

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .0205

DEADLINE FOR RECEIPT: Thursday, August 11, 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), line 7, delete the comma after "tides"

Also on line 7, I suggest ending the sentence after "watercourses." Then beginning a new sentence, "This shall not include hurricane or tropical storm tides."

On lines 8 through 10, how does one use this guidance to establish the flooding types?

On line 9, insert a comma after "indicators"

On line 10, so that I'm clear – when you state that the coastal wetlands may contain these plant species, this is to help individuals know it is a wetland? If not, what is the point of this sentence?

Please end (a)(1) through (9) with semicolons. Please insert an "or" at the end of (a)(9).

On line 23, it appears there is a space between "113-230" and "(a)" Please simply remove it. You do not need to show the change.

Why do you need Paragraph (b)? What is the point? And doesn't this at least partially recite G.S. 113A-102? Unless you have a compelling reason to keep it, I suggest deleting it.

If you wish to keep the Paragraph:

On lines 24 and 25, why are you deleting the definition of "detritus" Is this defined elsewhere, or known to your regulated public?

On line 26, what do you mean by "appears to be"

On line 29, replace "man" with "mankind" or something to that extent and replace "he" with "he or she"

Amanda J. Reeder
Commission Counsel
Date submitted to agency: July 28, 2016

On line 32, define “enormous”

On line 33, define “good quality”

On line 35, what do you mean by “tend”?

On Page 2, line 1, replace “which” with “that”

On line 3, define “excessive”

What is the purpose of Paragraph (c)? Isn’t this also addressed by G.S. 113A-102? Unless you have a compelling reason to retain it, I suggest deleting it.

If you wish to keep the Paragraph, please define “essential” on line 7.

In (d), line 9, is the “management objective in this Rule” what is contained in Paragraph (c)?

On lines 9 and 10, what does “highest priority” and “second priority” mean? Are those defined somewhere? If not, wouldn’t “secondary” be better than “second”? Or should “highest” be changed to “first”?

On line 10, I suggest changing “is” after “use” to “shall be”

On lines 12 and 13, I recommend deleting “Examples of” and just starting the sentences “Unacceptable land use includes...” and “Acceptable land use includes...” And have you considered beginning by stating what is accepted and then what is excluded?

On line 13, insert a comma after “highways”

On line 15, please insert a citation for the Dredge and Fill law. And what are the other applicable laws?

In (e), line 20, what are “planned resource management activities”? Is this defined somewhere?

On line 21, I suggest replacing “is” after “efforts” with “shall be”

On line 22, how is this approval sought and upon what basis is it granted? Is it using the provisions of (e)(1)(A) through (F)?

On line 22, I suggest replacing “is” after “wetlands” with “shall be”

In (e)(1), line 24, I suggest replacing “is” with “shall be”

In (e)(1)(D), I suggest replacing “cuttings/clippings” with “cuttings or clippings”

In (e)(1)(F), so that I am clear – there is no minimum height if a utility company cuts this?

In (e)(2), Page 3, line 1, I suggest replacing “requires” with “shall require”

Amanda J. Reeder
Commission Counsel
Date submitted to agency: July 28, 2016

On line 5, is the term “adverse impact” known to your regulated public?

In the History Note, there is no need to spell out 113A-107(a) and (b). I suggest simply stating “113A-107” for that citation.

Also in the History Note, please confirm you are primarily referring to G.S. 113A-124(c)(8).

