

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1301

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Formatting is incorrect. See 26 NCAC 02C .0108. Please fix.

Active voice should be used saying who shall do what. "Persons planning to do X in Y areas shall apply for a general permit..." "This permit shall..." means nothing and this would therefore not be a rule.

Line 8, "according to the authority provided in Subchapter...", rules do not provide authority. Change the language.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .1301 is readopted as published in 34:09 NCR 758 as follows:

2

3 **SECTION .1300 – GENERAL PERMIT TO CONSTRUCT BOAT RAMPS ALONG ESTUARINE AND**
4 **PUBLIC TRUST SHORELINES AND INTO ESTUARINE AND PUBLIC TRUST WATERS**

5

6 **15A NCAC 07H .1301 PURPOSE**

7 A permit under this Section shall allow for the construction of boat ramps along estuarine and public trust shorelines
8 and into estuarine and public trust waters AECs according to the authority provided in Subchapter 07J .1100 and
9 according to the Rules in this Section. This permit shall not apply to oceanfront shorelines or to waters and
10 shorelines adjacent to the Ocean Hazard AEC with the exception of those shorelines that feature characteristics of
11 the Estuarine Shoreline AEC. Such features include the presence of wetland vegetation, lower wave energy, and
12 lower erosion rates than the adjacent Ocean Erodible Area.

13

14 *History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124;*

15 *Eff. March 1, 1984;*

16 *Amended Eff. April 1, 2003; August 1, 2000;*

17 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1302

DEADLINE FOR RECEIPT: Friday, July 18, 2022

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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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Each "Approval Procedures" Rule should be the same format and language in those cases where the substantially similar requirement is being enumerated. Please choose language and a format and use it throughout.

Paragraph (a), the applicant shall contact the Division where?

Paragraph (a), after Division of Coastal Management, please add (DCM) or ("DCM").

Paragraph (a), is "development" a defined term? Please define.

Paragraph (a), on line 5, it states "The applicant shall provide..." and then Paragraph (b) begins with the same language. Move "information on site location, dimensions of the project area, and his or her name and address" down to (1) of the Subparagraphs, and renumber the others.

Subparagraph (a)(1), add a comma between "obtained" and "signed". Also, delete "that they have".

Subparagraph (a)(2), line 11, delete "instruct", replace with "state that", change from "to provide" to "may provide".

Subparagraph (a)(2), change Division of Coastal Management to DCM.

Subparagraph (a)(2), line 13, delete the comma after "notice" and "and", and delete "indicate".

Subparagraph (a)(2), starting "DCM staff shall review..." is objectionable due to problems with clarity and ambiguity. By what criteria are comments relevant? "if the proposed project can be approved by a General Permit" – Is anything approved "by a permit"? Would a project be denied a permit based on comments?

Lawrence R. Duke
Commission Counsel

Date submitted to agency: July 13, 2022

Subparagraph (a)(2), line 17, please change “he must” to “he or she shall”.

Paragraph (c), line 18, delete or define “appropriate”. Change Division of Coastal Management to DCM. In that same sentence, what does “appropriately” mean? Delete or define criteria.

Paragraph (c), when the Rule states “Written authorization to proceed”, why not simply say “Permit”. Use active voice. Should read: “The DCM representative may issue a permit for the proposed development during the on-site meeting.”

Paragraph (c), change “of this visit” to “of permit issuance”. Change “general authorization” to “permit”.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .1302 is readopted as published in 34:09 NCR 758 as follows:

2

3 **15A NCAC 07H .1302 APPROVAL PROCEDURES**

4 (a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management and
5 request approval for development. The applicant shall provide information on site location, dimensions of the project
6 area, and his name and address.

7 (b) The applicant shall 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. The notice shall instruct adjacent property owners to provide written comments on
12 the proposed development to the Division of Coastal Management within ten days of receipt of the
13 notice, and, indicate that no response shall be interpreted as no objection. DCM staff shall review
14 all comments and determine, based on their relevance to the potential impacts of the proposed
15 project, if the proposed project can be approved by a General Permit. If DCM staff determines that
16 the project exceeds the guidelines established by the General Permit Process, DCM shall notify the
17 applicant 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 Division of Coastal
19 Management representative so that the proposed boat ramp alignment may be appropriately marked. Written
20 authorization to proceed with the proposed development may be issued during this visit. Construction of the boat
21 ramp structure shall be completed within 120 days of this visit or the general authorization shall expire.

22

23 *History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124;*
24 *Eff. March 1, 1984;*
25 *Amended Eff. August 1, 2007; September 1, 2006; January 1, 1990;*
26 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1303

DEADLINE FOR RECEIPT: Friday, July 18, 2022

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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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Spell out which "Department" is intended.

Should include language stating that fees collected shall not exceed 1/3 of the personnel and administrative costs of the Division of Coastal Management.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .1303 is readopted as published in 34:09 NCR 758 as follows:

2

3 **15A NCAC 07H .1303 PERMIT FEE**

4 The applicant shall pay a permit fee of two hundred dollars (\$200.00) by check or money order payable to the
5 Department.

6

7 *History Note: Authority G.S. 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113A-119.1; 113A-124;*

8 *Eff. March 1, 1984;*

9 *Amended Eff. September 1, 2006; August 1, 2000; March 1, 1991;*

10 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1304

DEADLINE FOR RECEIPT: Friday, July 18, 2022

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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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Each Rule that has “Department of Environment and Natural Resources” may be objected to on ambiguity/clarity grounds simply because it is obvious no one at the “Department” or the “Division” looked at the Rule before readoption. It is not RRC Counsel’s job to clean up your rules, particularly when it is evident that no effort has been made by CRC staff.

Paragraph (a) is unnecessary because it is stated in another rule.

Paragraph (b) should start “Permitees”, no authority over “individuals”.

Paragraph (c), define “unreasonable” or remove from Rule.

Paragraph (d) is objectionable for clarity/ambiguity. Fix.

Paragraphs (e) and (f) need to be deleted as unnecessary.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .1304 is readopted as published in 34:09 NCR 758 as follows:

2

3 **15A NCAC 07H .1304 GENERAL CONDITIONS**

4 (a) Structures authorized by this permit shall be non-commercial boat ramps constructed of acceptable material and
5 conforming to the standards herein.

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

9 (c) There shall be no unreasonable interference with navigation or public use of the waters during or after construction.

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

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

15 (f) Development carried out under this permit must be consistent with all local requirements, AEC rules, and local
16 land use plans current at the time of authorization.

17

18 *History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124;*

19 *Eff. March 1, 1984;*

20 *Amended Eff. May 1, 1990;*

21 *RRC Objection due to ambiguity Eff. May 19, 1994;*

22 *Amended Eff. August 1, 1998; July 1, 1994;*

23 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1305

DEADLINE FOR RECEIPT: Friday, July 18, 2022

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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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Paragraph (a), "normal high water level or normal water level" is used several times in several rules. Some use (NHW) or (NWL) or something like that. Be consistent.

Paragraph (b), what does "absolutely necessary" or "adequate" mean? Delete or define.

Paragraph (d), remove parenthesis.

Paragraph (k), delete parenthesis on line 31 and comma immediately afterwards.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .1305 is readopted as published in 34:09 NCR 758 as follows:

2
3 **15A NCAC 07H .1305 SPECIFIC CONDITIONS**

4 (a) Boat ramps shall be no wider than 15 feet and shall not extend more than 20 feet waterward of the normal high
5 water level or normal water level.

6 (b) Excavation and ground disturbing activities above and below the normal high water level or normal water level
7 will be limited to that absolutely necessary to establish adequate ramp slope and provide a ramp no greater in size than
8 specified by this general permit.

9 (c) Placement of fill materials below normal high water level, or normal water level, will be limited to the ramp
10 structure and any associated riprap groins. Boat ramps may be constructed of concrete, wood, steel, clean riprap, marl,
11 or any other suitable equivalent materials approved by the Division of Coastal Management. No coastal wetland
12 vegetation shall be excavated or filled at any time during construction.

13 (d) The permit set forth in this Section allows for up to a six-foot wide launch access dock (fixed or floating)
14 immediately adjacent to a new or existing boat ramp. The length shall be limited to the length of the permitted boat
15 ramp (with a maximum length of 20 feet waterward of the normal high water level or normal water level). No
16 permanent slips are authorized by this permit.

17 (e) Groins shall be allowed as a structural component on one or both sides of a new or existing boat ramp to reduce
18 scouring. The groins shall be limited to the length of the permitted boat ramp (with a maximum length of 20 feet
19 waterward of the normal high water level or normal water level).

20 (f) The height of sheetpile groins shall not exceed one foot above normal high water level or normal water level and
21 the height of riprap groins shall not exceed two feet above normal high water level or normal water level.

22 (g) Riprap groins shall not exceed a base width of five feet.

23 (h) Material used for groin construction shall be free from loose dirt or any other pollutant. Riprap material must be
24 of sufficient size to prevent its movement from the approved alignment by wave action or currents.

25 (i) "L" and "T" sections shall not be allowed at the end of groins.

26 (j) Groins shall be constructed of granite, marl, concrete without exposed rebar, timber, vinyl sheet pile, steel sheet
27 pile, or other suitable equivalent materials approved by the Division of Coastal Management.

28 (k) Boat ramps and their associated structures authorized under this permit shall not interfere with the access to any
29 riparian property and shall have a minimum setback of 15 feet between any part of the boat ramp or associated
30 structures and the adjacent property owners' areas of riparian access. The minimum setbacks provided in the rule may
31 be waived by the written agreement of the adjacent riparian owner(s), or when two adjoining riparian owners are co-
32 applicants. Should the adjacent property be sold before construction of the boat ramp or associated structures
33 commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and
34 submit it to the Division of Coastal Management prior to initiating any development of the boat ramp or associated
35 structures authorized under this permit.

36
37 *History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124;*

- 1 *Eff. March 1, 1984;*
- 2 *Amended Eff. August 1, 2014;*
- 3 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1401

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In reviewing this Rule, the staff recommends the following changes be made:

Active voice should be used saying who shall do what. "Persons planning to do X in Y areas shall apply for a general permit..." "This permit shall..." means nothing and this would therefore not be a rule.

Line 8, "according to the authority provided in Subchapter...", rules do not provide authority. Change the language.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .1401 is readopted as published in 34:09 NCR 758 as follows:

2
3 **SECTION .1400 - GENERAL PERMIT FOR CONSTRUCTION OF GROINS IN ESTUARINE AND**
4 **PUBLIC TRUST WATERS AND OCEAN HAZARD AREAS**

5
6 **15A NCAC 07H .1401 PURPOSE**

7 A permit under this section shall allow the construction of groins in the estuarine and public trust waters AECs
8 according to the authority provided in Subchapter 07J .1100 and according to the rules in this Section. This general
9 permit shall not apply to the oceanfront shorelines or to waters and shorelines adjacent to the Ocean Hazard AEC with
10 the exception of those shorelines that feature characteristics of the Estuarine Shoreline AEC. Such features include
11 the presence of wetland vegetation, lower wave energy, and lower erosion rates than the adjacent Ocean Erodible
12 Area.

13
14 *History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124(c);*
15 *Eff. March 1, 1984;*
16 *Temporary Amendment Eff. December 1, 2002;*
17 *Amended Eff. February 1, 2009; August 1, 2004; April 1, 2003;*
18 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1402

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In reviewing this Rule, the staff recommends the following changes be made:

Each "Approval Procedures" Rule should be the same format and language in those cases where the substantially similar requirement is being enumerated. Please choose language and a format and use it throughout. See all comments for .1302: they apply here.

Paragraph (d), what is the process for "prior approval"? How does this work? It should be laid out in a rule.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .1402 is readopted as published in 34:09 NCR 758 as follows:

2
3 **15A NCAC 07H .1402 APPROVAL PROCEDURES**

4 (a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management and
5 request approval for development. The applicant shall provide information on site location, dimensions of the project
6 area, and the applicant's name and address.

7 (b) The applicant shall 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. The notice shall instruct adjacent property owners to provide written comments on
12 the proposed development to the Division of Coastal Management within 10 days of receipt of the
13 notice. The notice shall also indicate that no response shall be interpreted as no objection. The
14 Division of Coastal Management shall review all comments and determine, based on their relevance
15 to the potential impacts of the proposed project, if the proposed project can be approved by a General
16 Permit. If the Division of Coastal Management determines that the project exceeds the rules
17 established by the General Permit process, the applicant shall be notified that an application for a
18 major development permit shall be required.

