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Proposed Amendments for the Relocation/Replacement of Septic Systems in the Ocean Hazard AECs (CR-26-79)

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Where We Left Off in August

Previous Commission Discussions

- CRC previously supported pursuing amendments addressing erosion-exposed onsite wastewater systems
- Commissioners requested additional DHHS coordination, clarification of regulatory authority, and stakeholder engagement

Stakeholder Feedback

- Concerns focused on CAMA jurisdiction over repairs, consistency with DHHS definitions, and the geographic reach of the proposal
- Additional concerns included temporary storm erosion and impacts to otherwise functioning systems.

Staff Response

- Developed a replacement standard under 07J .0210 and four alternatives under 07H .0306

Revised Approach: Two Related Rule Amendments

15A NCAC 07J .0210 – What constitutes <u>Replacement</u>?

- CAMA excludes qualifying repairs from permitting but allows the Commission to set thresholds for what is **<u>replacement.</u>**
- Existing .0210 uses a 50% assessed market value threshold for non-water dependent structures.
  - Reminder: For homes, any septic or HVAC is included in this.
- Staff is proposing to create a separate threshold for qualifying onsite septic wastewater systems within 07J .0210.



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Proposed Amendment to 07J .0210

Defining Replacement for Septic Systems

- CAMA Jurisdiction: Clarifies when septic system work constitutes development requiring a permit.
- 25% Threshold: Establishes a more practical threshold for distinguishing replacement.

15A NCAC 07J .0210

(3) SEPTIC TANK SYSTEMS. For septic tank systems **[located waterward of the applicable regulatory line or otherwise meeting the conditions established in 15A NCAC 07H .0306(f)]**, work to the septic tank system shall be considered repair when the cost of the proposed work does not exceed 25 percent of the replacement value of the septic tank system. Work exceeding 25 percent of the replacement value of the septic tank system shall be considered replacement. The cost of the proposed work and the replacement value of the septic tank system shall be determined by the contractor performing the work and provided to the Division.

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Revised Approach: What about Maintenance?

15A NCAC 07H .0306 – How should we define "Maintenance"?

- Previously propose definition was specific to DCM and raised stakeholder concerns.
- Revised language will instead reference G.S. 130A-334(3a)

  "Maintenance" means normal or routine maintenance including replacement of broken pipes, cleaning or adjustment to an existing wastewater system.

- Aligns terminology with the existing DHHS statutory framework to avoid statutory conflicts.

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Revised Approach: Four Options for AEC

15A NCAC 07H .0306 – Where Should the Rules Apply?

- Option 1 – Use existing vegetation, measurement, or pre-project vegetation line
- Option 2 – 100 feet landward of surveyed mean high water
- Option 3 – Existing regulatory line, but limited to first-row primary structures
- Option 4 – Imminently threatened structure or revoked certificates of occupancy

* All options incorporate the revised repair/replacement framework and statutory maintenance definition.

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Option 1: Use Existing Regulatory Lines

15A NCAC 07H .0306(f) – Vegetation, Measurement, or Pre-project line

Approach

- Applies to affected components oceanward of the vegetation line, measurement, or pre-project vegetation line, as applicable.
- Retains the geographic trigger previously presented to the CRC.

Considerations

- Uses familiar CRC regulatory boundaries
- May affect systems temporarily located oceanward of a line after storm erosion.
- Existing variance procedure may provide case-by-case relief where applicable.

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Option 1: Use Existing Regulatory Lines

15A NCAC 07H .0306(f) – Vegetation, Measurement, or Pre-project line

- Septic systems oceanward of the applicable line, that meet the definition of replacement within 07J .0210(3) for Septic Tank Systems require a CAMA permit.
- Allows maintenance without a permit when the work meets the definition.

15A NCAC 07H .0306

(f) The relocation or elevation of structures shall require permit approval. For the purposes of this Section, a CAMA permit is required for the relocation or replacement of any septic tank, pump tank, or component of a ground absorption system when located oceanward of the **vegetation line, measurement line, or pre-project vegetation line, as applicable.** Maintenance, as defined in G.S. 130A-334(3a), may be performed without a CAMA permit.

Option 1: Use Existing Regulatory Lines

Relocation Requirements

- Septic systems that require relocation or replacement must be sited landward of the applicable regulatory line (using private funds).
- This language mirrors what was proposed at August 2026 CRC meeting

15A NCAC 07H .0306(f)

(1) Structures relocated landward with public funds shall comply with the applicable ocean hazard setbacks and other applicable AEC rules.

