to existing vegetation is minimized. The filled areas shall be immediately replanted or temporarily stabilized until planting can be successfully completed.

(4) Sand used to establish or strengthen dunes shall be of the same general characteristics as the sand in the area in which it is to be placed.

(5) No new dunes shall be created in inlet hazard areas.

(6) Sand held in storage in any dune, other than the frontal or primary dune, may be redistributed within the AEC provided that it is not placed any farther ~~oceanward~~ waterward than the crest of a primary dune or landward toe of a frontal dune.

(7) No disturbance of a dune area shall be allowed when other techniques of construction can be utilized and alternative site locations exist to avoid unnecessary dune impacts.

(c) Structural Accessways:

(1) Structural accessways shall be permitted across primary dunes ~~so long as~~ if they are designed and constructed in a manner that entails negligible alteration on the primary dune. Structural accessways shall not be considered threatened structures for the purpose of Paragraph (a) of this Rule.

(2) An accessway shall be conclusively presumed to entail negligible alteration of a primary dune provided that:

(A) The accessway is exclusively for pedestrian use;

(B) The accessway is less than six feet in width;

(C) The accessway is raised on posts or pilings of five feet or less depth, so that wherever possible only the posts or pilings touch the frontal dune. Where this is deemed impossible, the structure shall touch the dune only to the extent absolutely necessary. In no case shall an accessway be permitted if it will diminish the dune's capacity as a protective barrier against flooding and erosion; and

(D) Any areas of vegetation that are disturbed are revegetated as soon as feasible.

(3) An accessway which does not meet Part (2)(A) and (B) of this Paragraph shall be permitted only if it meets a public purpose or need which cannot otherwise be met and it meets Part (2)(C) of this Paragraph. Public fishing piers shall not be deemed to be prohibited by this Rule, provided all other applicable standards are met.

(4) In order to avoid weakening the protective nature of primary and frontal dunes a structural accessway (such as a "Hatteras ramp") shall be provided for any off-road vehicle (ORV) or emergency vehicle access. Such accessways shall be no greater than 10 feet in width and shall be constructed of wooden sections fastened together over the length of the affected dune area.

(d) Building Construction Standards. New building construction and any construction identified in .0306(a)(5) and 07J .0210 shall comply with the following standards:

(1) In order to avoid danger to life and property, all development shall be designed and placed so as to minimize damage due to fluctuations in ground elevation and wave action in a 100-year storm. Any building constructed within the ocean hazard area shall comply with relevant sections of the North Carolina Building Code including the Coastal and Flood Plain Construction Standards and the local flood damage prevention ordinance as required by the National Flood Insurance Program. If any provision of the building code or a flood damage prevention ordinance is inconsistent with any of the following AEC standards, the more restrictive provision shall control.

(2) All building in the ocean hazard area shall be on pilings not less than eight inches in diameter if round or eight inches to a side if square.

(3) All pilings shall have a tip penetration greater than eight feet below the lowest ground elevation under the structure. For those structures so located on or ~~seaward~~ waterward of the primary dune, the pilings shall extend to five feet below mean sea level.

(4) All foundations shall be adequately designed to be stable during applicable fluctuations in ground elevation and wave forces during a 100-year storm. Cantilevered decks and walkways shall meet this standard or shall be designed to break-away without structural damage to the main structure.

History Note: *Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(6)a.,b.,d.; 113A-115.1; 113A-124;*
Eff. June 1, 1979;
Filed as a Temporary Amendment Eff. June 20, 1989, for a period of 180 days to expire on December 17, 1989;
Amended Eff. August 3, 1992; December 1, 1991; March 1, 1990; December 1, 1989;
RRC Objection Eff. November 19, 1992 due to ambiguity;
RRC Objection Eff. January 21, 1993 due to ambiguity;
Amended Eff. March 1, 1993; December 28, 1992;
RRC Objection Eff. March 16, 1995 due to ambiguity;
Amended Eff. April 1, 1999; February 1, 1996; May 4, 1995;
Temporary Amendment Eff. July 3, 2000; May 22, 2000;
Amended Eff. May 1, 2013; July 1, 2009; April 1, 2008; February 1, 2006; August 1, 2002;
Temporary Amendment Eff. February 26, 2016.