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: July 28, 2016

1 **15A NCAC 07H .0205 IS AMENDED WITH CHANGES AS PUBLISHED IN 30:18 NCR 1972-1973 AS**
2 **FOLLOWS:**

3
4 **15A NCAC 07H .0205 COASTAL WETLANDS**

5 (a) Description. Coastal wetlands are defined as any salt marsh or other marsh subject to regular or occasional
6 flooding by tides, including wind tides ~~(whether or not the tide waters reach the marshland areas through natural or~~
7 ~~artificial watercourses)~~, tides, that reach the marshland areas through natural or artificial watercourses, provided this
8 does not include hurricane or tropical storm tides. Regular or occasional flooding shall be established through field
9 indicators including the observation of tidal water on the site, changes in elevation, presence of periwinkle (littoraria
10 spp.), presence of crab burrows, staining, or wrack lines. Coastal wetlands may contain the following marsh plant
11 species:

- 12 (1) Cord Grass (*Spartina alterniflora*),
- 13 (2) Black Needlerush (*Juncus roemerianus*),
- 14 (3) Glasswort (*Salicornia* spp.),
- 15 (4) Salt Grass (*Distichlis spicata*),
- 16 (5) Sea Lavender (*Limonium* spp.),
- 17 (6) Bulrush (*Scirpus* spp.),
- 18 (7) Saw Grass (*Cladium jamaicense*),
- 19 (8) Cat-tail (*Typha* spp.),
- 20 (9) Salt Meadow Grass (*Spartina patens*),
- 21 (10) Salt Reed Grass (*Spartina cynosuroides*).

22 The coastal wetlands AEC includes any contiguous lands designated by the Secretary of DENR DEQ pursuant to G.S.
23 113-230 (a).

24 (b) Significance. The unique productivity of the estuarine and ocean system is supported by detritus ~~(decayed plant~~
25 ~~material)~~ and nutrients that are exported from the coastal marshlands. The amount of exportation and degree of
26 importance appears to be variable from marsh to marsh, depending primarily upon its frequency of inundation and
27 inherent characteristics of the various plant species. Without the marsh, the high productivity levels and complex food
28 chains typically found in the estuaries could not be maintained.

29 Man harvests various aspects of this productivity when he fishes, hunts, and gathers shellfish from the estuary.
30 Estuarine dependent species of fish and shellfish such as menhaden, shrimp, flounder, oysters, and crabs make up
31 over 90 percent of the total value of North Carolina's commercial catch. The marshlands, therefore, support an
32 enormous amount of commercial and recreational businesses along the seacoast.

33 The roots, rhizomes, stems, and seeds of coastal wetlands act as good quality waterfowl and wildlife feeding and
34 nesting materials. In addition, coastal wetlands serve as the first line of defense in retarding estuarine shoreline
35 erosion. The plant stems and leaves tend to dissipate wave action, while the vast network of roots and rhizomes resists
36 soil erosion. In this way, the coastal wetlands serve as barriers against flood damage and control erosion between the
37 estuary and the uplands.

1 Marshlands also act as nutrient and sediment traps by slowing the water which flows over them and causing suspended
2 organic and inorganic particles to settle out. In this manner, the nutrient storehouse is maintained, and sediment
3 harmful to marine organisms is removed. Also, pollutants and excessive nutrients are absorbed by the marsh plants,
4 thus providing an inexpensive water treatment service.

5 (c) Management Objective. It is the objective of the Coastal Resources Commission to conserve and manage coastal
6 wetlands so as to safeguard and perpetuate their biological, social, economic and aesthetic values, and to coordinate
7 and establish a management system capable of conserving and utilizing coastal wetlands as a natural resource essential
8 to the functioning of the entire estuarine system.

9 (d) Use Standards. Suitable land uses are those consistent with the management objective in this Rule. Highest
10 priority of use is allocated to the conservation of existing coastal wetlands. Second priority of coastal wetland use is
11 given to those types of development activities that require water access and cannot function elsewhere.

12 Examples of unacceptable land uses include restaurants, businesses, residences, apartments, motels, hotels, trailer
13 parks, parking lots, private roads, highways and factories. Examples of acceptable land uses include utility easements,
14 fishing piers, docks, wildlife habitat management activities, and agricultural uses such as farming and forestry
15 drainage as permitted under North Carolina's Dredge and Fill Law or other applicable laws.