19 (c) No work shall begin until an on-site meeting is held with the applicant and a Division of Coastal Management
20 representative so that the proposed groin alignment can be marked. Written authorization to proceed with the proposed
21 development shall be issued during this visit. Construction shall be completed within 120 days of the issuance of the
22 permit or the authorization shall expire and it shall be necessary to re-examine the alignment to determine if the general
23 authorization may be reissued.

24 (d) Any modification or addition to the authorized project shall require prior approval from the Division of Coastal
25 Management.

26
27 *History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124;*

28 *Eff. March 1, 1984;*

29 *Amended Eff. February 1, 2009; October 1, 2007; August 1, 2004; May 1, 1990; January 1, 1990;*

30 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1403

DEADLINE FOR RECEIPT: Friday, July 18, 2022

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In reviewing this Rule, the staff recommends the following changes be made:

See comments for .1303. Those comments apply here. Fix it.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .1403 is readopted as published in 34:09 NCR 758 as follows:

2

3 **15A NCAC 07H .1403 PERMIT FEE**

4 The applicant shall pay a permit fee of two hundred dollars (\$200.00) by check or money order payable to the
5 Department.

6

7 *History Note: Authority G.S. 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113A-119.1; 113A-124;*

8 *Eff. March 1, 1984;*

9 *Amended Eff. September 1, 2006; August 1, 2000; March 1, 1991;*

10 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1404

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In reviewing this Rule, the staff recommends the following changes be made:

Each Rule that has “Department of Environment and Natural Resources” may be objected to on ambiguity/clarity grounds simply because it is obvious no one at the “Department” or the “Division” looked at the Rule before readoption. It is not RRC Counsel’s job to clean up your rules, particularly when it is evident that no effort has been made by CRC staff.

Paragraph (a), what does “conforming to the standards of this Rule” mean? It is unnecessary and should be deleted.

Paragraphs (e) and (f) need to be deleted as unnecessary.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .1404 is readopted as published in 34:09 NCR 758 as follows:

2

3 **15A NCAC 07H .1404 GENERAL CONDITIONS**

4 (a) Structures authorized by a general permit in this Section shall be timber, sheetpile, or riprap groins conforming to
5 the standards in this Rule.

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

9 (c) The placement of groins authorized in this Rule shall not interfere with the established or traditional rights of
10 navigation of the waters by the public.

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

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

17 (f) Development carried out under this permit shall be consistent with all local requirements, AEC rules, and local
18 land use plans current at the time of authorization.

19

20 *History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124;*

21 *Eff. March 1, 1984;*

22 *Amended Eff. May 1, 1990;*

23 *RRC Objection due to ambiguity Eff. May 16, 1994;*

24 *Amended Eff. August 1, 1998; July 1, 1994;*

25 *Temporary Amendment Eff. December 1, 2002;*

26 *Amended Eff. February 1, 2009; August 1, 2004;*

27 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1405

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In reviewing this Rule, the staff recommends the following changes be made:

Paragraph (c), line 8, delete "(s)".

Paragraph (e), what is a "pollutant"? Is it defined somewhere? Define.

Paragraph (f), objectionable for clarity/ambiguity. Fix.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .1405 is readopted as published in 34:09 NCR 758 as follows:

2

3 **15A NCAC 07H .1405 SPECIFIC CONDITIONS**

4 (a) Groins shall be perpendicular to the shoreline and shall not extend more than 25 feet waterward of the normal
5 high water or normal water level.

6 (b) Riprap groins shall not exceed a base width of 10 feet.

7 (c) Groins shall be set back at least 15 feet from the riparian access dividing line as measured from the closest point
8 of the structure. This setback may be waived by written agreement of the adjacent riparian owner(s) or when two
9 adjoining riparian owners are co-applicants. Should the adjacent property be sold before construction of the groin
10 commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and
11 submit it to the Division of Coastal Management prior to initiating any development of the groin.

12 (d) The height of sheetpile groins shall not exceed one foot above normal high water or the normal water level and
13 the height of riprap groins shall not exceed two feet above normal high water or the normal water level.

14 (e) Material used for groin construction shall be free from loose dirt or any other pollutant. Groin material must be
15 of sufficient size to prevent its movement from the site by wave action or currents.

16 (f) Structure spacing shall be two times the groin length as measured from the centerline of the structure. Spacing
17 may be less than two times the groin length around channels, docking facilities, boat lifts, or boat ramps and when
18 positioned to prevent sedimentation or accretion in a particular area.

19 (g) "L" and "T" sections shall not be allowed at the end of groins.

20 (h) Groins shall be constructed of granite, marl, concrete without exposed rebar, timber, vinyl sheet pile, steel sheet
21 pile or other suitable equivalent materials approved by the Division of Coastal Management.

22

23 *History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124;*

24 *Eff. March 1, 1984;*

25 *Temporary Amendment Eff. December 1, 2002;*

26 *Amended Eff. February 1, 2009; August 1, 2004;*

27 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1501

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In reviewing this Rule, the staff recommends the following changes be made:

Active voice should be used saying who shall do what. "Persons planning to do X in Y areas shall apply for a general permit..." "This permit shall..." means nothing and this would therefore not be a rule.

Add a comma after "public trust waters".

"This general permit is also subject to the procedures outline in Subchapter 07J .1100." is unnecessary. Delete.

History Note: Authority, 113-229(c1) is not a statute. Do you mean 229(c1)?

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .1501 is readopted as published in 34:09 NCR 758 as follows:

2

3 **SECTION .1500 - GENERAL PERMIT FOR EXCAVATION WITHIN OR CONNECTING TO EXISTING**
4 **CANALS, CHANNELS, BASINS, OR DITCHES IN ESTUARINE WATERS, PUBLIC TRUST WATERS,**
5 **AND COASTAL SHORELINE AECS**

6

7 **15A NCAC 07H .1501 PURPOSE**

8 This permit for excavation within or connecting to existing canals, channels, basins, or ditches in estuarine waters,
9 public trust waters and coastal shoreline AECs shall allow excavation within existing canals, channels, basins, and
10 ditches in estuarine and public trust waters for the purpose of maintaining water depths and creating new boat basins
11 from non-wetland areas that will be used for private, non-commercial activities. This general permit is also subject to
12 the procedures outlined in Subchapter 07J .1100.

13

14 *History Note: Authority G.S. 113A-107(a),(b); 113A-113(b); 113A-118.1; 113-229(cl);*
15 *Eff. July 1, 1984;*
16 *Amended Eff. July 1, 2015; December 1, 1987;*
17 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1502

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Each "Approval Procedures" Rule should be the same format and language in those cases where the substantially similar requirement is being enumerated. Please choose language and a format and use it throughout. See all comments for .1302: they apply here.

History Note: Authority, 113-229(c1) is not a statute. Do you mean 229(c1)?

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .1502 is readopted as published in 34:09 NCR 758 as follows:

2
3 **15A NCAC 07H .1502 APPROVAL PROCEDURES**

4 (a) The applicant for a general permit for excavation within or connecting to existing canals, channels, basins, or
5 ditches in estuarine waters, public trust waters and coastal shoreline areas of environmental concern shall contact the
6 Division of Coastal Management and request approval for development. Applicants shall provide their name and
7 address, the site location, and the dimensions of the project area.

8 (b) The applicant must provide:

9 (1) A written statement signed by the adjacent riparian property owners indicating that they have no
10 objections to the proposed work; or

11 (2) Certified mail return receipts (or copies thereof) indicating that the adjacent riparian property owners
12 have been notified by certified mail of the proposed work. Such notice should instruct adjacent
13 property owners to provide any comments on the proposed development in writing for consideration
14 by permitting officials to the Division of Coastal Management within ten days of receipt of the
15 notice, and indicate that no response will be interpreted as no objection.

16 (c) DCM staff will review the permit request and comments and determine, based on the potential impacts of the
17 proposed project, whether the proposed project complies with the requirements of this Section and can be approved
18 by a General Permit. If DCM staff finds that the proposed project does not comply with the requirements of this
19 Section, the applicant will be notified that they must submit an application for a major development permit in
20 accordance with 15A NCAC 07J .0200.

21 (d) No work shall begin until an onsite meeting is held with the applicant and a Division of Coastal Management
22 representative to inspect and mark the proposed area of excavation and spoil disposal. Written authorization to
23 proceed with the proposed development may be issued during this site visit. All excavation shall be completed within
24 120 days of the date of permit issuance.

25
26 *History Note: Authority G.S. 113A-107(a),(b); 113A-113(b); 113A-118.1; 113-229(cl);*
27 *Eff. July 1, 1984;*
28 *Amended Eff. July 1, 2015; January 1, 1990; December 1, 1987;*
29 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1503

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

See comments for .1303. Same comments apply here.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .1503 is readopted as published in 34:09 NCR 758 as follows:

2

3 **15A NCAC 07H .1503 APPLICATION FEE**

4 The applicant shall pay a permit fee of two hundred dollars (\$200.00) for maintenance excavation of 100 cubic yards
5 or less or four hundred dollars (\$400.00) for maintenance excavation of 100 to 1,000 cubic yards. Permit fees shall
6 be paid by check or money order payable to the Department.

7

8 *History Note: Authority G.S. 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113A-119.1; 113A-124;*

9 *Eff. July 1, 1984;*

10 *Amended Eff. September 1, 2006; August 1, 2000; March 1, 1991;*

11 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1504

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

See comments for .1304.

Paragraph (d), under what authority can CRC have this in a Rule. If MF already has it, is it necessary? Delete.

Paragraphs (e) and (f) need to be deleted as unnecessary.

History Note: Authority, 113-229(c1) is not a statute. Do you mean 229(c1)?

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .1504 is readopted as published in 34:09 NCR 758 as follows:

2

3 **15A NCAC 07H .1504 GENERAL CONDITIONS**

4 (a) Individuals shall allow representatives of the Division of Coastal Management to make periodic inspections at
5 any time necessary to ensure that the activity being performed under authority of this general permit for excavation
6 within or connecting to existing canals, channels, basins, or ditches in estuarine waters, public trust waters and coastal
7 shoreline areas of environmental concern, is in accordance with the terms and conditions set forth in this Section.

8 (b) This general permit shall not be applicable to proposed maintenance excavation when the Division determines
9 that the proposed activity will adversely affect adjacent property.

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

14 (d) No new basins shall be allowed that result in closure of shellfish waters according to the closure policy of the
15 Division of Marine Fisheries, 15A NCAC 18A .0911.

16 (e) This permit shall not eliminate the need to obtain any other required state, local, or federal authorization, nor to
17 abide by regulations adopted by any federal or other state agency.

18 (f) Development carried out under this permit shall be consistent with all local requirements, AEC rules, and local
19 Land Use Plans current at the time of authorization.

20

21 *History Note: Authority G.S. 113A-107(a),(b); 113A-113(b); 113A-118.1; 113-229(cl);*

22 *Eff. July 1, 1984;*

23 *Amended Eff. May 1, 1990; December 1, 1987;*

24 *RRC Objection due to ambiguity Eff. May 19, 1994;*

25 *Amended Eff. July 1, 2015; August 1, 1998; July 1, 1994;*

26 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1505

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

The opening paragraph states “maintenance excavation” but Items (1), (2), and (3) are about “New basins”. This does not make sense and is objectionable. Fix.

Item (1), define “highground”. How is “existing” determined?

Item (2), use “feet”, not “ ’ ”.

Item (6), add a comma after “marsh”.

Item (7), delete parenthesis.

Item (8), add a comma after “basin”.

Item (9) is objectionable for clarity/ambiguity. Fix.

Item (10), delete “(whichever is applicable)”.

Item (13), what is the authority for this? What is the criteria on which suitable materials are measured?

Item (15), what is the authority for this?

History Note: Authority, 113-229(c1) is not a statute. Do you mean 229(c1)?

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .1505 is readopted as published in 34:09 NCR 758 as follows:

2
3 **15A NCAC 07H .1505 SPECIFIC CONDITIONS**

4 Proposed maintenance excavation shall meet each of the following specific conditions to be eligible for authorization
5 by this general permit.