15A NCAC 07H .1704 IS AMENDED WITH CHANGES UNDER TEMPORARY PROCEDURES AS FOLLOWS:

15A NCAC 07H .1704 GENERAL CONDITIONS

(a) Work permitted by means of an emergency general permit shall be subject to the following limitations:

(1) No work shall begin until an onsite meeting is held with the applicant and a Division of Coastal Management representative so that the proposed emergency work can be delineated. Written authorization to proceed with the proposed development may be issued during this visit.

(2) No work shall be permitted other than that which is necessary to reasonably protect against or reduce the imminent danger caused by the emergency, to restore the damaged property to its condition immediately before the emergency, or to re-establish necessary public facilities or transportation corridors.

(3) Any permitted erosion control projects shall be located no more than 20 feet waterward of the imminently threatened structure or the right-of way in the case of ~~roads.~~ roads, except as provided under 15A NCAC 07H .0308. If a building or road is found to be imminently threatened and at increased risk of imminent damage due to site conditions such as a flat beach profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet ~~seaward~~ waterward of the structure being protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal Management or the Director's designee.

(4) Fill materials used in conjunction with emergency work for storm or erosion control shall be obtained from an upland source. Excavation below MHW in the Ocean Hazard AEC may be allowed to obtain material to fill sandbags used for emergency protection.

(5) Structural work shall meet sound engineering practices.

(6) This permit allows the use of oceanfront erosion control measures for all oceanfront properties without regard to the size of the existing structure on the property or the date of construction.

(b) Individuals shall allow authorized representatives of the Department of ~~Environment and Natural Resources~~ Environmental Quality to make inspections at any time deemed necessary to be sure that the activity being performed under authority of this general permit is in accordance with the terms and conditions in these Rules.

(c) Development shall not jeopardize the use of the waters for navigation or for other public trust rights in public trust areas including estuarine waters.

(d) This permit shall not be applicable to proposed construction where the Department has determined, based on an initial review of the application, that notice and review pursuant to G.S. 113A-119 is necessary because there are unresolved questions concerning the proposed activity's impact on adjoining properties or on water quality, air quality, coastal wetlands, cultural or historic sites, wildlife, fisheries resources, or public trust rights.

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

(f) Development carried out under this permit must be consistent with all local requirements, CAMA rules, and local land use plans, storm hazard mitigation, and post-disaster recovery plans current at the time of authorization.

History Note: *Authority G.S. 113-229(cl); 113A-107(a),(b); 113A-113(b); 113A-118.1;*
Eff. November 1, 1985;
Amended Eff. December 1, 1991; May 1, 1990;
RRC Objection due to ambiguity Eff. May 19, 1994;
Amended Eff. May 1, 2010; August 1, 1998; July 1, 1994;
Temporary Amendment Eff. February 26, 2016.

15A NCAC 07H .1705 IS AMENDED WITH CHANGES UNDER TEMPORARY PROCEDURES AS FOLLOWS:

15A NCAC 07H .1705 SPECIFIC CONDITIONS

(a) Temporary Erosion Control Structures in the Ocean Hazard AEC.

(1) Permittable temporary erosion control structures shall be limited to sandbags placed landward of mean high water and parallel to the shore.

(2) Temporary erosion control structures as defined in Subparagraph (1) of this Paragraph ~~shall~~ may be used to protect ~~only~~ imminently threatened roads and associated right of ways, and buildings and their associated septic systems. A structure is considered imminently threatened if its foundation, septic system, ~~or,~~ or right-of-way in the case of ~~roads,~~ roads is less than 20 feet away from the erosion scarp. Buildings and roads located more than 20 feet from the erosion scarp or in areas where there is no obvious erosion scarp may also be found to be imminently threatened when the Division determines that site conditions, such as a flat beach profile or accelerated erosion, increase the risk of imminent damage to the structure. Temporary erosion control structures may be used to protect properties that are experiencing erosion when there are no imminently threatened structures on the property if an adjacent property has an existing temporary erosion control structure that is in compliance with the Commission's rules. Temporary erosion control structures used to protect property without imminently threatened structures shall be sited to align with and be no farther [~~oceanward~~] waterward than the most landward adjacent temporary erosion control structure.

(3) ~~Temporary~~ Notwithstanding Subparagraph (2) of this Paragraph, temporary erosion control structures shall be used to protect only the principal structure and its associated septic system, but not appurtenances such as pools, gazebos, decks or any amenity that is allowed as an exception to the erosion setback requirement.

(4) Temporary erosion control structures may be placed ~~seaward~~ waterward of a septic system when there is no alternative to relocate it on the same or adjoining lot so that it is landward of or in line with the structure being protected.