16 In every instance, the particular location, use, and design characteristics shall be in accord with the general use
17 standards for coastal wetlands, estuarine waters, and public trust areas described in Rule .0208 of this Section.

18 (e) Alteration of Coastal Wetlands. Alteration of coastal wetlands includes mowing or cutting of coastal wetlands
19 vegetation whether by mechanized equipment or manual means. Alteration of coastal wetlands by federal or state
20 resource management agencies as a part of planned resource management activities is exempt from the requirements
21 of this Paragraph. Mowing or cutting of coastal wetlands by academic institutions associated with research efforts is
22 allowed subject to approval from the Division of Coastal Management. Alteration of coastal wetlands is governed
23 according to the following provisions:

24 (1) Alteration of coastal wetlands is exempt from the permit requirements of the Coastal Area
25 Management Act (CAMA) when conducted in accordance with the following criteria:

26 (A) Coastal wetlands may be mowed or cut to a height of no less than two feet, as measured
27 from the coastal wetland substrate, at any time and at any frequency throughout the year;

28 (B) Coastal wetlands may be mowed or cut to a height of no less than six inches, as measured
29 from the coastal wetland substrate, once between each December 1 and March 31;

30 (C) Alteration of the substrate is not allowed;

31 (D) All cuttings/clippings shall remain in place as they fall;

32 (E) Coastal wetlands may be mowed or cut to a height of no less than six inches, as measured
33 from the coastal wetland substrate, to create an access path four feet wide or less on
34 waterfront lots without a pier access; and

35 (F) Coastal wetlands may be mowed or cut by utility companies as necessary to maintain utility
36 easements.

1 (2) Coastal wetland alteration not meeting the exemption criteria of this Rule requires a CAMA permit.
2 CAMA permit applications for coastal wetland alterations are subject to review by the North
3 Carolina Wildlife Commission, North Carolina Division of Marine Fisheries, U.S. Fish and Wildlife
4 Service, and National Marine Fisheries Service in order to determine whether or not the proposed
5 activity will have an adverse impact on the habitat or fisheries resources.
6

7 *History Note:* *Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(1); 113A-124;*
8 *Eff. September 9, 1977;*
9 *Amended Eff. September 1, 2016; November 1, 2009; August 1, 1998; October 1, 1993; May 1,*
10 *1990; January 24, 1978.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1801

DEADLINE FOR RECEIPT: Thursday, August 11, 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:

Please note, the names of rules are not part of the rules, and not subject to review by the RRC. This means that the only binding language in a Rule is in the text. You refer on line 8 to "this permit" but you don't say what this permit is. I recommend stating "A permit to allow beach bulldozing" if that's what you mean, or saying whatever type you do mean.

On line 8, I take it your regulated public knows what "frontal" and "primary dune systems" means? Is this defined somewhere?

On lines 8 and 10, replace "and/or" with "or"

On line 9, put "beach bulldozing" in quotation marks since you are defining it here.

On line 10, what is the "first line of stable vegetation"? Does your regulated public know?

What is the purpose of the sentence on lines 11 and 12? Are you trying to incorporate the procedures in Subchapter 07J?

On line 12, replace "will" with "shall"

In the History Note, line 14, I think you can just cite to 113A-107. If you wish to retain both cites, please separate them with semicolons like this: "113A-107(a); 113A-107(b);"

Why are you citing to G.S. 113-229 here? Is it because this type of permit can be granted for filling in or about estuarine waters?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: July 28, 2016

1 **15A NCAC 07H .1801 IS AMENDED AS PUBLISHED IN 30:18 NCR 1974 AS FOLLOWS:**

2

3 **SECTION .1800 - GENERAL PERMIT TO ALLOW BEACH BULLDOZING LANDWARD OF THE**
4 **~~MEAN HIGH WATER MARK~~ IN THE OCEAN HAZARD AEC**

