



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina Wildlife Resources Commission

2. Rule citation & name: 15A NCAC 10F .0305 – Brunswick County

3. Action: ☐ Adoption ☒ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 06/29/22
- b. Proposed Temporary Rule published on the OAH website: 07/01/22
- c. Public Hearing date: 07/18/22
- d. Comment Period: 06/28/22-07/28/22
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 06/28/22
- f. Adoption by agency on: 08/18/22
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 10/01/22
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☐ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite:
Effective date:
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☒ Other: G.S. 150B-21.1(a)(7)a

Explain: The Town of Sunset Beach in Brunswick County has requested temporary rulemaking by the Wildlife Resources Commission to establish a no-wake zone in part of South Jinks Creek. Dredging is planned to begin in November 2022 to remove a large drifting sandbar that causes part of the creek to be less than two feet deep at mean low tide. The channel near the peninsula at the eastern end of North Shore Drive is very narrow as well, creating navigation hazards.

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

Permanent rulemaking is contrary to public interest, as changes need to be in place of a temporary no-wake zone until the dredging is completed to mitigate hazards to boater safety and navigation. Dredging is set to begin in November.

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

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Carrie Ruhlman

Phone: 919-707-0011

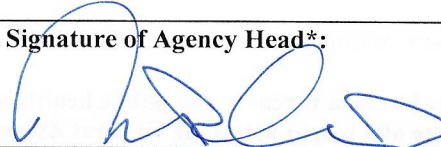
E-Mail: carrie.ruhlman@ncwildlife.org

Agency contact, if any: Ashley Pekarul

Phone: 919-707-0014

E-Mail: Ashley.pekarul@ncwildlife.org

10. Signature of Agency Head*:



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

Typed Name: Monty R. Crump

Title: Chairman

E-Mail: monty@gorockingham.com

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Wildlife Resources Commission

RULE CITATION: 15A NCAC 10F .0305 (Temporary)

DEADLINE FOR RECEIPT: September 9, 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:

Page 2, Lines 16 and 17: Please identify the WRC's authorization to "designate" an agency for the placement and maintenance of markers. Consider: The WRC shall place and maintain markers for this regulated area.

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

1 15A NCAC 10F .0305 is proposed for amendment under temporary procedures as follows:

2
3 **15A NCAC 10F .0305 BRUNSWICK COUNTY**

4 (a) Regulated Areas. This Rule shall apply to the waters and portions of waters described as follows:

- 5 (1) Lockwoods Folly River in the Town of Varnamtown, from a point at 33.94966 N, 78.22587 W, 500
6 yards northwest of the boat ramp located at the end of SR 1123 otherwise known as Fisherman
7 Road, to a point at 33.94498 N, 78.22206 W, 180 yards southeast of the boat ramp, and including
8 the portion of the river otherwise known as Mill Creek where it meets Lockwoods Folly River
9 directly across from the boat ramp, to a point 100 feet northeast at 33.94687 N, 78.22235 W;
- 10 (2) Calabash River in the Town of Calabash, from a point in the water at the end of Marina Drive at
11 33.88638 N, 78.56254 W to a point 650 yards southwest at the southern end of the deep-sea fishing
12 docks at 33.88344 N, 78.56751 W;
- 13 (3) the Small Boat Harbor, shore to shore beginning at its intersection with the Intracoastal Waterway
14 at a point at 33.91685 N, 78.02865 W;
- 15 (4) Shallotte River east of SR 1233, otherwise known as Village Point Road SW south of the Town of
16 Shallotte, shore to shore from its intersection with the Intracoastal Waterway at a point at 33.91477
17 N, 78.37103 W to point 500 feet north at 33.91613 N, 78.37126 W;
- 18 (5) Montgomery Slough otherwise known as Davis Creek, within 100 yards of the hotel and marina at
19 the northern end of 57th Place West in the Town of Oak Island;
- 20 (6) the waters in the natural and concrete canals located on the south side of the Intracoastal Waterway,
21 east of N.C. Highway 904 in the Town of Ocean Isle Beach;
- 22 (7) Town Creek east of SR 1609, otherwise known as Clearview Lane in Town Creek Township, shore
23 to shore from a point at 34.16788 N, 78.07139 W, north and east around a bend in the creek to a
24 point at 34.16910 N, 78.07030 W;
- 25 (8) Montgomery Slough, otherwise known as Davis Creek, shore to shore from its entrance at the
26 Intracoastal Waterway west of SW Yacht Drive at a point at 33.92145 N, 78.19408 W, to the canal
27 end at NE 40th Street in the Town of Oak Island;
- 28 (9) Intracoastal Waterway in the Town of Sunset Beach, shore to shore from a point 150 yards east of
29 the Sunset Boulevard South bridge at 33.88173 N, 78.50995 W, to a point 50 yards west of the
30 bridge at 33.88111 N, 78.51194 W; and
- 31 (10) Intracoastal Waterway in the Town of Ocean Isle Beach, shore to shore from a point 100 yards east
32 of the NC Hwy 904 Odell Williamson Bridge at 33.89578 N, 78.43870 W, to a point 100 yards west
33 of the bridge at 33.89567 N, 78.44092 W.

34 (b) Speed Limit. No person shall operate a vessel at greater than no-wake speed within any of the regulated areas
35 described in Paragraph (a) of this Rule.

1 (c) Placement of Markers. The following agencies shall be the designated agencies for the placement of markers
2 implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps
3 of Engineers:

- 4 (1) the Board of Aldermen of Varnamtown for areas indicated in Subparagraph (a)(1) of this Rule;
- 5 (2) the Board of Commissioners of Brunswick County for areas indicated in Subparagraphs (a)(2)
6 through (8) of this Rule;
- 7 (3) the North Carolina Wildlife Resources Commission for the area indicated in Subparagraph (a)(9) of
8 this Rule; and
- 9 (4) the Town of Ocean Isle Beach for the area indicated in Subparagraph (a)(10) of this Rule.

10 (d) Notwithstanding Paragraphs (a) through (c) of this Rule, no person shall operate a vessel at greater than no-wake
11 speed in the waters of South Jinks Creek in the Town of Sunset Beach, south of a line from a point on the north shore
12 of the peninsula at the eastern end of North Shore Drive at 38.87481 N, 78.49324 W, eastward to a point in the water
13 at 33.87516 N, 78.49215 W, then west of a line from that point at 33.87516 N, 78.49215 W southward to a point on
14 the shore at 33.87300 N, 78.49133 W, then westward the waters, shore to shore, to a line from a point on the shore at
15 33.87250 N, 78.49373 W northward to a point on the south shore of the peninsula at 33.87370 N, 78.49411 W. The
16 North Carolina Wildlife Resources Commission shall be the designated agency for placement and maintenance of
17 markers for this regulated area.
18

19 *History Note: Authority G.S. 75A-3; 75A-15.*

20 *Eff. February 1, 1976;*

21 *Amended Eff. April 1, 1997; July 1, 1994; July 1, 1993; January 1, 1989; January 1, 1987;*

22 *Temporary Amendment Eff. March 1, 1998;*

23 *Amended Eff. April 1, 2009; April 1, 1999;*

24 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
25 *6, 2016;*

26 *Amended Eff. May 1, 2021; July 1, 2018.*

27 *Temporary Amendment Eff. October 1, 2022.*
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29