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NORTH CAROLINA
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**CRC-26-89**

October 20, 2026

**MEMORANDUM**

**TO:** Coastal Resources Commission

**FROM:** Daniel Govoni

**SUBJECT:** Consideration of Amendments to Coastal Energy Policies 15A NCAC 07M .0401-Declaration of General Policies and 15A NCAC 07M .0403-Policy Statements

15A NCAC 07M Coastal Energy Policies established North Carolina's framework for evaluating and regulating energy facility development in coastal areas. The policies aimed to balance energy needs with protection of coastal resources, public trust rights, and community interests.

On October 5, 2023, as part of the Periodic Rules Review Process, 15A NCAC 07M .0401 and 15A NCAC 07M .0403 were returned to the Division and subsequently removed from the North Carolina Administrative Code. On March 3, 2025, these policies were returned to the Administrative Code pursuant to an order issued by Wake County Superior Court. The Rule Review Commission (RRC) appealed this decision, and the Court later determined that eight rules, including 15A NCAC 07M .0401 and 15A NCAC 07M .0403, contained ambiguous language.

In response, the Division of Coastal Management (DCM) recommends initiating permanent rulemaking to amend the Coastal Energy Polices. The proposed amendments to 15A NCAC 07M .0401 and 15A NCAC 07M .0403 addresses the ambiguities identified by the RRC and include minor revisions for clarity and to ensure compliance with current rule formatting requirements.

SECTION .0400 - COASTAL ENERGY DEVELOPMENT ~~– GENERAL POLICIES~~

15A NCAC 07M .0401 ~~DECLARATION OF~~ ~~GENERAL POLICY~~ COASTAL ENERGY GENERAL STANDARDS

(a) ~~It is hereby declared that the general welfare and public interest require that reliable sources of energy be made available to the citizens of North Carolina. It is further declared that the development of energy facilities and energy resources within the state and in offshore waters can serve important regional and national interests. However, unwise Development of energy facilities or energy resources can conflict~~

with the recognized and equally important public interest that rests in conserving and protecting the valuable land and water resources of the state and nation, particularly coastal lands and waters. Therefore, in order to Energy facilities within or impacting coastal resources or uses within the coastal zone the state and in offshore waters shall balance the public benefits of necessary energy development with the need to by with:

(1) protect protecting valuable coastal resources;

(2) preserve preserving access to and utilization of public trust resources; the planning of future uses affecting both land and public trust resources the exercise of regulatory authority, and determinations of consistency with the North Carolina Coastal Management Program shall assure that the development of energy facilities and energy resources shall avoid avoiding significant adverse impacts, as defined in 15A NCAC 07H .0208 (a)(7) and (a)(8), upon vital coastal resources or uses, public trust areas, and public access rights.

(b) Exploration for the for, and development of offshore and Outer Continental Shelf (OCS) energy resources has the potential to affect coastal resources and use of those resources. The Federal Coastal Zone Management Act of 1972, as amended, requires that Leasing actions of by the federal government shall be consistent to the maximum extent practicable with the enforceable policies of the federally approved North Carolina Coastal Management Program, and that exploration, development and production activities associated with such leases shall comply with those enforceable policies. Enforceable policies applicable to OCS activities include all the provisions of this Subchapter as well as any other applicable federally approved components of the North Carolina Coastal Management Program. All permit applications, plans and assessments related to exploration or development of OCS resources and other relevant energy facilities shall contain sufficient information to allow analysis of the consistency of all proposed activities with these Rules.

15A NCAC 07M .0403 POLICY STATEMENTS COASTAL ENERGY SPECIFIC STANDARDS

(a) The placement siting and operations of major energy facilities in or affecting impacting the use of public trust waters and adjacent lands or coastal resources of North Carolina shall be done in a manner that allows for protection of the environment and local and regional socio-economic goals as set forth in the local land use plan(s) and state guidelines in 15A NCAC 07H and 07M. The placement and operation of such facilities shall be consistent with state rules and statutory standards and shall comply with local land use plans and with use standards for development within AECs, as set forth in 15A NCAC 07H.