5

6

7 **15A NCAC 07H .1801 PURPOSE**

8 This permit will allow beach bulldozing needed to reconstruct or repair frontal and/or primary dune systems. For the
9 purpose of this general permit, beach bulldozing is defined as the process of moving natural beach material from any
10 point seaward of the first line of stable vegetation to repair damage to frontal and/or primary ~~dunes caused by a major~~
11 ~~storm event.~~ dunes. This general permit is being developed according to the procedures outlined in Subchapter 7J
12 .1100 and will apply only to the Ocean Erodible AEC. This general permit shall not apply to the Inlet Hazard AEC.

13

14 *History Note: Authority G.S. 113-229(cl); 113A-107(a)(b); 113A-113(b); 113A-118.1;*
15 *Eff. December 1, 1987;*
16 *Amended Eff. September 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1802

DEADLINE FOR RECEIPT: Thursday, August 11, 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:

In (a), line 4, how does one find the contact information for the Division? Is it the address in 15A NCAC 07A .0101?

On line 5, what is required for the application? The information on lines 5-11? If not, please refer to another rule or law that contains that information or put in the Rule.

On line 6, I suggest stating "his or her" unless it's typically an entity or group.

In (b), line 7, replace "must" with "shall"

In (b)(1), I suggest moving "has been obtained" to the end of the sentence, so "confirmation that a written statement, signed by the adjacent riparian property owners, stating that they have no objections to the proposed work, has been obtained; or"

Also, you only want "confirmation" of the statement, not a copy of it?

In (b)(2), what is this confirmation, exactly? If the individual doesn't pick up the mail, is this still sufficient to count as notice?

On line 11, delete "should" and replace it with "shall" since I believe that is what you are requiring.

On line 12, is the individual required to include contact information for DCM in the notice?

On line 13, replace "ten" with "10" [See Rule 26 NCAC 02C .0108(9)(b)]

Also on line 13, delete "and, indicate" and instead state "and state"

On lines 13 and 14, replace "will" with "shall"

On line 14, I suggest replace "on" with "upon"

Amanda J. Reeder
Commission Counsel
Date submitted to agency: July 28, 2016

What is the purpose of these comments? On line 14, you refer to objection but elsewhere in this Subparagraph, it appears to be just comments.

On line 15, how will DCM staff determine relevance to the potential impacts?

On line 16, how will the staff make this determination of worth?

On line 17, replace "will" with "shall" and state either "he or she" or "their" depending upon the language on line 6.

In (c), line 18, why are you spelling out "Division of Coastal Management" when you use DCM on lines 14 and 16?

On line 19, define "appropriately"

On line 20, when may this occur at the visit? Is it when the staff determines all requirements or met? When will it not occur? This needs to be included in the Rule.

On line 21, replace "must" with "shall"

On line 21, is the permit issuance the same as the written authorization on line 20?

Should this line read "All bulldozing permits shall be effective for 30 days." Is that what you mean?

In the History Note, line 24, I think you can just cite to 113A-107. If you wish to retain both cites, please separate them with semicolons like this: "113A-107(a); 113A-107(b);"

Why are you citing to G.S. 113-229 here? Is it because this type of permit can be granted for filling in or about estuarine waters?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: July 28, 2016

1 **15A NCAC 07H .1802 IS AMENDED AS PUBLISHED IN 30:18 NCR 1974 AS FOLLOWS:**
2

3 **15A NCAC 07H .1802 APPROVAL PROCEDURES**

4 (a) The applicant ~~must~~ shall contact the Division of Coastal Management ~~or local permit officer (LPO)~~ and complete
5 an application ~~form~~ requesting approval for development. The applicant shall provide information on site location,
6 dimensions of the project area, and ~~his~~ their name and address.

