



NORTH CAROLINA
Environmental Quality

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Governor

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Secretary

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Director

CRC-26-55

March 27, 2026

MEMORANDUM

TO: Coastal Resources Commission

FROM: Daniel Govoni

SUBJECT: Proposed Amendments to 15A NCAC 07H .0106; .0205; 0206; .0207

The Division of Coastal Management (Division) received a Petition for Rulemaking from Mr. Nelson G. Paul (Petitioner) on November 12, 2025. The Petitioner's proposed rulemaking seeks to incorporate into the Coastal Resources Commission (CRC) rules changes to the Coastal Area Management Act (CAMA) and the Dredge and Fill Law enacted through Session Law 2025-48. In his petition, the Petitioner states that the proposed wording "will bring Coastal Resources Commission rules into alignment with recent modifications to N.C.G.S. 113A-103(8a); N.C.G.S. 113A-113(b)(2); N.C.G.S. 113A-113(b)(5); and N.C.G.S. 113A-229(n)(3)." He further asserts that incorporating this wording "clarifies the statutory limits of the Coastal Area Management Act" and represents "an agreement between the regulated public and the NC Division of Coastal Management." According to the Petitioner, leaving the existing rule language unchanged "is not a true picture of the regulatory framework prescribed by the Legislature."

The language of Session Law 2025-48 (attached) made three statutory changes, including:

- 1) CAMA 113A-103 (adds a new definition of "man-made ditches"),
- 2) CAMA 113A-113 (incorporates the man-made ditches definition and states that man-made ditches as defined in 113A-103 may not be designated as an AEC),
- 3) Dredge and Fill Law 113-229 (stating that a "marshland" as defined in Dredge and Fill shall not include a man-made ditch as defined in 113A-103).

Under 15A NCAC 7J .0605(b), the CRC's rules require the Director to prepare a Recommended Response to any Petition for Rulemaking for the Commission's consideration. The Director's response was presented at your February meeting and concluded the Division has concerns that the Petitioner's proposed amendments may conflict with the North Carolina Administrative Procedure Act (APA), specifically G.S. 150B-19(4), which prohibits agencies from adopting rules that "repeat the content of a law, a rule, or a federal regulation." While a brief statement informing the public of legal requirements does not violate the APA and satisfies the "reasonably



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necessary” standard under G.S. 150B-21.9(a)(3), the Director recommended that the CRC grant the petition but clarify that it does not endorse the Petitioner’s specific proposed text.

Pursuant to G.S. 150B-20(c), the Commission may either grant or deny a rulemaking petition. If a petition is denied, the agency must provide a written explanation. If granted, the agency must notify the Petitioner and initiate rulemaking proceedings. During the rule making process, the CRC may consider whether to adopt the Petitioner’s language or alternative language proposed by the Division.

On February 25, 2026, the CRC granted the Petition for Rulemaking and directed staff to begin the rulemaking process. Staff have prepared alternative draft rule amendments to implement Session Law 2025-48 for the Commission’s consideration. To address the statutory changes, staff recommend the following amendments:

15A NCAC 07H .0106 GENERAL DEFINITIONS

The following definitions apply whenever these terms are used in this Chapter:

- (1) "Normal High Water" is the ordinary extent of high tide based on site conditions such as presence and location of vegetation which has its distribution influenced by tidal action, and the location of the apparent high tide line.
- (2) "Normal Water Level" is the level of water bodies with less than six inches of lunar tide during periods of little or no wind. It can be determined by the presence of such physical and biological indicators as erosion escarpments, trash lines, water lines, marsh grasses, and barnacles.
- (3) Unless specifically limited, the term "structures" includes, but is not limited to, buildings, bridges, roads, piers wharves and docks (supported on piles), bulkheads, breakwaters, jetties, mooring pilings and buoys, pile clusters (dolphins), navigational aids, and elevated boat ramps.
- (4) "Mining" is defined as:
 - (a) the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of mineral, ores, or other solid matter;
 - (b) any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, soils, and other solid matter from their original Location; or
 - (c) the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use.

This definition applies regardless of whether the mining activity is for a commercial or noncommercial purpose, and regardless of the size of the affected area. Activities such as vibracoring, box coring, surface grab sampling, and other drilling and sampling for geotechnical testing, mineral resource investigations, or geological research are not considered mining. Excavation of mineral resources associated with the construction or maintenance of an approved navigation project in accordance with 15A NCAC 7B .0200 of this Chapter is not considered mining.

- (5) "Wind Energy Facility" means the turbines, accessory buildings, transmission facilities, and any other equipment necessary for the operation of the facility that cumulatively, with any other



wind energy facility whose turbines are located within one-half mile of one another, have a rated capacity of three megawatts or more of energy.

(6) The term “man-made ditches” are defined in G.S. 113A-103(8a).

15A NCAC 07H .0205 COASTAL WETLANDS

(a) Definition. "Coastal Wetlands" are defined as any salt marsh or other marsh subject to regular or occasional flooding by tides, including wind tides, that reach the marshland areas through natural or artificial watercourses, provided this does not include hurricane or tropical storm tides. Regular or occasional flooding shall be established through field indicators, including the observation of tidal water on the site, changes in elevation, presence of periwinkle (*Littoraria* spp.), presence of crab burrows, staining, or wrack lines. Coastal wetlands may contain one or more of the following marsh plant species:

- (1) Cord Grass (*Spartina alterniflora*);
- (2) Black Needlerush (*Juncus roemerianus*);
- (3) Glasswort (*Salicornia* spp.);
- (4) Salt Grass (*Distichlis spicata*);
- (5) Sea Lavender (*Limonium* spp.);
- (6) Bulrush (*Scirpus* spp.);
- (7) Saw Grass (*Cladium jamaicense*);
- (8) Cat-tail (*Typha* spp.);
- (9) Salt Meadow Grass (*Spartina patens*); or
- (10) Salt Reed Grass (*Spartina cynosuroides*).

The coastal wetlands AEC includes any contiguous lands designated by the Secretary of DEQ pursuant to G.S. 113- 230(a). Man-made ditches as defined in G.S. 113A-103(8a) are excluded from the Coastal Wetlands AEC.

15A NCAC 07H .0206 ESTUARINE WATERS

(a) Definition. "Estuarine Waters" are defined in G.S. 113A-113(b)(2) to include all the waters of the Atlantic Ocean within the boundary of North Carolina and all the waters of the bays, sounds, rivers and tributaries, except man-made ditches, as defined in G.S. 113A-103(8a), thereto seaward of the dividing line between coastal fishing waters and inland fishing waters. The boundaries between inland and coastal fishing waters are set forth in an agreement adopted by the Wildlife Resources Commission and the Department of Environment and Natural Resources and in the most current revision of the North Carolina Marine Fisheries Regulations for Coastal Waters, codified at 15A NCAC 3Q .0200.

15A NCAC 07H .0207 PUBLIC TRUST AREAS

(a) Definition. "Public trust areas" are all waters of the Atlantic Ocean and the lands thereunder from the mean high water mark to the seaward limit of state jurisdiction; all natural bodies of water subject to measurable lunar tides and lands thereunder to the normal high water or normal water level; all navigable natural bodies of water and lands thereunder to the normal high water or normal water level as the case may be, except privately-owned lakes to which the public has no right of access; all water in artificially created bodies of water containing public fishing resources or other public resources which are accessible to the public by navigation from bodies of water, except man-made ditches, as defined in G.S. 113A-103(8a), in which the public has rights of navigation;



and all waters in artificially created bodies of water in which the public has acquired rights by prescription, custom, usage, dedication, or any other means.



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