- 6 (1) New basins shall be allowed only when they are located entirely in highground and join existing
7 man-made canals or basins.
- 8 (2) New basins shall be no larger than 50' in either length or width and no deeper than the waters they
9 join.
- 10 (3) New basins shall be for the private non-commercial use of the land owner.
- 11 (4) Maintenance excavation shall involve the removal of no more than 1,000 cubic yards of material as
12 part of a single and complete project.
- 13 (5) All excavated material shall be placed entirely on high ground above the mean high tide or ordinary
14 high water line, and above any marsh or other wetland.
- 15 (6) All spoil material shall be stabilized or retained so as to prevent any excavated material from
16 re-entering the surrounding waters, marsh or other wetlands.
- 17 (7) The proposed project shall not involve the excavation of any marsh, submerged aquatic vegetation
18 (as defined at 15A NCAC 03I .0101 by the Marine Fisheries Commission), or other wetlands.
- 19 (8) Maintenance excavation shall not exceed the original dimensions of the canal, channel, basin or
20 ditch and in no case be deeper than 6 feet below mean low water or ordinary low water, nor deeper
21 than connecting channels.
- 22 (9) Proposed excavation shall not promote or provide the opportunity for a change to a public or
23 commercial use at the time of project review.
- 24 (10) Maintenance excavation as well as excavation of new basins shall not be allowed within or with
25 connections to primary nursery areas without prior approval from the Division of Marine Fisheries
26 or Wildlife Resources Commission (whichever is applicable).
- 27 (11) Bulkheads shall be allowed as a structural component on one or more sides of the permitted basin
28 to stabilize the shoreline from erosion.
- 29 (12) The bulkhead shall not exceed a distance of two feet waterward of the normal high water or normal
30 water level at any point along its alignment.
- 31 (13) Bulkheads shall be constructed of vinyl or steel sheet pile, concrete, stone, timber, or other suitable
32 materials approved by the Division of Coastal Management. Approval of other suitable materials
33 shall be based upon the potential environmental impacts of the proposed material.
- 34 (14) All backfill material shall be obtained from an upland source pursuant to 15A NCAC 07H .0208.
35 The bulkhead shall be constructed prior to any backfilling activities and shall be structurally tight
36 so as to prevent seepage of backfill materials through the structure.

1 (15) Construction of bulkhead authorized by this general permit in conjunction with bulkhead authorized
2 under 15A NCAC 07H .1100 shall be limited to a combined maximum shoreline length of 500 feet.
3

4 *History Note: Authority G.S. 113A-107(a),(b); 113A-113(b); 113A-118.1; 113-229(c);*
5 *Eff. July 1, 1984;*
6 *Amended Eff. July 1, 2015; September 1, 1988; December 1, 1987;*
7 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1601

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Active voice should be used saying who shall do what. "Persons planning to do X in Y areas shall apply for a general permit..." "This permit shall..." means nothing and this would therefore not be a rule.

Lines 9-10, "according to the authority provided in Subchapter...", rules do not provide authority. Change the language. Also, "according rules in this Section" is unnecessary. Delete.

History Note: Authority, 113-229(cl) is not a statute. Do you mean 229(c1)? Also, put the statutes in numerical order.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .1601 is readopted as published in 34:09 NCR 759 as follows:

2

3 **SECTION .1600 - GENERAL PERMIT FOR THE INSTALLATION OF AERIAL AND SUBAQUEOUS**
4 **UTILITY LINES WITH ATTENDANT STRUCTURES IN COASTAL WETLANDS: ESTUARINE**
5 **WATERS: PUBLIC TRUST WATERS AND ESTUARINE SHORELINES**

6

7 **15A NCAC 07H .1601 PURPOSE**

8 A permit under this Section shall allow for the installation of utility lines both aerially and subaqueously in the coastal
9 wetland, estuarine water, public trust areas and estuarine and public trust shoreline AECs according to the authority
10 provided in Subchapter 7J .1100 and according rules in this Section. This general permit shall not apply to the ocean
11 hazard AECs.

12

13 *History Note: Authority G.S. 113-229(c1); 113A-107(a)(b); 113A-113(b); 113A-118.1;*
14 *Eff. March 1, 1985;*
15 *Amended Eff. August 1, 2000; August 1, 1998;*
16 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1602

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Each "Approval Procedures" Rule should be the same format and language in those cases where the substantially similar requirement is being enumerated. Please choose language and a format and use it throughout. See comments for .1302.

History Note: Authority, 113A-229(c1) is not a statute. Do you mean 113-229(c1)?

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .1602 is readopted as published in 34:09 NCR 759 as follows:

2

3 **15A NCAC 07H .1602 APPROVAL PROCEDURES**

4 (a) The applicant must contact the Division of Coastal Management and complete an application form requesting
5 approval for development. The applicant shall provide information on site location, dimensions of the project area,
6 and his 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 Division of Coastal
19 Management representative so that the utility line alignment can be appropriately marked. Written authorization to
20 proceed with the proposed development will be issued during this visit. Construction on the utility line must begin
21 within twelve months of this visit or the general authorization expires.

22

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

24 *Eff. March 1, 1985;*

25 *Amended Eff. January 1, 1990;*

26 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1603

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

See comments for .1303. Those apply here. Fix.

History Note: Authority, for 113-229(c1), put the statutes in numerical order.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .1603 is readopted as published in 34:09 NCR 759 as follows:

2

3 **15A NCAC 07H .1603 PERMIT FEE**

4 The applicant shall pay a permit fee of four hundred dollars (\$400.00) by check or money order payable to the
5 Department.

6

7 *History Note: Authority G.S. 113-229(c1); 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113A-119.1;*

8 *Eff. March 1, 1985;*

9 *Amended Eff. September 1, 2006; August 1, 2000; March 1, 1991;*

10 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1604

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

This Rule was obviously not reviewed before submission. Each Rule that has "Department of Environment and Natural Resources" may be objected to on ambiguity/clarity grounds simply because it is obvious no one at the "Department" or the "Division" looked at the Rule before re-adoption. It is not RRC Counsel's job to clean up your rules, particularly when it is evident that no effort has been made by CRC staff.

Paragraph (a), is "or" meant? Or should it be "are"? Delete "for any purpose".

Paragraph (b), first sentence, is unclear. Fix.

Paragraph (e), what is the authority for this?

Paragraph (f), delete "= ". This whole paragraph is objectionable.

Paragraphs (g) and (h) are unnecessary. Delete.

History Note: Authority, for 113-229(c1), put the statutes in numerical order.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .1604 is readopted as published in 34:09 NCR 759 as follows:

2

3 **15A NCAC 07H .1604 GENERAL CONDITIONS**

4 (a) Utility lines for the purpose of this general permit or any pipes or pipelines for the transportation of potable water,
5 domestic sanitary sewage, natural gas, and any cable, line, or wire for the transmission, for any purpose, of electrical
6 energy, telephone and telegraph messages, and radio and television communication.

7 (b) There must be no resultant change in preconstruction bottom contours. Authorized fill includes only that necessary
8 to backfill or bed the utility line. Any excess material must be removed to an upland disposal area.

9 (c) The utility line crossing will not adversely affect a public water supply intake.

10 (d) The utility line route or construction method will not disrupt the movement of those species of aquatic life
11 indigenous to the waterbody.

12 (e) Individuals shall allow authorized representatives of the Department of Environment, Health, and Natural
13 Resources to make periodic inspections at any time necessary to ensure that the activity being performed under
14 authority of this general permit is in accordance with the terms and conditions prescribed herein.

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

19 (g) This permit does not eliminate the need to obtain any other required state, local, or federal authorization, nor, to
20 abide by regulations adopted by any federal or other state agency.

21 (h) Development carried out under this permit must be consistent with all local requirements, AEC guidelines, and
22 local Land Use Plans current at the time of authorization.

23

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

25 *Eff. March 1, 1985;*

26 *Amended Eff. May 1, 1990;*

27 *RRC Objection due to ambiguity Eff. May 19, 1994;*

28 *Amended Eff. August 1, 1998; July 1, 1994;*

29 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1605

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Item (2), add a comma after “marsh”.

Item (3), reword for clarity: “must be sand or rock, clean and free of organic matter.”

Item (4) means what? Unclear.

Item (8), what does “in other areas” mean? Also, change “they will” to “subaqueous line must”.

Item (9), change “electricity will” to “electricity must”. Also, us “feet” instead of “ ”.

Item (10), where are these clearances found? Put it in the rule. Incorporate by reference.

Item (11), delete “Additionally:”.

History Note: Authority, for 113-229(c1), put the statutes in numerical order.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .1605 is readopted as published in 34:09 NCR 759 as follows:

2

3 **15A NCAC 07H .1605 SPECIFIC CONDITIONS**

4 Proposed utility line installations must meet each of the following specific conditions to be eligible for authorization
5 by this general permit:

- 6 (1) All domestic sanitary sewer line requests must be accompanied by a statement of prior approval
7 from the NC Division Water Quality.
- 8 (2) All spoils which are permanently removed must be placed on a high ground disposal site and
9 stabilized so as not to return to waters, marsh or other wetlands.
- 10 (3) Any additional backfill material required must be clean sand or rock free of organic matter.
- 11 (4) Cuts through wetlands must be minimized.
- 12 (5) Finished grades or subaqueous or wetland crossing must be returned to preproject contours.
- 13 (6) There can be no work within any productive shellfish beds.
- 14 (7) No excavation or filling activities will be permitted between April 1 and September 30 of any year
15 within any designated primary nursery area.
- 16 (8) Subaqueous lines must be placed at a depth of six feet below the project depth of federal projects.
17 In other areas they will be installed at a minimum depth of two feet below the bottom contour.
- 18 (9) The minimum clearance for aerial communication lines or any lines not transmitting electricity will
19 be 10' above the clearance required for bridges in the vicinity.
- 20 (10) The minimum clearance for aerial electrical transmission lines shall be consistent with those
21 established by the US Army Corps of Engineers and US Coast Guard.
- 22 (11) The installation of a utility line on pipe bents or otherwise above the elevation of mean high or mean
23 ordinary water must be of sufficient height to allow for traditional navigation in the water body.
24 Additionally the utility line must not interfere with the waterflow of normal or flood waters.
- 25 (12) Natural gas lines must not exceed 11 inches in diameter.

26

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

28 *Eff. March 1, 1985;*

29 *Amended Eff. August 1, 1998;*

30 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .1805

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

History Note: Authority, for 113-229(c1), put the statutes in numerical order.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .1805 is amended as published in 36:13 NCR 1126 as follows:

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15A NCAC 07H .1805 SPECIFIC CONDITIONS

(a) The area where beach bulldozing is being performed shall maintain a slope that follows the ~~pre-project pre-emergency~~ slopes as closely as possible so as not to endanger the public or the public's use of the beach. The movement of material by 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 without the written permission of the adjoining landowner(s).

(c) The permit shall not authorize movement of material from seaward of the mean low water line.

(d) Adding sand to dunes shall be accomplished in such a manner ~~that, based on site specific conditions, the tools used, what vegetation is existing, and how much vegetation is buried, the damage to existing vegetation by burial is minimized.~~ that the damage to existing vegetation is minimized. Upon completion of the project, the fill areas shall be replanted with native vegetation, such as Sea Oats (*Uniola paniculata*), or if outside the planting season, shall be stabilized with sand fencing until planting can occur.

(e) In order to minimize adverse impacts to ~~nesting sea turtles, threatened and endangered species,~~ no bulldozing shall occur inside the Ocean Hazard AEC within the period of April 1 through November 15 of any ~~year~~ year, or anytime inside an Inlet Hazard AEC without the prior approval of the Division of Coastal Management, in coordination with the North Carolina Wildlife Resources Commission, the United States Fish and Wildlife Service, and the United States Army Corps of ~~Engineers, that the work can be accomplished without significant adverse impact to sea turtle nests or suitable nesting habitat.~~ Engineers.

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

History Note: Authority G.S. 113-229(c1); 113A-107; 113A-113(b); 113A-118.1;
Eff. December 1, 1987;
Temporary Amendment Eff. September 2, 1998;
Amended Eff. September 1, 2016; August 1, 2012 (see S.L. 2012-143, s.1.(f)); August 1, 2000;
Readopted Eff. April 1, 2022;
Amended August 1, 2022.

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2001

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Active voice should be used saying who shall do what. "Persons planning to do X in Y areas shall apply for a general permit..." "This permit shall..." means nothing and this would therefore not be a rule.

See comments for .1301. Those apply here.

Lines 9-10, "according to the authority provided in Subchapter...", rules do not provide authority. Change the language.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2001 is readopted as published in 34:09 NCR 759 as follows:

2

3 **SECTION .2000 - GENERAL PERMIT FOR AUTHORIZING MINOR MODIFICATIONS AND REPAIR**
4 **TO EXISTING PIER/MOORING FACILITIES IN ESTUARINE AND PUBLIC TRUST WATERS AND**
5 **OCEAN HAZARD AREAS**

6

7 **15A NCAC 07H .2001 PURPOSE**

8 A permit under this Section shall allow for reconfiguration, minor modifications, repair and improvements to existing
9 pier and mooring facilities in estuarine waters and public trust areas according to the authority provided in Subchapter
10 07J .1100 of this Chapter and according to the rules in this Section. This permit shall not apply to oceanfront shorelines
11 or to waters and shorelines adjacent to the Ocean Hazard AEC with the exception of those shorelines that feature
12 characteristics of the Estuarine Shoreline AEC. Such features include the presence of wetland vegetation, lower wave
13 energy, and lower erosion rates than the adjacent Ocean Erodible Area.