7 (b) The applicant must provide:

8 (1) confirmation that a written statement has been obtained signed by the adjacent riparian property
9 owners indicating that they have no objections to the proposed work; or

10 (2) confirmation that the adjacent riparian property owners have been notified by certified mail of the
11 proposed work. Such notice should instruct adjacent property owners to provide any comments on
12 the proposed development in writing for consideration by permitting officials to the Division of
13 Coastal Management within ten days of receipt of the notice, and, indicate that no response will be
14 interpreted as no objection. DCM staff will review all comments and determine, based on their
15 relevance to the potential impacts of the proposed project, if the proposed project can be approved
16 by a General Permit. If DCM staff finds that the comments are worthy of more in-depth review, the
17 applicant will be notified that he must submit an application for a major development permit.

18 (c) No work shall begin until an on-site meeting is held with the applicant and ~~appropriate LPO or~~ Division of Coastal
19 Management representative so that the existing first line of stable natural vegetation can be appropriately marked and
20 recorded on the application. Written authorization to proceed with the proposed development may be issued during
21 this visit. All bulldozing must be completed within 30 days of the date of permit issuance or the general authorization
22 expires.

23
24 *History Note: Authority G. S. 113-229(c1); 113A-107(a)(b); 113A-113(b); 113A-118.1;*
25 *Eff. December 1, 1987;*
26 *Amended Eff. September 1, 2016; January 1, 1990.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1804

DEADLINE FOR RECEIPT: Thursday, August 11, 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:

On the Submission for Permanent Rule form, Box 9B, should the citation be to 07H .1804(a), rather than 07H .0306(a)?

In (a), line 6, what is an "authorized representative"?

On line 7, who will deem the time necessary?

What are "terms and conditions described herein." Do you mean in the 07H .1800 rules, or in the permit?

In (b), line 9, replace "will" with "shall"

On lines 11-12, I suggest breaking this down into a list for ease of reading.

On line 14, do you have a rule with contact information for DNCR? If not, how will people know the contact information?

On line 14, please define "immediately"

In (c), line 15, replace "does" with "shall" And what is the purpose of this sentence? Do you need it?

In (d), line 16, replace "must" with "shall"

Also on line 16, what are the local requirements? Does your regulated public know?

On line 17, by "current" do you mean "in effect" or "effective"? If so, why not state that?

In the History Note, I think you can just cite to 113A-107. If you wish to retain both cites, please separate them with semicolons like this: "113A-107(a); 113A-107(b);"

Amanda J. Reeder
Commission Counsel
Date submitted to agency: July 28, 2016

Why are you citing to G.S. 113-229 here? Is it because this type of permit can be granted for filling in or about estuarine waters?

Do you have a specific cite for authority to inspect that you would like to add to the History Note?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: July 28, 2016

1 **15A NCAC 07H .1804 IS AMENDED AS PUBLISHED IN 30:18 NCR 1974 AS FOLLOWS:**

2
3 **15A NCAC 07H .1804 GENERAL CONDITIONS**

4 ~~(a) Any future setback determinations which may be required shall be made using the first line of stable natural~~
5 ~~vegetation established prior to the bulldozing activity.~~

6 ~~(b)~~(a) Individuals shall allow authorized representatives of the Department of ~~Environment and Natural Resources~~
7 Environmental Quality to make periodic inspections at any time deemed necessary to ensure that the activity being
8 performed under authority of this general permit is in accordance with the terms and conditions prescribed herein.

9 ~~(c)~~(b) This permit will not be applicable to proposed construction where the Department has determined, based on an
10 initial review of the application, that notice and review pursuant to G.S. 113A-119 is necessary because there are
11 unresolved questions concerning the proposed activity's impact on adjoining properties or on water quality; air quality;
12 coastal wetlands; cultural or historic sites; wildlife; fisheries resources; or public trust rights. If a shipwreck is
13 unearthed, all work shall stop and both the ~~Division of Archives and History and Coastal Management~~ Department of
14 Natural and Cultural Resources and the Division of Coastal Management shall be contacted immediately.

