

REQUEST FOR TECHNICAL CHANGE

AGENCY: Wildlife Resource Commission

RULE CITATION: Findings of Need form

DEADLINE FOR RECEIPT: Tuesday, July 19, 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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please correct the statutory citation in Box 6 – it appears that G.S. 150B-21.1(a)(7)a. is intended, rather than G.S. 150B-21.1(a)(7)(b.).

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

Jason Thomas
Commission Counsel
Date submitted to agency: July 15, 2016



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

July 14, 2016

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: N.C. Wildlife Resources Commission
2. Rule citation & name: 15A NCAC 10F .0330 Carteret County
3. Action: <input type="checkbox"/> Adoption <input checked="" type="checkbox"/> Amendment <input type="checkbox"/> Repeal
4. Was this an Emergency Rule: <input type="checkbox"/> Yes Effective date: <input checked="" type="checkbox"/> No
5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: May 6, 2016 b. Proposed Temporary Rule published on the OAH website: May 13, 2016 c. Public Hearing date: May 24, 2016 d. Comment Period: May 13, 2016 – June 17, 2016 e. Notice pursuant to G.S. 150B-21.1(a3)(2): May 12, 2016 f. Adoption by agency on: July 14, 2016 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:
6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review. <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: Effective date: <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input checked="" type="checkbox"/> Other: G.S. 150B-21.1(a)(7)(b.) Explain: The Wildlife Resources Commission has identified a need to correct the description of the No Wake Zone in the waters of Taylor's Creek at the town of Beaufort in Carteret County, in order to clear confusion among boaters as to the eastern end of the no wake zone, which is at the tip of Carrot Island. Temporary rulemaking will provide for legal enforcement of Taylor's Creek during the busy summer boating season and will mitigate hazards to boater safety there.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Law Enforcement assessed safety concerns and identified safety issues for the Taylor's Creek area in Carteret County. Immediate adoption is necessary to correct placement of markers. The proposed changes to 15A NCAC 10F .0330 would clarify the beginning and end of no wake zone area at Taylor's Creek.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

Yes
Agency submitted request for consultation on:
Consultation not required. Cite authority:

No

9. Rule-making Coordinator: Erica Garner

Phone: 919-707-0014

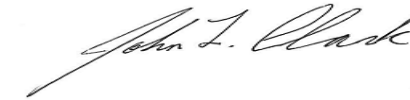
E-Mail: erica.garner@ncwildlife.org

Agency contact, if any: Betsy Haywood

Phone: 919-707-0013

E-Mail: Betsy.Haywood@ncwildlife.org

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: John Litton Clark

Title: Chairman, NC Wildlife Resources Commission

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

Date returned to agency:

REQUEST FOR TECHNICAL CHANGE

AGENCY: Wildlife Resource Commission

RULE CITATION: 15A NCAC 10F .0330

DEADLINE FOR RECEIPT: Friday, February 13, 2015

NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Generally, the subparagraphs under Paragraph (a) are not consistently punctuated. Each subparagraph begins with "the waters of [name of waterbody]." This phrase is sometimes followed by a comma. Can this be consistent? It appears that a comma is proper in most cases, but in any event please use consistent punctuation. If commas are added, one is not needed in (a)(7), (a)(9), or (a)(11).

Page 1, line 9 – replace "it" with "Taylor's Creek"

Page 1, line 15 – add a comma after "Shepard"

Please consider revising Paragraph (c) as follows (I have tried to format this in accord with our publication rules – please check):

- (c) Placement and Maintenance of Markers. The following agencies shall be designated as suitable agencies for placement and maintenance of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers:
- (1) the Board of Commissioners of Carteret County, with respect to the regulated areas designated in Subparagraphs (1), (3), (5), (6), (7), (8), ~~(10), (12) and (13)~~ (11) and (12) of Paragraph (a) of this Rule;
 - (2) the Board of Commissioners of the Town of Beaufort, with respect to the regulated area designated in Subparagraph (2) of Paragraph (a) of this Rule;
 - (3) the Board of Commissioners of Morehead City, with respect to Subparagraph (4), (9), and ~~(14)~~ (13) of Paragraph (a) of this Rule;
 - (4) the North Carolina State Ports Authority, with respect to the regulated area designated in Subparagraph ~~(11)~~(10) of Paragraph (a) of this Rule; and
 - (5) the Board of Commissioners of the Town of Cedar Point with respect to the regulated area designated in Subparagraph ~~(15)~~ (14) of Paragraph (a) of this ~~Rule~~ Rule.
- agencies shall be designated as suitable agencies for placement and maintenance of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

Jason Thomas
Commission Counsel

Date submitted to agency: July 15, 2016

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

Jason Thomas
Commission Counsel
Date submitted to agency: July 15, 2016

1 15A NCAC 10F .0330 Carteret County is amended under temporary procedures as follows:

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15A NCAC 10F .0330 CARTERET COUNTY

(a) Regulated Areas. This Rule applies to the following waters in Carteret County:

- (1) the waters of Money Island Slough beginning at the east end of Money Island near the Anchorage Marina Basin and ending at the west end of Money Island where Brooks Avenue ~~dead ends~~ dead ends at the slough;
- (2) the waters of ~~Taylor Creek located within the territorial limits of the Town of Beaufort;~~ Taylor's Creek in Beaufort, shore to shore from where it meets the Newport River at the western end to a line at the eastern end between a point on the north shore at 34.70762 N, 76.61784 W, south-southwest to the eastern tip of Carrot Island;
- (3) the waters of Pelletier Creek beginning at the entrance to Pelletier Creek at the Intracoastal Waterway and ending at U.S. Highway 70;
- (4) the waters of Bogue Sound Harbor Channel in Morehead City between Sugar Loaf Island and the seawall on the south side of Evans, Shepard and Shackelford Streets and bounded on the east by the State Ports Authority and on the west by the eastern right-of-way margin of South 13th Street extended;
- (5) the waters of Gallant's Channel from the US 70 crossing over the Grayden Paul bridge to Taylor's Creek;
- (6) the waters of Cedar Island Bay and Harbor from N.C. Highway 12 to Cedar Island Bay Channel Light 8;
- (7) the waters of the small cove on the west side of Radio Island south of Old Causeway Road;
- (8) the waters of the Newport River beginning at the north side of the Beaufort Drawbridge and ending at marker #6;
- (9) the waters of Spooners Creek within the territorial limits of the Town of Morehead City as delineated by appropriate markers;
- ~~(10) the waters of Taylor's Creek from the eastern end of the current no wake zone eastward to Channel Marker #1A;~~
- ~~(11)~~(10) the waters of the Newport River at Bogue Sound including all waters surrounding the Port of Morehead City to Brandt Island as delineated by appropriate markers;
- ~~(12)~~(11) the waters of Morgans Creek as delineated by appropriate markers;
- ~~(13)~~(12) the waters of Cannonsgate Marina and the Cannonsgate Marina Channel, beginning at its intersection with Bogue Sound at 34.70163 N, 76.98157 W as delineated by appropriate markers;
- ~~(14)~~(13) the waters of the Newport River within 200 yards of the Newport River Beach Access Boat Ramp, beginning at the shore north of the U.S. 70 bridge at a point at 34.72141 N, 76.68707

1 W, west to a point at 34.72128 N, 76.68893 W, north to a point at 34.72376 N, 76.68911
 2 N, then east to the shore at 34.72371 N, 76.68631 W; and
 3 ~~(15)~~(14) the waters of Palmetto Drive canal, a tributary to the White Oak River, beginning at a point
 4 on the western shore at 34.67903N, 77.10142W to a point on the eastern shore at 34.67899
 5 N, 77.10098 W and extending the entire length of the canal.

6 (b) Speed Limit. It is unlawful to operate a motorboat or vessel at a speed greater than no-wake speed while on
 7 the waters of the regulated areas designated in Paragraph (a) of this Rule.

8 (c) Placement and Maintenance of Markers. The Board of Commissioners of Carteret County, with respect to
 9 the regulated areas designated in Subparagraphs (1), (3), (5), (6), (7), (8), ~~(10), (12) and (13)~~ (11) and (12) of Paragraph
 10 (a) of this Rule; the Board of Commissioners of the Town of Beaufort, with respect to the regulated area designated
 11 in Subparagraph (2) of Paragraph (a) of this Rule; the Board of Commissioners of Morehead City, with respect to
 12 Subparagraph (4), (9), and ~~(14)~~ (13) of Paragraph (a) of this Rule; the North Carolina State Ports Authority, with
 13 respect to the regulated area designated in Subparagraph ~~(11)~~(10) of Paragraph (a) of this Rule; and the Board of
 14 Commissioners of the Town of Cedar Point with respect to the regulated area designated in Subparagraph ~~(15)~~ (14)
 15 of Paragraph (a) of this Rule shall be designated as suitable agencies for placement and maintenance of the markers
 16 implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps
 17 of Engineers.

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 19 *History Note:* *Authority G.S. 75A-3; 75A-15;*
 20 *Eff. March 4, 1979;*
 21 *Amended Eff. October 1, 1997; May 1, 1995; June 1, 1994; February 1, 1994; July 1, 1993;*
 22 *Temporary Amendment Eff. February 1, 1998;*
 23 *Amended Eff. July 1, 1998;*
 24 *Temporary Amendment Eff. March 1, 1999; November 1, 1998;*
 25 *Amended Eff. May 1, 2016; July 1, 2012; September 1, 2010; July 1, 2000.*