14

15 *History Note: Authority G.S. 113A-107; 113A-118.1;*

16 *Eff. October 1, 1993;*

17 *Amended Eff. April 1, 2003;*

18 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2002

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Each "Approval Procedures" Rule should be the same format and language in those cases where the substantially similar requirement is being enumerated. Please choose language and a format and use it throughout. See comments for .1302. Those apply here.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2002 is readopted as published in 34:09 NCR 759 as follows:

2

3 **15A NCAC 07H .2002 APPROVAL PROCEDURES**

4 (a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management and
5 request approval for development. The applicant shall provide information on site location, dimensions of the project
6 area, and his/her name and address.

7 (b) The applicant shall provide:

8 (1) a dated plat(s) showing existing development and the proposed development; and

9 (2) confirmation that:

10 (A) a written statement has been obtained and signed by the adjacent riparian property owners
11 indicating that they have no objections to the proposed work; or

12 (B) the adjacent property owners have been notified by certified mail of the proposed work.
13 The notice shall instruct adjacent property owners to provide any comments on the
14 proposed development in writing for consideration by permitting officials to the Division
15 of Coastal Management within ten days of receipt of the notice, and, indicate that no
16 response will be interpreted as no objection.

17 (c) DCM staff shall review all comments. If DCM determines that the comments are relevant to the potential impacts
18 of the proposed project and the permitting issues raised by the comments are worthy of more detailed review, DCM
19 shall notify the applicant that he/she must submit an application for a major development permit.

20 (d) Approval of individual projects shall be acknowledged in writing by the Division of Coastal Management and the
21 applicant shall be provided a copy of this Section. Construction authorized by this permit shall be completed within
22 120 days of permit issuance or the general authorization expires and a new permit shall be required to begin or continue
23 construction.

24

25 *History Note: Authority G.S. 113A-107; 113A-118.1;*
26 *Eff. January 1, 1994;*
27 *Amended Eff. August 1, 2007;*
28 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2003

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

See comments for .1303. Those apply here.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2003 is readopted as published in 34:09 NCR 759 as follows:

2

3 **15A NCAC 07H .2003 PERMIT FEE**

4 The applicant shall pay a permit fee of two hundred dollars (\$200.00) by check or money order payable to the
5 Department.

6

7 *History Note: Authority G.S. 113A-107; 113A-118.1; 113A-119.1;*

8 *Eff. October 1, 1993;*

9 *Amended Eff. September 1, 2006; August 1, 2000;*

10 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2004

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Each Rule that has “Department of Environment and Natural Resources” may be objected to on ambiguity/clarity grounds simply because it is obvious no one at the “Department” or the “Division” looked at the Rule before readoption. It is not RRC Counsel’s job to clean up your rules, particularly when it is evident that no effort has been made by CRC staff.

Delete Paragraph (a), this is unnecessary.

Paragraph (c), what does “unreasonable” mean? Define or delete.

Paragraphs (e) and (f) are unnecessary. Delete.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2004 is readopted as published in 34:09 NCR 759 as follows:

2

3 **15A NCAC 07H .2004 GENERAL CONDITIONS**

4 (a) Structures authorized by this permit shall conform to the standards herein.

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

8 (c) There shall be no unreasonable interference with navigation or use of the waters by the public by the existence of
9 piers or mooring pilings.

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

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

15 (f) Development carried out under this permit must be consistent with all local requirements, AEC rules, and local
16 land use plans current at the time of authorization.

17 (g) This general permit will not be applicable where the Department determines that the proposed modification will
18 result in closure of waters to shellfishing under rules adopted by the Commission for Public Health.

19

20 *History Note: Authority G.S. 113A-107; 113A-118.1;*

21 *Eff. January 1, 1994;*

22 *Amended Eff. August 1, 1998;*

23 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2005

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Paragraph (a), use a different wording that does not use “nor”.

Paragraph (b), delete parenthesis, “(s)”.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2005 is readopted as published in 34:09 NCR 759 as follows:

2

3 **15A NCAC 07H .2005 SPECIFIC CONDITIONS**

4 (a) All proposed work must be carried out within the existing footprint of the development with no increase in the
5 number of slips nor any change in the existing use. "Existing footprint" is defined as the area delineated by the outer
6 most line of tie pilings, ends of piers, and upland basin or area within an enclosing breakwater, whichever is greater.

7 (b) Modifications to piers and mooring facilities shall not interfere with the access to any riparian property, and shall
8 have a minimum setback of 15 feet between any part of the pier(s) or piling(s) and the adjacent property lines extended
9 into the water at the points that they intersect the shoreline. The minimum setbacks provided in the rule may be waived
10 by the written agreement of the adjacent riparian owner(s), or when two adjoining riparian owners are co-applicants.
11 Should the adjacent property be sold before construction of the pier(s) or piling(s) commences, the applicant shall
12 obtain a written agreement with the new owner waiving the minimum setback and submit it to the Division of Coastal
13 Management prior to initiating any development. The line of division of areas of riparian access shall be established
14 by drawing a line along the channel or deep water in front of the property, then drawing a line perpendicular to a line
15 of the channel so that it intersects with the shore at the point the upland property line meets the water's edge. When
16 shoreline configuration is such that a perpendicular alignment cannot be achieved, the pier shall be aligned to meet
17 the intent of this rule to the maximum extent practicable.

18

19 *History Note: Authority G.S. 113A-107; 113A-118.1;*

20

Eff. October 1, 1993;

21

Readopted Eff. August 1, 2022.

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2101

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Active voice should be used saying who shall do what. "Persons planning to do X in Y areas shall apply for a general permit..." "This permit shall..." means nothing and this would therefore not be a rule.

Lines 9-10, "according to the authority provided in 15A NCAC 07J .1100", rules do not provide authority. Change the language. Also, delete "and according to the procedures and conditions outline in this subchapter" as it is unnecessary.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2101 is readopted as published in 34:09 NCR 759 as follows:

2

3 **SECTION .2100 - GENERAL PERMIT FOR CONSTRUCTION OF SHEETPILE SILL FOR SHORELINE**
4 **PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS AND OCEAN HAZARD AREAS**

5

6 **15A NCAC 07H .2101 PURPOSE**

7 A general permit pursuant to this Section shall allow the construction of offshore parallel sheetpile sills, constructed
8 from timber, vinyl, or steel sheetpiles for shoreline protection in conjunction with existing or created coastal wetlands.

9 This permit shall only be applicable in public trust areas and estuarine waters according to authority provided in 15A
10 NCAC 07J .1100 and according to the procedures and conditions outlined in this subchapter. This permit shall not
11 apply to oceanfront shorelines or to waters and shorelines adjacent to the Ocean Hazard AEC with the exception of
12 those shorelines that feature characteristics of Estuarine Shorelines. Such features include the presence of wetland
13 vegetation, lower wave energy, and lower erosion rates than in adjoining Ocean Erodible Area.

14

15 *History Note: Authority G.S. 113A-107; 113A-118.1;*

16 *Eff. June 1, 1994;*

17 *Amended Eff. February 1, 2009; April 1, 2003; August 1, 2000;*

18 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2102

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Each "Approval Procedures" Rule should be the same format and language in those cases where the substantially similar requirement is being enumerated. Please choose language and a format and use it throughout. See comments for .1302. Those apply here. Fix.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2102 is readopted as published in 34:09 NCR 759 as follows:

2
3 **15A NCAC 07H .2102 APPROVAL PROCEDURES**

4 (a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management and
5 request approval for development. The applicant shall provide information on site location, dimensions of the project
6 area, and the applicant's name and address.

7 (b) The applicant shall 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. The notice shall instruct adjacent property owners to provide written comments on
12 the proposed development to the Division of Coastal Management within 10 days of receipt of the
13 notice, and, indicate that no response shall be interpreted as no objection. The Division of Coastal
14 Management shall review all comments and determine, based on their relevance to the potential
15 impacts of the proposed project, if the proposed project can be approved by a General Permit. If the
16 Division of Coastal Management determines that the project exceeds the rules established by the
17 General Permit Process, DCM shall notify the applicant that an application for a major development
18 permit shall be required.

19 (c) No work shall begin until an on-site meeting is held with the applicant and a Division of Coastal Management
20 representative so that the proposed sill alignment may be marked. Written authorization to proceed with the proposed
21 development shall be issued if the Division representative finds that the application meets all the requirements of this
22 Subchapter. Construction of the sill shall be completed within 120 days of the issuance of the permit or the general
23 authorization shall expire and it shall be necessary to re-examine the alignment to determine if the general
24 authorization may be reissued.

25
26 *History Note: Authority G.S. 113A-107; 113A-118.1;*
27 *Eff. June 1, 1994;*
28 *Amended Eff. February 1, 2009; October 1, 2007; September 1, 2006; August 1, 2000;*
29 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2103

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

See comments for .1303. Those apply here.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2103 is readopted as published in 34:09 NCR 759 as follows:

2

3 **15A NCAC 07H .2103 PERMIT FEE**

4 The applicant shall pay a permit fee of two hundred dollars (\$200.00). This fee shall be paid by check or money order
5 made payable to the Department.

6

7 *History Note: Authority G.S. 113A-107; 113A-118.1; 113A-119.1;*

8 *Eff. June 1, 1994;*

9 *Amended Eff. September 1, 2006; August 1, 2000;*

10 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2104

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Each Rule that has "Department of Environment and Natural Resources" may be objected to on ambiguity/clarity grounds simply because it is obvious no one at the "Department" or the "Division" looked at the Rule before readoption. It is not RRC Counsel's job to clean up your rules, particularly when it is evident that no effort has been made by CRC staff.

Delete Paragraph (a), this is unnecessary.

Paragraphs (e) and (f) are unnecessary. Delete.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2104 is readopted as published in 34:09 NCR 759 as follows:

2

3 **15A NCAC 07H .2104 GENERAL CONDITIONS**

4 (a) This permit authorizes only the construction of sills conforming to the standards herein.

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

8 (c) The placement of sills authorized in this Rule shall not interfere with the established or traditional rights of
9 navigation of the water by the public.

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

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

16 (f) Development carried out under this permit shall be consistent with all local requirements, AEC rules, and local
17 land use plans current at the time of authorization.

18

19 *History Note: Authority G.S. 113A-107; 113A-118.1;*
20 *RRC Objection due to ambiguity Eff. May 19, 1994;*
21 *Eff. July 1, 1994;*
22 *Amended Eff. February 1, 2009; August 1, 1998;*
23 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2105

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Paragraph (c), how is it determined that insufficient wetland habitat exists? Based on what criteria? This is objectionable.

Paragraph (m), what does "in good condition" mean? With what authority does CRC impose the ongoing duty in this Paragraph?

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2105 is readopted as published in 34:09 NCR 760 as follows:

2
3 **15A NCAC 07H .2105 SPECIFIC CONDITIONS**

4 (a) The sill shall be positioned no more than 20 feet waterward of the normal high water or normal water level or 20
5 feet waterward of the waterward edge of existing wetlands at any point along its alignment. For narrow waterbodies
6 (canals, creeks, etc.) the sill alignment shall not be positioned offshore more than one sixth (1/6) the width of the
7 waterbody.

8 (b) Sills authorized under this General Permit shall be allowed only in waters that average less than three feet in depth
9 along the proposed alignment as measured from the normal high water or normal water level.

10 (c) Where the Division of Coastal Management staff determine that insufficient wetland habitat exists along the
11 permittee's shoreline to provide adequate shoreline stabilization, the permittee shall be required to plant appropriate
12 wetland species landward of the sill structure as directed by the Division of Coastal Management staff.

13 (d) Construction authorized by this general permit shall be limited to a maximum length of 500 feet.

14 (e) The sill shall be constructed with an equal gap between each sheathing board totaling at least one inch of open
15 area every linear foot of sill. The sill shall have at least one five-foot opening at every 100 feet. The sill sections shall
16 be staggered and overlap as long as the five-foot separation between sections is maintained. Overlapping sections
17 shall not overlap more than 10 feet.