15 ~~(d)~~(c) This permit does not eliminate the need to obtain any other required state, local or federal authorization.

16 ~~(e)~~(d) Development carried out under this permit must be consistent with all local requirements, ~~AEC Commission~~
17 rules, and local Land Use Plans current at the time of authorization.

18
19 *History Note: Authority G.S. 113-229(c1); 113A-107(a)(b); 113A-113(b); 113A-118.1;*
20 *Eff. December 1, 1987;*
21 *Amended Eff. May 1, 1990;*
22 *RRC Objection due to ambiguity Eff. May 19, 1994;*
23 *Amended Eff. September 1, 2016; August 1, 1998; July 1, 1994.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1805

DEADLINE FOR RECEIPT: Thursday, August 11, 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:

In (a), line 4, replace "in which" with "where"

On line 4, consider replacing "must" with "shall"

On lines 5 and 6, who will determine what is "as closely as possible"?

On line 7, insert a comma after "scraper"

In (b), line 9, replace "must" with "shall"

I suggest rewriting lines 9 and 10 to state "... property without the written permission of the adjoining landowner(s)."

In (c), do you mean to state that the permits shall not authorize movement of material from seaward of the mean low water line? If so, why not state that?

In (d), line 12, replace "must" with "shall"

In (e), line 13, what is "minimized"?

On line 14, define "immediately" "temporarily" and "successfully"

In (f), line 16, delete the comma after "year"

On line 16, with the deletion of "prior" you are now allowing permission after the fact. Is that the intent?

On line 17, please insert a comma after "Wildlife Service"

On line 18, what does "adversely impact" mean? Is this defined somewhere, or does your regulated public know?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: July 28, 2016

In (g), line 21, replace “must” with “shall”

On line 21, how will the public know how to contact the Division of Energy, Mineral, and Land Resources?

Also on line 21, define “appropriate”

In the History Note, I think you can just cite to 113A-107. If you wish to retain both cites, please separate them with semicolons like this: “113A-107(a); 113A-107(b);”

Why are you citing to G.S. 113-229 here? Is it because this type of permit can be granted for filling in or about estuarine waters?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: July 28, 2016

1 **15A NCAC 07H .1805 IS AMENDED AS PUBLISHED IN 30:18 NCR 1794-1975 AS FOLLOWS:**

2

3 **15A NCAC 07H .1805 SPECIFIC CONDITIONS**

4 (a) The area in which this activity is being performed must maintain a slope of adequate grade so as to not endanger
5 ~~the public or the public's use of the beach and should follow~~ that follows the pre-emergency slopes as closely as
6 ~~possible.~~ possible so as not to endanger the public or the public's use of the beach. The movement of material by a
7 bulldozer, front-end loader, backhoe, scraper or any type of earth moving or construction equipment shall not exceed
8 ~~± one~~ one foot in depth measured from the pre-activity surface elevation.

9 (b) The activity must not exceed the lateral bounds of the applicant's property unless ~~he has~~ the written permission of
10 the adjoining ~~landowner(s).~~ property owner(s) is obtained.

11 (c) Movement of material from seaward of the mean ~~high~~ low water line is not authorized.

12 (d) The activity must not ~~demonstratively~~ increase erosion on neighboring properties.

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

15 (f) In order to minimize adverse impacts to nesting sea turtles, no work shall occur within the period of ~~May~~ April 1
16 through November 15 of any year, without the ~~prior~~ approval of the Division of Coastal Management, in coordination
17 with the North Carolina Wildlife Resources Commission, the United States Fish and Wildlife Service and the United
18 States Army Corps of Engineers, that the work can be accomplished without adversely impacting sea turtle nests or
19 suitable nesting habitat.

20 (g) If one contiguous acre or more of oceanfront property is to be excavated or filled, an erosion and sedimentation
21 control plan must be filed with the Division of Energy, Mineral, and Land Resources, or appropriate local government
22 having jurisdiction. This plan must be approved prior to commencing the land disturbing activity.