(2) Structures relocated ~~landward~~ entirely with non-public funds and that do not meet current applicable ocean hazard setbacks ~~may~~ shall be relocated the maximum feasible distance landward of its present location. Septic ~~tanks~~ tanks, pump tanks, or components of a ground absorption system, as defined in G.S. 130A-334, shall not be relocated or replaced waterward of the vegetation line, measurement line, or pre-project line, as applicable. ~~oceanward of the primary structure.~~

Option 2: 100' Landward of Mean High Water

15A NCAC 07H .0306(f) – Require permit for septic systems waterward of surveyed line.

Approach

- Applies when an affected component lies oceanward of a line 100 feet landward of surveyed mean high water.
- Requires establishment of mean high water by a licensed professional land surveyor.

Considerations

- Provides an objective, survey-based boundary independent of vegetation lines.
- NC requires a 100-foot MHW setback for systems adjacent to SA waters; several other coastal jurisdictions require setbacks greater than 50 feet.
- Establishes a new applicability threshold for existing systems that is not based on erosion rates.

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Option 2: 100' Landward of Mean High Water

15A NCAC 07H .0306(f) – Require permit for septic systems waterward of surveyed line.

- Septic systems oceanward of the surveyed line, that meet the definition of replacement within 07J .0210(3) for Septic Tank Systems require a CAMA permit for work.
- Allows maintenance without a permit when the work meets the definition.

15A NCAC 07H .0306

(f) The relocation or elevation of structures shall require permit approval. For the purposes of this Section, a CAMA permit is required for the relocation or replacement of any septic tank, pump tank, or component of a ground absorption system when any portion of the component is located oceanward of a line established **100 feet landward of the surveyed mean high-water line of the Atlantic Ocean**. The mean high-water line shall be established by a professional land surveyor licensed under Chapter 89C of the General Statutes, and the 100-foot distance shall be measured on the ground surface in a landward direction from that line. Maintenance, as defined in G.S. 130A-334(3a), may be performed without a CAMA permit.

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Option 2: 100' Landward of Mean High Water

Relocation Requirements

- Relocation or replacement must occur either landward of structure or surveyed/measured line (must choose more restrictive).
- Allows maintenance without a permit when the work meets the definition.

15A NCAC 07H .0306(f)

(1) Structures relocated landward with public funds shall comply with the applicable ocean hazard setbacks and other applicable AEC rules.

(2) Structures relocated entirely with non-public funds and that do not meet current applicable ocean hazard setbacks ~~may~~ shall be relocated the maximum feasible distance landward of its present location. Septic ~~tanks~~ tanks, pump tanks, or components of a ground absorption system shall be relocated or replaced landward of the primary structure or at least 100 feet landward of the surveyed mean high-water line of the Atlantic Ocean, whichever is more restrictive. The 100-foot distance shall be measured in accordance with Paragraph (f) of this Rule.

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Option 3: First Row Primary Structures

15A NCAC 07H .0306(f) – Require permit for systems associated with "first row houses".

Approach

- Retains the vegetation line trigger but limits applicability to systems serving first-row primary structures.
- Focus permitting review on homes that are most directly exposed to erosion and flooding.

Considerations

- Responds to stakeholder concerns that permitting requirements in areas with a VERY landward vegetation line would overextend to homes at lower erosion risk
- May exclude vulnerable systems that do not meet the first-row definition.

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Option 3: First Row Primary Structures

15A NCAC 07H .0306(f) – Require permit for first row homes waterward of reg. line.

- Septic systems oceanward of regulatory line that serve homes defined as first row structures.
- Allows maintenance without a permit when the work meets the definition.

15A NCAC 07H .0306

(f) The relocation or elevation of structures shall require permit approval. For purposes of this Section, a CAMA permit is required for the relocation or replacement of any septic tank, pump tank, or component of a ground absorption system **serving a first-row primary structure when located oceanward of the vegetation line, measurement line, or pre-project vegetation line, as applicable**. For purposes of this Paragraph, "first-row primary structure" means a primary structure with no other primary structure located between it and the ocean beach. Maintenance, as defined in G.S. 130A-334(3a), may be performed without a CAMA permit.

Option 3: First Row Primary Structures

Relocation Requirements

- Septic systems that require relocation or replacement must be sited landward of the applicable regulatory line (using private funds).
- This language mirrors relocation requirements proposed at August 2026 CRC meeting.

15A NCAC 07H .0306(f)

(1) Structures relocated landward with public funds shall comply with the applicable ocean hazard setbacks and other applicable AEC rules.

(2) Structures relocated ~~landward~~ entirely with non-public funds and that do not meet current applicable ocean hazard setbacks ~~may~~ shall be relocated the maximum feasible distance landward of its present location. Septic ~~tanks~~ tanks, pump tanks, or components of a ground absorption system, as defined in G.S. 130A-334, shall not be relocated or replaced waterward of the vegetation line, measurement line, or pre-project line, as applicable. ~~oceanward of the primary structure.~~

Option 4: Imminently Threatened Structures Only

15A NCAC 07H .0306(f) – Require permit for systems tied to "first row primary structures".