(5) ~~Temporary erosion control structures shall not extend more than 20 feet past the sides of the structure to be protected.~~ The landward side of such temporary erosion control structures shall not be located more than 20 feet ~~seaward~~ waterward of the structure to be protected or the right-of-way in the case of roads. If a building or road is found to be imminently threatened and at increased risk of imminent damage due to site conditions such as a flat beach profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet ~~seaward~~ waterward of the structure being protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal Management or the Director's designee in accordance with Subparagraph (1) of this Paragraph.

(6) Temporary erosion control structures may remain in place for up to two years after the date of approval if they are protecting a building with a total floor area of 5,000 square feet or less and its associated septic system, or for up to five years for a building with a total floor area of more than 5,000 square feet and its associated septic system. Temporary erosion control structures may remain in place for up to five years if they are protecting a bridge or a road. The termination date of all permits for contiguous temporary erosion control structures on the same property shall be the same and shall be the latest termination date of any of the permits. The property owner shall be responsible for removal of the temporary structure within 30 days of the end of the allowable time period.

(7) Temporary sandbag erosion control structures may remain in place for up to eight years from the date of approval if they are located in a community that is actively pursuing a beach nourishment project, or if they are located in an Inlet Hazard Area adjacent to an inlet for which a community is actively pursuing an inlet relocation or stabilization project in accordance with ~~G.S. 113A-115.1~~ G.S. 113A-115.1. For purposes of this Rule, a community is considered to be actively pursuing a beach ~~nourishment,~~ nourishment or an inlet relocation or stabilization project if it has:

(A) an active CAMA permit, where necessary, approving such project; or

(B) been identified by a U.S. Army Corps of Engineers' Beach Nourishment Reconnaissance Study, General Reevaluation Report, Coastal Storm Damage Reduction Study, or an ongoing feasibility study by the U.S. Army Corps of Engineers and a commitment of local or federal money, when necessary; or

(C) received a favorable economic evaluation report on a federal project; or

(D) is in the planning stages of a project designed by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements and initiated by a local government or community with a commitment of local or state funds to construct the project and the identification of the financial resources or funding bases necessary to fund the beach ~~nourishment,~~ nourishment or the inlet relocation or stabilization project.

If beach ~~nourishment,~~ nourishment or inlet relocation or stabilization is rejected by the sponsoring agency or community, or ceases to be actively planned for a section of shoreline, the time extension is void for that section of beach or community and existing sandbags are subject to all applicable time limits set forth in Subparagraph (6) of this Paragraph. The termination date of all permits for contiguous temporary erosion control structures on the same property shall be the same and shall be the latest termination date of any of the permits.

(8) Once the temporary erosion control structure is determined by the Division of Coastal Management to be unnecessary due to relocation or removal of the threatened structure, a storm protection project constructed by the U.S. Army Corps of Engineers, a large scale beach nourishment project, or an inlet relocation or stabilization project, it shall be removed by the permittee within 30 days of official

notification by the Division of Coastal Management regardless of the time limit placed on the temporary erosion control structure.

(9) Removal of temporary erosion control structures is not required if they are covered by dunes with stable and natural vegetation.

(10) The property owner shall be responsible for the removal of remnants of all portions of any damaged temporary erosion control structure.

(11) Sandbags used to construct temporary erosion control structures shall be tan in color and 3 to 5 feet wide and 7 to 15 feet long when measured flat. Base width of the structure shall not exceed 20 feet, and the height shall not exceed 6 feet.

(12) Soldier pilings and other types of devices to anchor sandbags shall not be allowed.

(13) Excavation below mean high water in the Ocean Hazard AEC may be allowed to obtain material to fill sandbags used for emergency protection.

(14) An imminently threatened structure may be protected only once regardless of ownership, unless the threatened structure is located in a community that is actively pursuing a beach nourishment project, or in an Inlet Hazard Area and in a community that is actively pursuing an inlet relocation or stabilization project in accordance with Subparagraph (7). Existing temporary erosion control structures may be eligible for an additional eight year permit extension provided that the structure being protected is still imminently threatened, the temporary erosion control structure is in compliance with requirements of this ~~Subparagraph~~ Subparagraph, and the community in which it is located is actively pursuing a beach ~~nourishment,~~ nourishment or an inlet relocation or stabilization project in accordance with Subparagraph (7) of this Paragraph. In the case of a building, a temporary erosion control structure may be extended, or new segments constructed, if additional areas of the building become imminently threatened. Where temporary structures are installed or extended incrementally, the time period for removal under Subparagraph (6) or (7) shall begin at the time the ~~initial~~ most recent erosion control structure is installed. For the purpose of this Rule:

(A) a building and septic system shall be considered as separate structures.