18 (f) The height of the sill shall not exceed six inches above normal high water or the normal water level.

19 (g) Offshore sill sections shall be set back 15 feet from the riparian access dividing line. The line of division of
20 riparian access shall be established by drawing a line along the channel or deep water in front of the property, then
21 drawing a line perpendicular to the line of the channel so that it intersects with the shore at the point the upland
22 property line meets the water's edge. The set back may be waived by written agreement of the adjacent riparian
23 owner(s) or when the two adjoining riparian owners are co-applicants. Should the adjacent property be sold before
24 construction of the sill begins, the applicant shall obtain a written agreement with the new owner waiving the minimum
25 setback and submit it to the Division of Coastal Management prior to initiating any construction of the sill.

26 (h) Sills shall be marked at 50-foot intervals with yellow reflectors extending at least three feet above mean high
27 water.

28 (i) No backfill of the sill or any other fill of wetlands, estuarine waters, public trust areas, or highground is authorized
29 by this general permit.

30 (j) No excavation of the shallow water bottom, any wetlands, or high ground is authorized by this general permit.

31 (k) The sill shall be constructed of vinyl or steel sheet pile, formed concrete, timber, or other suitable equivalent
32 materials approved by the Division of Coastal Management.

33 (l) Perpendicular sections, return walls, or sections that would enclose estuarine waters or public trust areas shall not
34 be allowed under this permit.

35 (m) The permittee will maintain the sill in good condition and in conformance with the terms and conditions of this
36 permit or the remaining sill structure shall be removed within 90 days of notification from the Division of Coastal
37 Management.

1

2 *History Note: Authority G.S. 113A-107; 113A-118.1;*

3 *Eff. June 1, 1994;*

4 *Amended Eff. February 1, 2009; August 1, 2000;*

5 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2201

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Active voice should be used saying who shall do what. "Persons planning to do X in Y areas shall apply for a general permit..." "This permit shall..." means nothing and this would therefore not be a rule. Comments for .1301 apply here. Fix.

Lines 9-10, delete "according to the procedures provided in 15A NCAC 07J .1100 and according to the rules in this Section", as it is unnecessary.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2201 is readopted as published in 34:09 NCR 760 as follows:

2

3 **SECTION .2200 – GENERAL PERMIT FOR CONSTRUCTION OF FREESTANDING MOORINGS AND**
4 **BIRD NESTING POLES IN ESTUARINE WATERS AND PUBLIC TRUST AREAS AND OCEAN**
5 **HAZARD AREAS**

6

7 **15A NCAC 07H .2201 PURPOSE**

8 A general permit pursuant to this Section shall allow the construction of freestanding moorings and bird nesting poles

9 in the estuarine waters and public trust areas AECs according to the procedures provided in 15A NCAC 07J .1100 and

10 according to the rules in this Section. This permit shall not apply to waters adjacent to oceanfront shorelines or to

11 waters and shorelines adjacent to the Ocean Hazard AEC with the exception of those shorelines that feature

12 characteristics of the Estuarine Shoreline AEC. Such features include the presence of wetland vegetation, lower wave

13 energy, and lower erosion rates than the adjacent Ocean Erodible Area.

14

15 *History Note: Authority G.S. 113A-107; 113A-118.1;*

16 *Eff. February 1, 1996;*

17 *Amended Eff. January 1, 2018; April 1, 2003;*

18 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2202

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Each "Approval Procedures" Rule should be the same format and language in those cases where the substantially similar requirement is being enumerated. Please choose language and a format and use it throughout. See comments for .1302. Those apply here.

Also, delete parenthesis in Subparagraph (b)(2).

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2202 is readopted as published in 34:09 NCR 760 as follows:

2
3 **15A NCAC 07H .2202 APPROVAL PROCEDURES**

4 (a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management and
5 request approval for development pursuant to Paragraph (b) of this Rule.

6 (b) The applicant shall provide:

7 (1) information on site location, dimensions of the project area, and applicant name and address;

8 (2) a dated plat(s) showing existing and proposed development; and

9 (3) evidence that:

10 (A) a written statement has been obtained and signed by the adjacent riparian property owners
11 indicating that they have no objections to the proposed work; or

12 (B) the adjacent riparian property owners have been notified by certified mail of the proposed
13 work. The notice shall instruct adjacent property owners to provide any comments on the
14 proposed development in writing for consideration by permitting officials to the Division
15 of Coastal Management within 10 calendar days of receipt of the notice, and, indicate that
16 no response shall be interpreted as no objection. Division of Coastal Management staff
17 shall review all comments. If the Division of Coastal Management determines that:

18 (i) the comments are relevant to the potential impacts of the proposed project; and

19 (ii) the Division of Coastal Management shall review all comments and determine,
20 based on their relevance to the potential impacts of the proposed project, if the
21 proposed project may be approved by a General Permit. If the Division of Coastal
22 Management determines that the project exceeds the guidelines established by the
23 General Permit process provided in 15A NCAC 07J .1100, the Division shall
24 notify the applicant that an application for a major development permit shall be
25 required.

26 (c) Approval of individual projects shall be acknowledged in writing by the Division of Coastal Management and the
27 applicant shall be provided a copy the rules of this Section. Construction authorized by this permit shall be completed
28 within 120 days of permit issuance or the general authorization expires and a new permit shall be required to begin or
29 continue construction.

30
31 *History Note: Authority G.S. 113A-107; 113A-118.1;*
32 *Eff. February 1, 1996;*
33 *Amended Eff. January 1, 2018; August 1, 2007;*
34 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2203

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

See comments for .1303. Those apply here.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2203 is readopted as published in 34:09 NCR 760 as follows:

2

3 **15A NCAC 07H .2203 PERMIT FEE**

4 The applicant shall pay a permit fee of two hundred dollars (\$200.00). This fee shall be paid by check or money order
5 made payable to the Department.

6

7 *History Note: Authority G.S. 113A-107; 113A-118.1; 113A-119; 113A-119.1;*

8 *Eff. February 1, 1996;*

9 *Amended Eff. September 1, 2006; August 1, 2000;*

10 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2204

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Paragraph (d), what is “unreasonable interference”? Define or delete.

Paragraph (e) is objectionable as unclear/ambiguous. What is the “quality of the human environment? What does it mean to “endanger” adjoining properties? The last sentence of the Paragraph is unnecessary. Delete.

Delete Paragraph (f) as it is unnecessary.

What is CRC’s authority for Paragraph (g).

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2204 is readopted as published in 34:09 NCR 760 as follows:

2

3 **15A NCAC 07H .2204 GENERAL CONDITIONS**

4 (a) A "freestanding mooring" is any means to attach a ship, boat, vessel, floating structure, or other water craft to a
5 stationary underwater device, mooring buoy, buoyed anchor, or piling (as long as the piling is not associated with an
6 existing or proposed pier, dock, or boathouse).

7 (b) A "bird nesting pole" is any pole or piling erected, with a platform on top, for the purpose of attracting birds for
8 nesting.

9 (c) Freestanding moorings and bird nesting poles authorized by this permit shall be for the exclusive use of the riparian
10 landowner(s) in whose name the permit is issued, and shall not provide either leased or rented moorings or any other
11 commercial services.

12 (d) There shall be no unreasonable interference with navigation or use of the waters by the public by the existence of
13 freestanding moorings or bird nesting pole authorized by this permit.

14 (e) This general permit may not be applicable to proposed construction when the Department determines that the
15 proposal might affect the quality of the human environment or endanger adjoining properties. In those cases, individual
16 permit applications and review of the proposed project shall be required according to 15A NCAC 07J.

17 (f) Development carried out under this permit shall be consistent with all local requirements, AEC rules, and local
18 land use plans current at the time of authorization.

19 (g) Individuals shall allow authorized representatives of the Department of Environmental Quality to make inspections
20 in order to be sure that the activity being performed under the authority of this general permit is in accordance with
21 the terms and conditions prescribed herein.

22

23 *History Note: Authority G.S. 113A-107; 113A-118.1;*

24 *Eff. February 1, 1996;*

25 *Amended Eff: January 1, 2018;*

26 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2205

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Paragraph (a), delete comma after “mean high water line” and delete “whichever is applicable”.

Paragraph (b), where are these guidelines found? Incorporate by reference?

First word on line 12 is not a word.

What is DCM or CRC’s authority for Paragraph (f)?

Delete parenthesis in Paragraphs (i), (k), (l), and (m).

Add comma after “vessel State registration number” on line 7, page 2.

Use “three feet by three feet” in Paragraph (o).

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2205 is readopted as published in 34:09 NCR 760 as follows:

2
3 **15A NCAC 07H .2205 SPECIFIC CONDITIONS**

4 (a) Freestanding moorings and bird nesting poles may be located up to a maximum of 400 feet from the mean high
5 water line, or the normal water line, whichever is applicable.

6 (b) Freestanding moorings and bird nesting poles along federally maintained channels must meet US Army Corps of
7 Engineers guidelines.

8 (c) Freestanding moorings in no case shall extend more than 1/4 the width of a natural water body or man-made canal
9 or basin.

10 (d) Freestanding mooring buoys and piles shall be evaluated based upon the arc of the swing including the vessel to
11 be moored. Moorings and the attached vessel shall not interfere with the access to any riparian property, and shall
12 thhave a minimum setback of 15 feet from the adjacent property lines extended into the water at the points that they
13 intersect the shoreline. The minimum setbacks provided in this Rule may be waived by the written agreement of the
14 adjacent riparian owner(s), or when two adjoining riparian owners are co-applicants. Should the adjacent property be
15 sold before construction commences, the applicant shall obtain a written agreement with the new owner waiving the
16 minimum setback and submit it to the Division of Coastal Management prior to initiating any development of
17 freestanding moorings. The line of division of areas of riparian access shall be established by drawing a line along the
18 channel or deep water in front of the property, then drawing a line perpendicular to the line of the channel so that it
19 intersects with the shore at the point the upland property line meets the water's edge.

20 (e) The total number of docking or mooring facilities to be authorized by this General Permit shall not exceed two
21 per property.

22 (f) Bird nesting poles shall be limited to one per property. Any proposal to change the location of a permitted bird
23 nesting pole shall require additional authorization from the Division of Coastal Management.

24 (g) Freestanding moorings and bird nesting poles shall not interfere with shellfish franchises or leases. Applicants for
25 authorization to construct freestanding moorings and bird nesting poles shall provide notice of the permit application
26 to the owner of any part of a shellfish franchise or lease over which the proposed installation would extend.

27 (h) Freestanding moorings shall not be constructed in a designated Primary Nursery Area as defined in 15A NCAC
28 07H .0208(a)(4) with less than two feet of water at normal low water level or normal water level under the General
29 Permit set forth in this Section without prior approval from the Division of Marine Fisheries or the Wildlife Resources
30 Commission.

31 (i) Freestanding moorings located over shellfish beds or submerged aquatic vegetation (as defined by the Marine
32 Fisheries Commission) may be constructed without prior consultation from the Division of Marine Fisheries or the
33 Wildlife Resources Commission if the following two conditions are met:

34 (1) water depth at the freestanding mooring location is equal to or greater than two feet of water at
35 normal low water level or normal water level; and

36 (2) the freestanding mooring is located to minimize the area of submerged aquatic vegetation or
37 shellfish beds impacted under the structure as determined by the Division of Coastal Management.

1 (j) Freestanding moorings and bird nesting poles shall not be established in submerged utility crossing areas or in a
2 manner that interferes with the operation of an access through any bridge.

3 (k) Freestanding moorings and bird nesting poles shall be marked or colored for the life of the mooring(s) in
4 compliance with G.S. 75A-15 and the applicant shall contact the U.S. Coast Guard and N.C. Wildlife Resource
5 Commission to ensure compliance. Permanent reflectors shall be attached to the structure in order to make it more
6 visible during hours of darkness or inclement weather.

7 (l) Freestanding moorings shall bear owner's name, vessel State registration numbers or U.S. Customs Documentation
8 numbers. Required identification shall be legible for the life of the mooring(s).

9 (m) The type of material used to anchor a proposed mooring buoy(s) shall be non-polluting and of sufficient weight
10 and design to anchor the buoy and vessel.

11 (n) Mooring buoys authorized by this General Permit shall be a minimum 12" in diameter or otherwise be designed
12 to be recognized and not present a hazard to navigation.

13 (o) The platform located at the apex of the bird nesting pole shall not exceed 3'x 3' and shall not have sides.