23

24 *History Note: Authority G.S. 113-229(c1); 113A-107(a)(b); 113A-113(b); 113A-118.1;*

25 *Eff. December 1, 1987;*

26 *Temporary Amendment Eff. September 2, 1998;*

27 *Amended Eff. September 1, 2016; August 1, 2012 (see S.L. 2012-143, s.1.(f)); August 1, 2000.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2505

DEADLINE FOR RECEIPT: Thursday, August 11, 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:

In (a), line 5, define "immediately"

In (b), line 8, please insert a comma after "minor development permits"

In (c), line 17, please insert a comma after "breakwaters"

On line 21, I understand why you are cross-referencing Paragraph (q) of Rule 15A NCAC 07H .1205, but the diagram is in Paragraph (t). Do you want to just state Rule 15A NCAC 07H .1205 instead of the specific paragraph?

On line 22, do you need to let people know where to get the diagram here? The diagram is in Rule 15A NCAC 07H .1205, and that Rule tells people that copies can be gotten from the Division.

On line 24, who determines the extent practicable?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: July 28, 2016

1 15A NCAC 07H .2505 IS AMENDED **WITH CHANGES** AS PUBLISHED IN 30:18 NCR 1975 AS FOLLOWS:

2
3 **15A NCAC 07H .2505 SPECIFIC CONDITIONS**

4 (a) The replacement of a damaged or destroyed structure shall take place within the footprint and dimensions that
5 existed immediately prior to the damaging hurricane or tropical storm. No structural enlargement or additions shall
6 be allowed.

7 (b) Structure replacement, dune reconstruction, and maintenance excavation authorized by this permit shall conform
8 to the existing use standards and regulations for exemptions, minor development permits and major development
9 permits, including general permits. These use standards include, but are not limited to:

- 10 (1) 15A NCAC 07H .0208(b)(6) for the replacement of docks and piers;
11 (2) 15A NCAC 07H .0208(b)(7) for the replacement of bulkheads and shoreline stabilization measures;
12 (3) 15A NCAC 07H .0208(b)(9) for the replacement of wooden and riprap groins;
13 (4) 15A NCAC 07H .1500 for maintenance excavation activities; and
14 (5) 15A NCAC 07H .1800 for beach bulldozing ~~landward of the mean high water mark.~~ **in the** Ocean
15 Hazard AEC.

16 (c) The replacement of an existing dock or pier facility, including associated structures, marsh enhancement
17 breakwaters or groins shall be set back 15 feet from the adjoining property lines and the riparian access dividing line.
18 The line of division of riparian access shall be established by drawing a line along the channel or deep water in front
19 of the property, then drawing a line perpendicular to the line of the channel so that it intersects with the shore at the
20 point the upland property line meets the water's edge. Application of this Rule may be aided by reference to the
21 approved diagram in 15A NCAC 07H .1205(q), illustrating the rule as applied to various shoreline configurations.
22 Copies of the diagram may be obtained from the Division of Coastal Management. When shoreline configuration is
23 such that a perpendicular alignment cannot be achieved, the pier shall be aligned to meet the intent of this Rule to the
24 maximum extent practicable. The setback may be waived by written agreement of the adjacent riparian owner(s) or
25 when the two adjoining riparian owners are co-applicants. Should the adjacent property be sold before replacement
26 of the structure begins, the applicant shall obtain a written agreement with the new owner waiving the minimum
27 setback and submit it to the Division of Coastal Management prior to initiating any construction of the structure.

28
29 *History Note: Authority G.S. 113A-107; 113A-118.1;*
30 *Temporary Adoption Eff. October 2, 1999;*
31 *Temporary Adoption Expired on July 28, 2000;*
32 *Eff. April 1, 2001;*
33 *Amended Eff. September 1, 2016.*