(B) a road or highway shall be allowed to be incrementally protected as sections become imminently threatened. The time period for removal of each contiguous section of sandbags shall begin at the time that the most recent section is installed in accordance with Subparagraph (6) or (7) of this Rule.

(15) Existing sandbag structures may be repaired or replaced within their originally permitted dimensions during the time period allowed under Subparagraph (6) or (7) of this Rule. Existing sandbag structures that were legally placed [~~but have~~] pursuant to permits that have since expired [~~permits~~] may be replaced, [~~repaired~~] repaired, or modified within their permit [~~dimensions,~~] dimensions if the status of the permit is being litigated by the property owner in [~~state or~~] state, federal or administrative court.

(b) Erosion Control Structures in the Estuarine Shoreline, Estuarine Waters, and Public Trust AECs. Work permitted by this general permit shall be subject to the following limitations:

(1) No work shall be permitted other than that which is necessary to reasonably protect against or reduce the imminent danger caused by the emergency or to restore the damaged property to its condition immediately before the emergency;

(2) The erosion control structure shall be located no more than 20 feet waterward of the imminently threatened structure. If a building or road is found to be imminently threatened and at increased risk of imminent damage due to site conditions such as a flat shore profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet ~~seaward~~ waterward of the structure being protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal Management or the Director's designee. Temporary erosion control structures may be used to protect properties that are experiencing erosion when there are no imminently threatened structures on the property if an adjacent property has an existing temporary erosion control structure that is in compliance with the Commission's rules. Temporary erosion control structures used to protect property without imminently threatened structures shall be sited to align with and be no further [~~oceanward~~] waterward than the most landward adjacent temporary erosion control structure.

(3) Fill material used in conjunction with emergency work for storm or erosion control in the Estuarine Shoreline, Estuarine Waters and Public Trust AECs shall be obtained from an upland source.

(c) Protection, Rehabilitation, or Temporary Relocation of Public Facilities or Transportation Corridors.

(1) Work permitted by this general permit shall be subject to the following limitations:

(A) no work shall be permitted other than that which is necessary to protect against or reduce the imminent danger caused by the emergency or to restore the damaged property to its condition immediately before the emergency;

(B) the erosion control structure shall be located no more than 20 feet waterward of the imminently threatened structure or the right-of-way in the case of roads. If a public facility or transportation corridor is found to be imminently threatened and at increased risk of imminent damage due to site conditions such as a flat shore profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet ~~seaward~~ waterward of the facility or corridor being protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal Management or the Director's designee in accordance with Subparagraph (a)(1) of this Rule. Temporary erosion control structures may be used to protect properties that are experiencing erosion when there are no imminently threatened structures on the property if an adjacent property has an existing temporary erosion control structure that is in compliance with the Commission's rules. Temporary erosion control structures used to protect property without imminently threatened structures shall be sited

to align with and be no further [~~oceanward~~] waterward than the most landward adjacent temporary erosion control structure;

(C) any fill materials used in conjunction with emergency work for storm or erosion control shall be obtained from an upland source except that dredging for fill material to protect public facilities or transportation corridors shall be considered in accordance with standards in 15A NCAC ~~7H .0208;~~ 07H .0208; and

(D) all fill materials or structures associated with temporary relocations which are located within Coastal Wetlands, Estuarine Water, or Public Trust AECs shall be removed after the emergency event has ended and the area restored to pre-disturbed conditions.

(2) This permit authorizes only the immediate protection or temporary rehabilitation or relocation of existing public facilities. Long-term stabilization or relocation of public facilities shall be consistent with local governments' post-disaster recovery plans and policies which are part of their Land Use Plans.

History Note: *Authority G.S. 113-229(cl); 113A-107(a),(b); 113A-113(b); 113A-115.1; 113A-118.1;*
Eff. November 1, 1985;
Amended Eff. April 1, 1999; February 1, 1996; June 1, 1995;
Temporary Amendment Eff. July 3, 2000; May 22, 2000;
Amended Eff. May 1, 2013; May 1, 2010; August 1, 2002.Temporary Amendment Eff. July 3, 2000; May 22, 2000;
Temporary Amendment Eff. February 26, 2016.