14 (p) This permit does not relieve the permit holder of the responsibility to ensure that all other State and Federal permit
15 requirements are met prior to implementation of the project, including G.S. 113A-107(a), G.S. 113A-118(d)(1) or
16 G.S. 113A-120(b1)(4).

17

18 *History Note: Authority G.S. 113A-107; 113A-118.1;*
19 *Eff. February 1, 1996;*
20 *Amended Eff. January 1, 2018;*
21 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2301

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Active voice should be used saying who shall do what. "Persons planning to do X in Y areas shall apply for a general permit..." "This permit shall..." means nothing and this would therefore not be a rule.

Is this a rule? It is objectionable because it does not fit within the definition of a rule. G.S. 150B-2 (8a).

A zero is needed in the rule number on line 9.

A comma is needed after "public trust areas" on line 11.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2301 is readopted as published in 34:09 NCR 760 as follows:

2

3

**SECTION .2300 - GENERAL PERMIT FOR REPLACEMENT OF EXISTING BRIDGES AND
4 CULVERTS IN ESTUARINE WATERS, ESTUARINE AND PUBLIC TRUST SHORELINES, PUBLIC
5 TRUST AREAS, AND COASTAL WETLANDS**

6

7 15A NCAC 07H .2301 PURPOSE

8

A general permit for replacement of existing bridges and culverts in estuarine waters, estuarine and public trust
9 shorelines, public trust areas, and coastal wetlands shall be obtained pursuant to the rules in 15A NCAC 7J .1100 and
10 this Section to replace existing bridges and culverts in estuarine water, estuarine and public trust shorelines, public
11 trust areas and coastal wetland AECs.

12

13 *History Note: Authority G.S. 113A-107; 113A-118.1; 113A-124;*

14

Eff. June 1, 1996;

15

Amended Eff. August 1, 2000;

16

Readopted Eff. August 1, 2022.

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2302

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Each "Approval Procedures" Rule should be the same format and language in those cases where the substantially similar requirement is being enumerated. Please choose language and a format and use it throughout. See .1302 comments. Those apply here.

Add comma after "address" on line 5. Delete parenthesis on line 6.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2302 is readopted as published in 34:09 NCR 760 as follows:

2
3 **15A NCAC 07H .2302 APPROVAL PROCEDURES**

4 (a) The applicant shall contact the Division of Coastal Management (Division) and provide:

- 5 (1) information on site location, project description, and his or her name, address and telephone number;
6 (2) a dated plat(s) showing existing and proposed development; and
7 (3) confirmation that:

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

10 (B) the adjacent riparian property owners have been notified by certified mail of the proposed
11 work. Such notice shall instruct adjacent property owners to provide any comments on the
12 proposed development in writing for consideration by permitting officials to the Division
13 of Coastal Management within 10 days of receipt of the notice and indicate that no response
14 shall be interpreted as no objection. Division staff shall review all comments. If the
15 Division determines that:

- 16 (i) the comments are relevant to the potential impacts of the proposed project; and
17 (ii) the permitting issues raised by the comments require a more detailed review, then
18 the Division shall notify the applicant that he or she shall be required to submit an
19 application for a major development permit.

20 (b) Approval of individual projects shall be acknowledged in writing by the Division of Coastal Management and the
21 applicant shall be provided a copy of this Section. Construction authorized by this permit shall be completed within
22 two years of permit issuance or the general authorization shall expire and a new permit shall be required to begin or
23 continue construction. For North Carolina Department of Transportation projects identified in the Transportation
24 Improvement Program this permit shall not expire pursuant to G.S. 136-44.7B.

25 (c) No work shall begin until an onsite meeting is held with the applicant and a Division of Coastal Management
26 representative. Written authorization to proceed with the proposed development shall be issued during this visit if the
27 Division representative finds that the application meets all the requirements of this Subchapter.

28
29 *History Note: Authority G.S. 113A-107; 113A-118.1; 113A-124;*
30 *Eff. June 1, 1996;*
31 *Amended Eff. May 1, 2010;*
32 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2303

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Each Rule that has "Department of Environment and Natural Resources" may be objected to on ambiguity/clarity grounds simply because it is obvious no one at the "Department" or the "Division" looked at the Rule before readoption. It is not RRC Counsel's job to clean up your rules, particularly when it is evident that no effort has been made by CRC staff.

See comments for .1303. Those apply here.

Add comma after "check" on line 5.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2303 is readopted as published in 34:09 NCR 760 as follows:

2

3 **15A NCAC 07H .2303 PERMIT FEE**

4 The applicant shall pay a permit fee of four hundred dollars (\$400.00). This fee shall be paid by inter-departmental
5 fund transfer, check or money order made payable to the Department of Environment and Natural Resources.

6

7 *History Note: Authority G.S. 113A-107; 113A-118.1; 113A-119; 113A-119.1; 113A-124;*

8 *Eff. June 1, 1996;*

9 *Amended Eff. May 1, 2010; September 1, 2006; August 1, 2000;*

10 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2304

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Each Rule that has "Department of Environment and Natural Resources" may be objected to on ambiguity/clarity grounds simply because it is obvious no one at the "Department" or the "Division" looked at the Rule before readoption. It is not RRC Counsel's job to clean up your rules, particularly when it is evident that no effort has been made by CRC staff.

Paragraph (c) is objectionable for clarity/ambiguity. Fix or delete.

Delete Paragraphs (e) and (f). Unnecessary.

Paragraph (g), what are "work channels"? Define or delete.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2304 is readopted as published in 34:09 NCR 760 as follows:

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15A NCAC 07H .2304 GENERAL CONDITIONS

- (a) Projects authorized by this permit shall be demolition, removal, and replacement of existing bridges and culverts along the existing alignment and conforming to the standards in this Rule. This permit shall be applicable only to single bridge and culvert projects and shall not authorize temporary fill causeways or temporary bridges that may be associated with bridge replacement projects.
- (b) The permittee shall allow authorized representatives of the Department of Environment and Natural Resources (Department) to make periodic inspections at any time deemed necessary in order to ensure that the activity being performed under authority of this general permit is in accordance with the terms and conditions prescribed in this Rule.
- (c) This general permit shall not be applicable to proposed construction where the Department determines that authorization may be warranted, but that the proposed activity might significantly affect the quality of human environment or unnecessarily endanger adjoining properties.
- (d) This general permit shall not be applicable to proposed construction where the Department determines that the proposed activity would have significant adverse impacts on water quality or historic, cultural, scenic, fisheries, or recreational resources.
- (e) This permit shall not eliminate the need to obtain any other required state, local, or federal authorization.
- (f) Development carried out under this permit shall be consistent with all local requirements, AEC rules, and local land use plans.
- (g) This permit shall not apply to projects that require work channels.
- (h) Review of individual project requests shall be coordinated with the Division of Marine Fisheries (DMF) and the Wildlife Resources Commission (WRC). This may result in a construction moratorium during periods of significant biological productivity or critical life stages as determined by the WRC and DMF.
- (i) Development under this permit shall be carried out within Department of Transportation (DOT) right-of-ways or on lands under the ownership of the applicant in the case of a non-DOT project.
- (j) Bridge and culvert replacements shall be designed to minimize any adverse impacts to potential navigation or use of the waters by the public.
- (k) This permit shall apply only to projects involving replacement of bridges and culverts currently serving their intended function.

History Note: Authority G.S. 113A-107; 113A-118.1; 113A-124;
Eff. June 1, 1996;
Amended Eff. May 1, 2010;
Readopted Eff. August 1, 2022.

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2305

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Each Rule that has “Department of Environment and Natural Resources” may be objected to on ambiguity/clarity grounds simply because it is obvious no one at the “Department” or the “Division” looked at the Rule before re-adoption. It is not RRC Counsel’s job to clean up your rules, particularly when it is evident that no effort has been made by CRC staff.

Paragraph (b) is objectionable. How is it determined that two lanes are warranted? Criteria? By what criteria is “significantly affect[ed]” or “unnecessarily endangers” measured?

Delete parenthesis in Paragraph (d). Be consistent throughout this rule set when using NWL or NHW.

Delete parenthesis in Subparagraphs (g)(5), (7), and (8).

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2305 is readopted as published in 34:09 NCR 760 as follows:

2
3 **15A NCAC 07H .2305 SPECIFIC CONDITIONS**

4 (a) This general permit is applicable to bridge replacement projects spanning no more than 400 feet of estuarine water,
5 public trust area, and coastal wetland AECs.

6 (b) Existing roadway deck width shall not be expanded to create additional lanes, with the exception that an existing
7 one lane bridge may be expanded to two lanes where the Department of Environment and Natural Resources
8 determines that authorization is warranted and the proposed project does not significantly affect the quality of the
9 human and natural environment or unnecessarily endangers adjoining properties.

10 (c) Replacement of existing bridges with new bridges shall not reduce vertical or horizontal navigational clearances.

11 (d) All demolition debris shall be disposed of landward of all wetlands and the normal water level (NWL) or normal
12 high water (NHW) level (as defined in 15A NCAC 07H .0106), and shall employ soil stabilization measures to prevent
13 entry of sediments in the adjacent water bodies or wetlands.

14 (e) Bridges and culverts shall be designed to allow passage of anticipated high water flows.

15 (f) Measures sufficient to restrain sedimentation and erosion shall be implemented at each site.

16 (g) Bridge or culvert replacement activities involving excavation or fill in wetlands, public trust areas, and estuarine
17 waters shall meet the following conditions:

18 (1) Replacing bridges with culverts shall not be allowed in primary nursery areas as defined by the
19 Marine Fisheries or Wildlife Resources Commissions.

20 (2) The total area of public trust area, estuarine waters, and wetlands to be excavated or filled shall not
21 exceed 2,500 square feet except that the coastal wetland component shall not exceed 750 square
22 feet.

23 (3) Culverts shall not be used to replace bridges with open water spans greater than 50 feet.

24 (4) There shall be no temporary placement or double handling of excavated or fill materials within
25 waters or vegetated wetlands.

26 (5) No excavated or fill material shall be placed in any wetlands or surrounding waters outside of the
27 alignment of the fill area indicated on the work plat(s).

28 (6) All excavated materials shall be confined above NWL or NHW and landward of any wetlands
29 behind dikes or other retaining structures to prevent spill-over of solids into any wetlands or
30 surrounding waters.

31 (7) No bridges with a clearance of four feet or greater above the NWL or NHW shall be allowed to be
32 replaced with culvert(s) unless the culvert design maintains the existing water depth, vertical
33 clearance and horizontal clearance.

34 (8) If a bridge is being replaced by a culvert(s) then the width of the waterbody shall not be decreased
35 by more than 40 percent.

1 (9) All pipe and culvert inverts placed within the Public Trust or the Estuarine Waters AECs shall be
2 buried at least one foot below normal bed elevation to allow for passage of water and aquatic life.
3 Culverts placed in wetlands are not subject to this requirement.
4

5 *History Note: Authority G.S. 113A-107; 113A-118.1; 113A-124;*
6 *Eff. June 1, 1996;*
7 *Amended Eff. May 1, 2010;*
8 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2401

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Active voice should be used saying who shall do what. "Persons planning to do X in Y areas shall apply for a general permit..." "This permit shall..." means nothing and this would therefore not be a rule.

Line 8, "according to the authority provided in ...", rules do not provide authority. Change the language. Also, delete "and according to the rules of this Section" as unnecessary.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2401 is readopted as published in 34:09 NCR 760 as follows:

2

3 **SECTION .2400 - GENERAL PERMIT FOR PLACEMENT OF RIPRAP REVETMENTS FOR WETLAND**
4 **PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS**

5

6 **15A NCAC 07H .2401 PURPOSE**

7 The general permit for placement of riprap revetments for wetland protection in estuarine and public trust waters shall
8 allow the placement of riprap revetments immediately adjacent to and waterward of the wetland toe. This permit shall
9 only be applicable in public trust areas and estuarine waters according to authority provided in 15A NCAC 07J .1100
10 and according to the rules in this Section. This permit shall not apply to oceanfront shorelines or to waters and
11 shorelines adjacent to the Ocean Hazard AEC with the exception of those portions of shoreline that feature
12 characteristics of Estuarine Shorelines. Such features include the presence of wetland vegetation, lower wave energy,
13 and lower erosion rates than in the adjoining Ocean Erodible Area.

14

15 *History Note: Authority G.S. 113A-107; 113A-118.1;*
16 *Eff. August 1, 2000;*
17 *Amended Eff. February 1, 2009; April 1, 2003;*
18 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2402

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Each "Approval Procedures" Rule should be the same format and language in those cases where the substantially similar requirement is being enumerated. Please choose language and a format and use it throughout. See comments for .1302. Those apply here.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2402 is readopted as published in 34:09 NCR 760 as follows:

2
3 **15A NCAC 07H .2402 APPROVAL PROCEDURES**

4 (a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management and
5 request approval for development. The applicant shall provide information on site location, dimensions of the project
6 area, and the applicant's name and address.