Approach

- Applies to septic systems serving a primary structure determined to be imminently threatened under CRC rules.
- Also applies when the local government has revoked the primary structure's certificate of occupancy.

Considerations

- Targets properties with an established threat or occupancy issue
- Does not rely on a shoreline-distance trigger.
- Would not necessarily solve the issue of repeated system failures.

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Option 4: Imminently Threatened Structures Only

15A NCAC 07H .0306(f) – Require permit for systems tied to "first row primary structures".

- Septic systems associated with imminently threatened structures or those that have had Certificate of Occupancy revoked.

15A NCAC 07H .0308(b)(2)(B)

A structure is considered imminently threatened if its foundation, septic system, or right-of-way in the case of roads is less than 20 feet away from the erosion scarp. Buildings and roads located more than 20 feet from the erosion scarp or in areas where there is no obvious erosion scarp may also be found to be imminently threatened when site conditions, such as a flat beach profile or accelerated erosion, increase the risk of imminent damage to the structure.

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Option 4: Imminently Threatened Structures Only

15A NCAC 07H .0306(f) – Require permit for systems tied to "first row primary structures".

- Septic systems associated with imminently threatened structures or those that have had Certificate of Occupancy revoked.
- Allows maintenance without a permit when the work meets the definition.

15A NCAC 07H .0306

(f) The relocation or elevation of structures shall require permit approval. For the purposes of this Section, a CAMA Permit is required for the relocation or replacement of any septic tank, pump tank, or component of a ground absorption serving a primary structure within an Ocean Hazard Area of Environmental Concern when the **Division has determined that the primary structure is imminently threatened in accordance with 15A NCAC 07H .0308(b)(2)(B)**, or the **local government has revoked the certificate of occupancy for the primary structure.** Maintenance, as defined in G.S. 130A-334(3a), may be performed without a CAMA permit.

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Option 4: Imminently Threatened Structures Only

Relocation Requirements

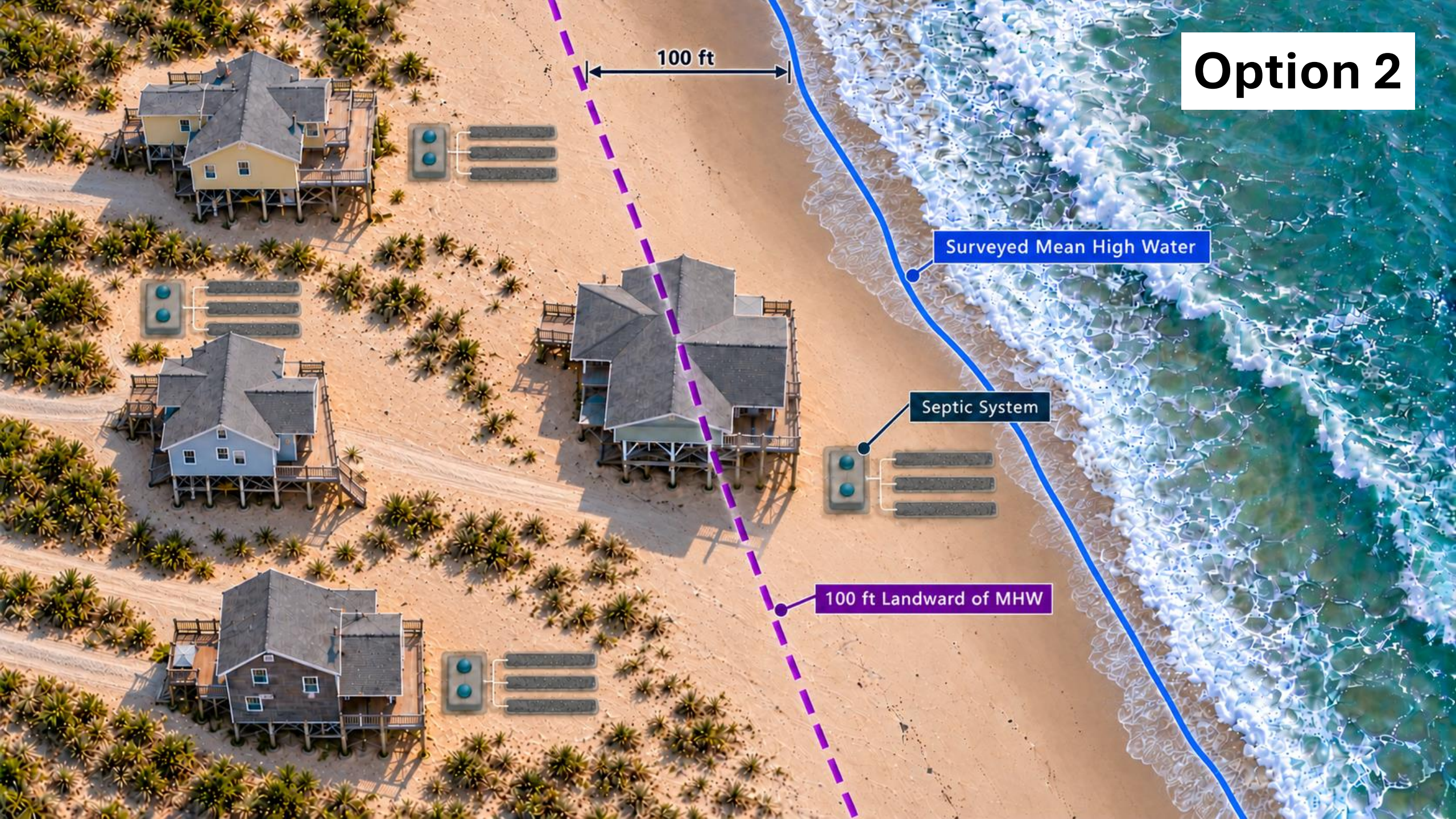
- Septic systems that require relocation or replacement must be sited landward of the applicable regulatory line (using private funds).
- This language also mirrors relocation lang. proposed at August 2026 CRC meeting

