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CRC-26-68

August 6, 2026

MEMORANDUM

TO: Coastal Resources Commission
FROM: Jonathan Lucas
SUBJECT: Fiscal Analysis for Proposed Amendments to 15A NCAC .0106; .0205; .0206; and .0207

At your April 2026 meeting, the Commission approved amendments to four rules to align them with the requirements of Session Law 2025-48 regarding man-made ditches. The amendments are:

1. To add the definition of “man-made ditches” to 15A NCAC 07H .0106.
2. To exclude man-made ditches from the definition of the Coastal Wetlands AEC in 15A NCAC 07H .0205.
3. To exclude man-made ditches from the definition of the estuarine waters AEC in 15A NCAC 07H .0206.
4. To exclude man-made ditches from the definition of the public trust areas AEC in 15A NCAC 07H .0207.

DCM does not anticipate substantial economic impacts as a result of these proposed rule amendments. Because DCM has already implemented the statutory changes enacted by S.L. 2025-48 in its permitting program, the proposed rule amendments are expected to have only limited incremental fiscal impacts. The primary effect of the rule amendments is to conform existing rules to current law and agency practice, improving consistency, reducing the potential for conflicting regulatory requirements, and providing greater clarity and predictability for applicants, local permitting programs, and agency staff.

The fiscal analysis has been submitted to OSBM for review but has not yet been approved. Staff will provide a status update at the August 2026 meeting that could include a recommendation to consider adoption.

Enclosure 1: Proposed rule amendments



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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" is 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.