7 (b) The applicant shall 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. The notice shall instruct adjacent property owners to provide any comments on the
12 proposed development in writing for consideration by permitting officials to the Division of Coastal
13 Management within 10 days of receipt of the notice, and, indicate that no response shall be
14 interpreted as no objection. The Division of Coastal Management shall review all comments and
15 determine, based on their relevance to the potential impacts of the proposed project, if the proposed
16 project can be approved by the General Permit process. If not, the applicant shall be notified that
17 an application for a major development permit shall be required.

18 (c) No work shall begin until an on-site meeting is held with the applicant and a Division of Coastal Management
19 representative so that the structure location can be marked. Written authorization to proceed with the proposed
20 development shall be issued during this visit. Construction of the structure shall be completed within 120 days of the
21 issuance of the permit or the general authorization expires and it shall be necessary to re-examine the alignment to
22 determine if the general authorization may be reissued.

23
24 *History Note: Authority G.S. 113A-107; 113A-118.1;*
25 *Eff. August 1, 2000;*
26 *Amended Eff. February 1, 2009; October 1, 2007;*
27 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2403

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

See comments for .1303. Those apply here. Fix.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2403 is readopted as published in 34:09 NCR 760 as follows:

2

3 **15A NCAC 07H .2403 PERMIT FEE**

4 The applicant shall pay a permit fee of two hundred dollars (\$200.00). This fee shall be paid by check or money order
5 made payable to the Department.

6

7 *History Note: Authority G.S. 113A-107; 113A-118.1; 113A-119.1;*

8 *Eff. August 1, 2000;*

9 *Amended Eff. September 1, 2006;*

10 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2404

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Each Rule that has “Department of Environment and Natural Resources” may be objected to on ambiguity/clarity grounds simply because it is obvious no one at the “Department” or the “Division” looked at the Rule before readoption. It is not RRC Counsel’s job to clean up your rules, particularly when it is evident that no effort has been made by CRC staff.

Why are semicolons used in Paragraph (d)? Fix.

Delete Paragraphs (e) and (f). Unnecessary.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2404 is readopted as published in 34:09 NCR 760 as follows:

2

3 **15A NCAC 07H .2404 GENERAL CONDITIONS**

4 (a) This permit authorizes only the construction of wetland protection structures conforming to the standards herein.

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

8 (c) The placement of riprap revetments authorized in this Rule shall not interfere with the established or traditional
9 rights of navigation of the waters by the public.

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

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

16 (f) Development carried out under this permit shall be consistent with all local requirements, AEC Guidelines, and
17 local land use plans current at the time of authorization.

18

19 *History Note: Authority G.S. 113A-107; 113A-118.1;*
20 *Eff. August 1, 2000;*
21 *Amended Eff. February 1, 2009;*
22 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2405

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Active voice should be used saying who shall do what. "Persons planning to do X in Y areas shall apply for a general permit..." "This permit shall..." means nothing and this would therefore not be a rule.

How is Paragraph (g) determined? By what criteria? This is objectionable. Fix.

Delete parenthesis in Paragraph (l).

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2405 is readopted as published in 34:09 NCR 760 as follows:

2

3 **15A NCAC 07H .2405 SPECIFIC CONDITIONS**

4 (a) This general permit shall only be applicable along shorelines possessing wetlands, which exhibit an identifiable
5 escarpment.

6 (b) The structure shall be constructed of granite, marl, riprap, concrete without exposed rebar, or other suitable
7 equivalent materials approved by the Division of Coastal Management.

8 (c) The height of the erosion escarpment shall not exceed three feet.

9 (d) The riprap shall be placed immediately waterward of the erosion escarpment.

10 (e) The riprap revetment shall be positioned so as not to exceed a maximum of six feet waterward of the erosion
11 escarpment at any point along its alignment with a slope no flatter than three feet horizontal per one foot vertical and
12 no steeper than one and one half feet horizontal per one foot vertical.

13 (f) The riprap shall be positioned so as not to exceed a maximum of six inches above the elevation of the adjacent
14 wetland substrate or escarpment.

15 (g) Where the Division of Coastal Management determines that insufficient wetland vegetation exists along the
16 permittee's shoreline to provide adequate shoreline stabilization, the permittee shall be required to plant appropriate
17 wetland vegetation landward of the riprap revetment as directed by the Division of Coastal Management.

18 (h) Construction authorized by this general permit will be limited to a maximum length of 500 feet.

19 (i) No backfill or any other fill of wetlands, submerged aquatic vegetation, estuarine waters, public trust areas, or
20 highground areas is authorized by this general permit.

21 (j) No excavation of the shallow water bottom, any wetlands, or high ground is authorized by this general permit.

22 (k) Riprap material used for revetment construction shall be free from loose dirt or any pollutant and be of a size
23 sufficient to prevent its movement from the site by wave action or currents.

24 (l) If the crossing of wetlands with mechanized or non-mechanized construction equipment is necessary, temporary
25 construction mats shall be utilized for the area(s) to be crossed. The temporary mats shall be removed immediately
26 upon completion of construction of the riprap structure.

27 (m) The permittee shall maintain the structure in good condition and in conformance with the terms and conditions
28 of this permit or the remaining riprap revetment shall be removed within 90 days of notification from the Division of
29 Coastal Management.

30

31 *History Note: Authority G.S. 113A-107; 113A-118.1;*

32 *Eff. August 1, 2000;*

33 *Amended Eff. February 1, 2009;*

34 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2601

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Active voice should be used saying who shall do what. "Persons planning to do X in Y areas shall apply for a general permit..." "This permit shall..." means nothing and this would therefore not be a rule.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2601 is readopted as published in 34:09 NCR 760 as follows:

2

3 **SECTION .2600 – GENERAL PERMIT FOR CONSTRUCTION OF MITIGATION BANKS AND IN-LIEU**
4 **FEE MITIGATION PROJECTS**

5

6 **15A NCAC 07H .2601 PURPOSE**

7 The general permit in this Section shall allow for the construction of mitigation banks and in-lieu fee mitigation
8 projects. This permit shall be applicable only for activities resulting in net increases in aquatic resource functions and
9 services. These activities include:

- 10 (1) restoration;
- 11 (2) enhancement;
- 12 (3) establishment of tidal and non-tidal wetlands and riparian areas;
- 13 (4) restoration and enhancement of non-tidal streams and other non-tidal open waters; and
- 14 (5) rehabilitation or enhancement of tidal streams, tidal wetlands, and tidal open waters.

15 This permit shall not apply within the Ocean Hazard System of Areas of Environmental Concern (AEC) or waters
16 adjacent to these AECs with the exception of those portions of shoreline within the Inlet Hazard Area AEC that feature
17 characteristics of Estuarine Shorelines. Such features include the presence of wetland vegetation, lower wave energy,
18 and lower erosion rates than in the adjoining Ocean Erodible Area.

19

20 *History Note: Authority G.S. 113A-107; 113A-118.1;*
21 *Eff. October 1, 2004;*
22 *Amended Eff. October 1, 2014;*
23 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2602

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Each "Approval Procedures" Rule should be the same format and language in those cases where the substantially similar requirement is being enumerated. Please choose language and a format and use it throughout.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2602 is readopted as published in 34:09 NCR 760 as follows:

2

3 **15A NCAC 07H .2602 APPROVAL PROCEDURES**

4 (a) The applicant shall contact the Division of Coastal Management and request approval for development. The
5 applicant shall provide information in writing on site location, a mitigation plan outlining the proposed mitigation
6 activities, and the applicant's name and address.

7 (b) The applicant shall provide either confirmation that a written statement has been obtained and signed by the
8 adjacent riparian property owners indicating that they have no objections to the proposed work, or confirmation that
9 the adjacent riparian property owners have been notified by certified mail of the proposed work. Such notices shall
10 instruct adjacent property owners to provide any comments on the proposed development in writing for consideration
11 to the Division of Coastal Management within 10 days of receipt of the notice and indicate that no response shall be
12 interpreted as no objection.

13 (c) The Division of Coastal Management shall review all comments received from adjacent property owners and
14 determine, based on their relevance to the potential impacts of the proposed project, if the proposed project meets the
15 requirements of the rules in this Section.

16 (d) No work shall begin until a meeting is held with the applicant and the Division of Coastal Management and written
17 authorization to proceed with the proposed development is issued in compliance with this Rule. Construction of the
18 mitigation site shall start within 365 days of the issue date of the general permit or the general permit shall expire and
19 it shall be necessary to re-examine the proposed development for any changes to determine if the general permit shall
20 be reissued.

21

22 *History Note: Authority G.S. 113A-107; 113A-118.1;*

23 *Eff. October 1, 2004;*

24 *Amended Eff. October 1, 2014;*

25 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2603

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

See comments for .1303. Same comments apply. Fix.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2603 is readopted as published in 34:09 NCR 760 as follows:

2

3 **15A NCAC 07H .2603 PERMIT FEE**

4 The applicant shall pay a permit fee of four hundred dollars (\$400.00). This fee shall be paid by check or money order
5 made payable to the Department.

6

7 *History Note: Authority G.S. 113A-107; 113A-118.1; 113A-119.1;*

8 *Eff. October 1, 2004;*

9 *Amended Eff. September 1, 2006;*

10 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2604

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Each Rule that has "Department of Environment and Natural Resources" may be objected to on ambiguity/clarity grounds simply because it is obvious no one at the "Department" or the "Division" looked at the Rule before readoption. It is not RRC Counsel's job to clean up your rules, particularly when it is evident that no effort has been made by CRC staff.

Delete Paragraphs (f) and (g). Unnecessary.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2604 is readopted as published in 34:09 NCR 760 as follows:

2
3 **15A NCAC 07H .2604 GENERAL CONDITIONS**

4 (a) The permit in this Section authorizes only those activities associated with the construction of mitigation banks and
5 in-lieu fee mitigation projects.

6 (b) Individuals shall allow representatives of the Department of Environment and Natural Resources to make periodic
7 inspections at any time deemed necessary in order to be sure that the activity being performed under authority of this
8 general permit is in accordance with the terms and conditions of the rules of this Section.

9 (c) There shall be no interference with navigation or use of the waters by the public. No attempt shall be made by the
10 permittee to prevent the use by the public of all navigable waters at or adjacent to the development authorized pursuant
11 to the rules of this Section.

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

17 (e) At the discretion of the Division of Coastal Management, review of individual project requests shall be coordinated
18 with the Department of Environment and Natural Resources to determine if a construction moratorium during periods
19 of significant biological productivity or critical life stages of fisheries resources is necessary to protect those resources.

20 (f) This permit shall not eliminate the need to obtain any other required state, local, or federal authorization.

21 (g) Development carried out under this permit shall be consistent with all local rules, regulations, laws, or land use
22 plans of the local government in which the development takes place.

23
24 *History Note: Authority G.S. 113A-107; 113A-118.1;*

25 *Eff. October 1, 2004;*

26 *Amended Eff. October 1, 2014;*

27 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2605

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Delete "(s)" in Paragraph (c).

Paragraph (e), by what criteria is this determined? This should be put in rule, whether in this one or in its own. This is objectionable.

Add a comma after "deed restriction" on line 19.

Add a comma after "measures" on line 25, and add "as" after "such" on this line.

One line 26, "etc." is unclear. Do not use.

Add a comma after "watercourses" on line 27.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2605 is readopted as published in 34:09 NCR 760 as follows:

2
3 **15A NCAC 07H .2605 SPECIFIC CONDITIONS**

4 (a) The general permit in this Section shall be applicable only for the construction of mitigation banks or in-lieu fee
5 mitigation projects.

6 (b) No excavation or filling of any submerged aquatic vegetation shall be authorized by this general permit.

7 (c) The crossing of wetlands in transporting equipment shall be avoided or minimized to the maximum extent
8 practicable. If the crossing of wetlands with mechanized or non-mechanized construction equipment is necessary,
9 track and low pressure equipment or temporary construction mats shall be utilized for the area(s) to be crossed. The
10 temporary mats shall be removed immediately upon completion of construction.

11 (d) No permanent structures shall be authorized by this general permit, except for signs, fences, water control
12 structures, or those structures needed for site monitoring or shoreline stabilization.