15A NCAC 07H .0306(f)

(1) Structures relocated landward with public funds shall comply with the applicable ocean hazard setbacks and other applicable AEC rules.

(2) Structures relocated ~~landward~~ entirely with non-public funds and that do not meet current applicable ocean hazard setbacks ~~may~~ shall be relocated the maximum feasible distance landward of its present location. Septic ~~tanks~~ tanks, pump tanks, or components of a ground absorption system, as defined in G.S. 130A-334, shall not be relocated or replaced waterward of the vegetation line, measurement line, or pre-project line, as applicable. ~~oceanward of the primary structure.~~


Vegetation Line
Septic System
Option 1


Option 2
100 ft
Surveyed Mean High Water
Septic System
100 ft Landward of MHW


Vegetation Line
First-Row Primary Structure
Septic System
Option 3


Vegetation Line
Imminently Threatened Structure
Septic System
Option 4

Back to 07J .0210

Defining Replacement for Septic Systems

- This language will reflect the language selected by the CRC.
- Required to clarify that this subsection will only be applied to homes that waterward of the threshold, not all septic systems requiring work within the AEC

15A NCAC 07J .0210

(3) SEPTIC TANK SYSTEMS. For septic tank systems **[located waterward of the applicable regulatory line or otherwise meeting the conditions established in 15A NCAC 07H .0306(f)]**, work to the septic tank system shall be considered repair when the cost of the proposed work does not exceed 25 percent of the replacement value of the septic tank system. Work exceeding 25 percent of the replacement value of the septic tank system shall be considered replacement. The cost of the proposed work and the replacement value of the septic tank system shall be determined by the contractor performing the work and provided to the Division.

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Other Proposed Amendments

Relocation/Replacement- 07H .0306(f)

- Require removal of all remaining structures once relocation (and effectively replacement) is completed.

15A NCAC 07H .0306(f)

(4) When structures, including septic tanks, are relocated within the Ocean Hazard Area of Environmental Concern, all remaining debris, ancillary structures, or infrastructure shall be removed from the original location.

Other Proposed Amendments

New Septic Systems - 07H .0306(a)(3)

- Clarifies that under existing rule new septic systems meet the required ocean hazard setback
- Uses **G.S. 130A-334** to identify applicable wastewater system components

15A NCAC 07H .0306(a)(3)

(3) With the exception of those types of development defined in 15A NCAC 07H .0309(a), no development, including any portion of a building or structure, including septic tanks, pump tanks, or components of a ground absorption system, as defined in G.S. 130A-334, shall extend oceanward of the ocean hazard setback. This includes roof overhangs and elevated structural components that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings. The ocean hazard setback shall be established based on the following criteria:……

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Discussion

1. Does the Commission support a separate 25% repair/replacement threshold under 15A NCAC 7H.0210(3) for septic tank systems?

2. Is there an option under 15A NCAC 07H .0306 does the Commission prefer?

3. Should staff proceed toward rulemaking with a selected alternative or return with additional revisions?

Four Options for Ocean Hazard Area AEC

Option 1: Use existing vegetation, measurement, or pre-project vegetation line

Option 2: 100(?) feet landward of surveyed mean high water

Option 3: Existing regulatory line, but limited to first-row primary structures

Option 4: Systems of imminently threatened structures or revoked certificates of occupancy only

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