

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .0304

DEADLINE FOR RECEIPT: June 8, 2016

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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Page 1, lines 7-8 – please remove the numbering of Sub-Item (1)(a), perhaps as follows:

The landward extent of this area is the distance landward from the first line of stable and natural vegetation...

Page 1, line 17 – replace the comma after “cases” with “or in” and delete the comma after “declaratory”

Page 1, line 25 – insert a comma after “flooding”

Page 1, line 27 – replace “shall migrate” with “migrates”

Page 1, line 33 – insert a comma after “Areas”

Page 2, lines 5 and 15 – replace “Sub-Item (1)(a)” with “Item (1)” if Item (1) is changed as requested above.

Page 2, line 11 – replace “from” with “due to” or “resulting from”

Page 2, line 19 – delete the comma and insert “until” after “or”

Page 2, line 20 – delete the comma and insert “the” after “or”

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: May 25, 2016

1 **15A NCAC 07H .0304 IS AMENDED AS PUBLISHED IN 30:14 NCR 1505-1507 AS FOLLOWS:**

2
3 **15A NCAC 07H .0304 AECS WITHIN OCEAN HAZARD AREAS**

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

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

8 (a) a distance landward from the first line of stable and natural vegetation as defined in 15A
9 NCAC 07H .0305(a)(5) to the recession line established by multiplying the long-term
10 annual erosion rate times ~~60~~; 90; provided that, where there has been no long-term erosion
11 or the rate is less than two feet per year, this distance shall be set at 120 feet landward from
12 the first line of stable natural vegetation. For the purposes of this Rule, the erosion rates
13 are the long-term average based on available historical data. The current long-term average
14 erosion rate data for each segment of the North Carolina coast is depicted on maps entitled
15 “2011 Long-Term Average Annual Shoreline Rate Update” and approved by the Coastal
16 Resources Commission on May 5, 2011 (except as such rates may be varied in individual
17 contested cases, declaratory, or interpretive rulings). In all cases, the rate of shoreline
18 change shall be no less than two feet of erosion per year. The maps are available without
19 cost from any Local Permit Officer or the Division of Coastal Management on the internet
20 at <http://www.nccoastalmanagement.net>; and <http://www.nccoastalmanagement.net>.

21 ~~(b) a distance landward from the recession line established in Sub Item (1)(a) of this Rule to~~
22 ~~the recession line that would be generated by a storm having a one percent chance of being~~
23 ~~equaled or exceeded in any given year.~~

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

34 (a) the Cape Fear Inlet Hazard Area as shown on the map does not extend northeast of the Bald
35 Head Island marina entrance channel; and

36 (b) the former location of Mad Inlet, which closed in 1997.

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

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

10 (a) An area appropriate for permanent designation as an Unvegetated Beach Area is a dynamic
11 area that is subject to rapid unpredictable landform change from wind and wave action.
12 The areas in this category shall be designated following studies by the Division of Coastal
13 Management. These areas shall be designated on maps approved by the Coastal Resources
14 Commission and available without cost from any Local Permit Officer or the Division of
15 Coastal Management on the internet at the website referenced in Sub-Item (1)(a) of this
16 Rule.

17 (b) An area that is suddenly unvegetated as a result of a hurricane or other major storm event
18 may be designated by the Coastal Resources Commission as an Unvegetated Beach Area
19 for a specific period of time, or the vegetation has re-established in accordance with 15A
20 NCAC 07H .0305(a)(5). At the expiration of the time specified, or re-establishment of the
21 vegetation, the area shall return to its pre-storm designation.

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23 *History Note: Authority G.S. 113A-107; 113A-107.1; 113A-113; 113A-124;*
24 *Eff. September 9, 1977;*
25 *Amended Eff. December 1, 1993; November 1, 1988; September 1, 1986; December 1, 1985;*
26 *Temporary Amendment Eff. October 10, 1996;*
27 *Amended Eff. April 1, 1997;*
28 *Temporary Amendment Eff. October 10, 1996 Expired on July 29, 1997;*
29 *Temporary Amendment Eff. October 22, 1997;*
30 *Amended Eff. July 1, 2016; September 1, 2015; May 1, 2014; February 1, 2013; January 1, 2010,*
31 *February 1, 2006; October 1, 2004; April 1, 2004; August 1, 1998.*