13 (e) This permit does not convey or imply approval of the suitability of the property for compensatory mitigation for
14 any particular project. The use of any portion of the site as compensatory mitigation for future projects shall be
15 determined in accordance with applicable regulatory policies and procedures.

16 (f) The development authorized pursuant to this general permit shall result in a net increase in coastal resource
17 functions and values.

18 (g) The entire mitigation bank or in-lieu fee project site shall be protected in perpetuity in its mitigated state through
19 conservation easement, deed restriction or other appropriate instrument attached to the title for the subject property
20 and shall be owned by the permittee or its designee.

21 (h) The Division of Coastal Management shall be provided copies of all monitoring reports prepared by the permittee
22 or its designee for the authorized mitigation bank or in-lieu fee project site.

23 (i) If water control structures or other hydrologic alterations are proposed, such activities shall not increase the
24 likelihood of flooding any adjacent property.

25 (j) Appropriate sedimentation and erosion control devices, measures or structures such silt fences, diversion swales
26 or berms, sand fences, etc. shall be implemented to ensure that eroded materials do not enter adjacent wetlands,
27 watercourses and property.

28 (k) If one or more contiguous acre of property is to be graded, excavated or filled, the applicant shall submit an erosion
29 and sedimentation control plan with the Division of Energy, Mineral, and Land Resources, Land Quality Section. The
30 plan shall be approved prior to commencing the land-disturbing activity.

31 (l) All fill material shall be free of any pollutants, except in trace quantities.

32
33 *History Note: Authority G.S. 113A-107; 113A-118.1;*

34 *Eff. October 1, 2004;*

35 *Amended Eff. October 1, 2014; August 1, 2012 (see S.L. 2012-143, s.1.(f));*

36 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2701

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Active voice should be used saying who shall do what. "Persons planning to do X in Y areas shall apply for a general permit..." "This permit shall..." means nothing and this would therefore not be a rule. Objectionable.

"as set out in ... and according to the rules in this Section" should be deleted as unnecessary.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2701 is readopted as published in 34:09 NCR 761 as follows:
2

3 **SECTION .2700 – GENERAL PERMIT FOR THE CONSTRUCTION OF MARSH SILLS**
4

5 **15A NCAC 07H .2701 PURPOSE**

6 A general permit under this Section shall allow for the construction of marsh sills for wetland enhancement and
7 shoreline stabilization in estuarine and public trust waters as set out in 15A NCAC 07J .1100 and according to the
8 rules in this Section. Marsh sills are defined as sills that are shore-parallel structures built in conjunction with existing,
9 created, or restored wetlands. This general permit shall not apply within the Ocean Hazard System AECs or waters
10 adjacent to these AECs with the exception of those portions of shoreline within the Inlet Hazard Area AEC that feature
11 characteristics of Estuarine Shorelines. Such features include the presence of wetland vegetation, lower wave energy,
12 and lower erosion rates than in the adjoining Ocean Erodible Area.
13

14 *History Note: Authority G.S. 113A-107; 113A-118.1;*
15 *Temporary Adoption Eff. June 15, 2004;*
16 *Eff. April 1, 2005;*
17 *Temporary Amendment Eff. April 1, 2019;*
18 *Amended Eff. July 1, 2019;*
19 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2702

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Each "Approval Procedures" Rule should be the same format and language in those cases where the substantially similar requirement is being enumerated. Please choose language and a format and use it throughout.

This whole rule is objectionable for lack of clarity. See comments for .1302.

Combine "The applicant shall provide...", line 5, into the subparagraphs.

Subparagraph (b)(1) and (2), "confirmation"???. Just confirmation? Or a copy of?

Paragraph (c), "based on their relevance to the potential impacts of the proposed project"???. How is approval determined? Factors?

Paragraph (d), "written authorization to proceed" or "general authorization" or "authorization"???. Is this a permit? Or is it something different?

Line 21, "shall be necessary to re-examine". Use active voice. Who submits request to whom for permit to be reissued?

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2702 is readopted as published in 34:09 NCR 761 as follows:

2

3 **15A NCAC 07H .2702 APPROVAL PROCEDURES**

4 (a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management and
5 request approval for development. The applicant shall provide information on site location, dimensions of the project
6 area, and applicant name and address.

7 (b) The applicant shall 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. The notice shall instruct adjacent property owners to provide any comments on the
12 proposed development in writing for consideration by permitting officials to the Division of Coastal
13 Management within 10 days of receipt of the notice, and, indicate that no response will be interpreted
14 as no objection.

15 (c) DCM staff shall review all comments and determine, based on their relevance to the potential impacts of the
16 proposed project, if the proposed project can be approved by a General Permit.

17 (d) No work shall begin until an on-site meeting is held with the applicant and a Division of Coastal Management
18 representative to review the proposed development. Written authorization to proceed with the proposed development
19 shall be issued if the Division representative finds that the application meets all the requirements of this Subchapter.
20 Construction shall be completed within 120 days of the issuance of the general authorization or the authorization shall
21 expire and it shall be necessary to re-examine the proposed development to determine if the general authorization may
22 be reissued.

23

24 *History Note: Authority G.S. 113A-107; 113A-118.1;*
25 *Temporary Adoption Eff. June 15, 2004;*
26 *Eff. April 1, 2005;*
27 *Amended Eff. October 1, 2007;*
28 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2703

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

See comments for .1303. Those apply here. Fix.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2703 is readopted as published in 34:09 NCR 761 as follows:

2

3 **15A NCAC 07H .2703 PERMIT FEE**

4 The applicant shall pay a permit fee of two hundred dollars (\$200.00). This fee shall be paid by check or money order
5 made payable to the Department.

6

7 *History Note: Authority G.S. 113A-107; 113A-118.1; 113A-119.1;*

8 *Temporary Adoption Eff. June 15, 2004;*

9 *Eff. April 1, 2005;*

10 *Amended Eff. September 1, 2006;*

11 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2704

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Paragraph (a) repeats .2701. Delete.

Use active voice.

Paragraph (b), what is the specific authority for “periodic inspections”?

What does Paragraph (c) mean? Unclear.

What does everything on lines 12 and 13 mean? “Unresolved questions”?

Delete Paragraphs (e) and (f) as unnecessary.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2704 is readopted as published in 34:09 NCR 761 as follows:

2

3 **15A NCAC 07H .2704 GENERAL CONDITIONS**

4 (a) Structures authorized by a permit issued pursuant to this Section shall be marsh sills conforming to these Rules.

5 (b) Individuals shall allow authorized representatives of the Department of Environmental Quality (DEQ) to make
6 periodic inspections at any time deemed necessary in order to ensure that the activity being performed under authority
7 of this general permit is in accordance with the terms and conditions prescribed in these Rules.

8 (c) The placement of marsh sills authorized in these Rules shall not interfere with the established or traditional rights
9 of navigation of the waters by the public.

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

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

15 (f) Development carried out under this permit shall be consistent with all local requirements, AEC Guidelines as set
16 out in 15A NCAC 07H .0200, and local land use plans current at the time of authorization.

17

18 *History Note: Authority G.S. 113A-107; 113A-118.1;*
19 *Temporary Adoption Eff. June 15, 2004;*
20 *Eff. April 1, 2005;*
21 *Temporary Amendment Eff. April 1, 2019;*
22 *Amended Eff. July 1, 2019;*
23 *Readopted Eff. August 1, 2022.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .2705

DEADLINE FOR RECEIPT: Friday, July 18, 2022

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Paragraph (a), the permit is for development. What is the authority for regulating vegetation?

Paragraph (f), "Deviation from these opening requirements shall be allowable following coordination with the N.C. Division of Coastal Management" is waiver. See G.S. 150B-19(6). This is objectionable for lack of clarity when waiver is allowed like this.

Paragraph (k), line 31, "as defined in 15A NCAC..." It is not. This is objectionable for lack of clarity.

Paragraph (l), change "must" to "shall" on line 35.

Paragraph (s), again with the "other similar materials that are approved by the NC Division of Coastal Management." This is unclear. Also, what is "pollutant"? Define or delete?

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 13, 2022

1 15A NCAC 07H .2705 is readopted as published in 34:09 NCR 761 as follows:

2
3 **15A NCAC 07H .2705 SPECIFIC CONDITIONS**

4 (a) A general permit issued pursuant to this Section shall be applicable only for the construction of marsh sill structures
5 built in conjunction with existing, created, or restored wetlands. Planted wetland vegetation shall consist only of native
6 species.

7 (b) The landward edge of the sill shall be positioned no greater than 30 feet waterward of the normal high water or
8 normal water level or five feet waterward of the existing wetlands, whichever distance is greater.

9 (c) The permittee shall maintain the authorized sill, including wetlands and tidal inundation, in conformance with the
10 terms and conditions of this permit, or the remaining sill structures shall be removed within 90 days of notification of
11 noncompliance from the Division of Coastal Management.

12 (d) The height of sills shall not exceed 12 inches above normal high water, normal water level, or the height of the
13 adjacent wetland substrate, whichever is higher.

14 (e) Sill construction authorized by this permit shall be limited to a maximum length of 500 feet.

15 (f) The sills shall have at least one five-foot opening every 100 feet and may be staggered, overlapped or left open as
16 long as the five-foot separation between sections is maintained. Overlapping sections shall not overlap more than 10
17 feet. Deviation from these opening requirements shall be allowable following coordination with the N.C. Division of
18 Coastal Management.

19 (g) The sill structure shall not exceed a slope of a one and a half foot horizontal distance over a one foot vertical rise.
20 The width of the structure on the bottom shall not exceed 12 feet.

21 (h) For water bodies narrower than 150 feet, no portion of the structures shall be positioned offshore more than one
22 sixth (1/6) the width of the waterbody.

23 (i) The sill shall not be within a navigation channel or associated setbacks marked or maintained by a state or federal
24 agency.

25 (j) The sill shall not interfere with leases or franchises for shellfish culture.

26 (k) All structures shall have a minimum setback distance of 15 feet between any parts of the structure and the adjacent
27 property owner's riparian access corridor, unless either a signed waiver statement is obtained from the adjacent
28 property owner or the portion of the structure within 15 feet of the adjacent riparian access corridor is located no more
29 than 25 feet from the normal high or normal water level. The riparian access corridor line is determined by drawing a
30 line parallel to the channel, then drawing a line perpendicular to the channel line that intersects with the shore at the
31 point where the upland property line meets the water's edge, as defined in 15A NCAC 07H .1205(t). Additionally, the
32 sill shall not interfere with the exercise of riparian rights by adjacent property owners, including access to navigation
33 channels from piers, or other means of access.

34 (l) Sills shall be marked at 50-foot intervals with yellow reflectors extending at least three feet above normal high
35 water or normal water level and must be maintained for the life of the structure.

36 (m) If the crossing of wetlands with mechanized construction equipment is necessary, temporary construction mats
37 shall be utilized for the areas to be crossed. The temporary mats shall be removed upon completion of the construction

1 of the sill structure. Material used to construct the sill shall not be stockpiled on existing wetlands or in open water
2 unless contained in a containment structure supported by construction mats.

3 (n) Sedimentation and erosion control measures shall be implemented to ensure that eroded materials do not enter
4 adjacent wetlands or waters.

5 (o) No excavation or filling, other than that necessary for the construction and bedding of the sill structure, is
6 authorized by this general permit.

7 (p) Sills shall not be constructed within any native submerged aquatic vegetation. If submerged aquatic vegetation is
8 present within a project area, a submerged aquatic vegetation survey shall be completed during the growing season of
9 April 1 through September 30. All sills shall have a minimum setback of 10 feet from any native submerged aquatic
10 vegetation.

11 (q) Sills shall not be constructed within any habitat that includes oyster reefs or shell banks. All sills shall have a
12 minimum setback of 10 feet from any oysters, oyster beds, or shell banks.

13 (r) No excavation of the shallow water bottom or any wetland is authorized by this general permit.

14 (s) The sill material shall consist of clean rock, marl, oyster shell, or masonry materials such as granite or broken
15 concrete, or other similar materials that are approved by the N.C. Division of Coastal Management. Sill material shall
16 be free of loose sediment or any pollutant, including exposed rebar. The sill material shall be of sufficient size and
17 slope to prevent its movement from the approved alignment by wave or current action.

18

19 *History Note: Authority G.S. 113A-107; 113A-118.1;*
20 *Temporary Adoption Eff. June 15, 2004;*
21 *Eff. April 1, 2005;*
22 *Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1.(f));*
23 *Temporary Amendment Eff. April 1, 2019;*
24 *Amended Eff. July 1, 2019;*
25 *Readopted Eff. August 1, 2022.*