(b) (a) Proposals, plans and permit applications for major commercial energy facilities to be located sited in or affecting impacting any land or water use or coastal resource of the North Carolina coastal area shall include a disclosure of all costs and benefits associated with the project. This disclosure information shall be prepared at the earliest feasible stage in planning for the project and shall be by the applicant in the form of an impact assessment as defined in 15A NCAC 07M .0402 prepared by the applicant. If appropriate the applicant prepares environmental documents are prepared and reviewed under the provisions of the National Environmental Policy Act (NEPA) or the North Carolina Environmental Policy Act (NCEPA), this review will shall satisfy the definition of "impact assessment" if where all issues listed in this Rule are addressed in the NEPA or NCEPA document and the NEPA or NCEPA document are is submitted in sufficient time to be used to review state permit applications for the project or subsequent federal consistency determinations.

(c) Local governments shall not unreasonably restrict the development of necessary energy facilities; however, they may develop siting measures that will minimize impacts to local resources and to identify potential sites suitable for energy facilities. This section shall not limit the ability of a city or county to plan for and regulate the siting of a wind energy facility in accordance with land use regulations authorized under Chapter 160A and Chapter 153A of the General Statutes. Wind energy Energy facilities constructed within the planning jurisdiction of a city or county shall demonstrate compliance with any local ordinance concerning land use and any applicable permitting process.

~~(d)~~ (b) Energy facilities that do not require shorefront access shall be sited inland of the shoreline areas. ~~In instances~~ When siting of energy facilities along shoreline portions of the coastal ~~zone~~ area ~~is necessary locations~~, shoreline siting shall be acceptable only if it can be demonstrated that there are no significant adverse impacts to coastal resources, public trust waters, and the public's right to access ~~and passage~~ will not be ~~unreasonably restricted, all reasonable mitigating measures have been taken to minimize impacts to AECs.~~ restricted. ~~Whether restrictions or mitigating measures are reasonable shall be determined after consideration of, as appropriate, economics, technical feasibility, aerial extent of impacts, uniqueness of and impacted area, and other relevant factors.~~

~~(e)~~(c) The scenic and visual qualities of coastal areas shall be considered and protected as ~~important~~ public resources consistent with G.S. 113A-1-2(b)(4)(a). Energy development shall be sited and designed to provide maximum protection of views to and along the ocean, sounds and scenic coastal areas, and to minimize the alteration of natural landforms.

~~(f)~~ (d) All energy facilities in or affecting the use of public trust waters and adjacent lands or coastal ~~resource~~ resources shall be sited and operated so as to comply with the following criteria:

(1) Activities that could result in significant adverse impacts, as defined in 15A NCAC 07H .0208 (a)(7) and (a)(8), on resources of the coastal area, including marine and estuarine resources and wildlife resources, as defined in G.S. 113-129, and significant adverse impacts on the use of public trust waters and adjacent lands in the coastal area shall be avoided; ~~avoided unless site specific information demonstrates that each such activity will result in no significant adverse impacts on the use of public trust waters and adjacent lands or coastal resources;~~

(2) For petroleum facilities, ~~necessary~~ data and information required by the state for state permits and federal consistency reviews, pursuant to 15 CFR part 930, shall assess the risks of petroleum release or spills, evaluate possible trajectories, and enumerate response and mitigation measures employing the best available technology to be followed in the event of a release or spill. The information ~~must~~ shall demonstrate that the potential for petroleum release or spills and ensuing damage to coastal resources has been minimized and shall factor environmental conditions, currents, winds, and inclement events such as northeasters and hurricanes, in trajectory scenarios. For facilities requiring an Oil Spill Response Plan, this information shall be included in such a plan;

(3) Dredging, spoil disposal and construction of ~~related~~ structures that are likely to have significant adverse impacts, as defined in 15A NCAC 07H .0208 (a)(7) and (a)(8),on the use of public trust waters and adjacent lands or coastal resources shall be avoided; ~~minimized, and any unavoidable actions of this sort shall minimize damage to the marine environment;~~

(4) ~~Damage to or interference with~~ Significant adverse impacts to existing or traditional uses, such as fishing, navigation and access to public trust areas, and areas with high biological or recreational value such as those listed in Subparagraph (f)(10)(A) ~~and (H)~~ of this Rule, shall be avoided ~~to the extent that such damage or interference is likely to have significant adverse impacts, as defined in 15A NCAC 07H .0208 (a)(7) and (a)(8), on the use of public trust waters and adjacent lands or coastal resources~~;

(5) Placement of structures in geologically unstable areas, such as unstable sediments and active faults, shall be avoided ~~to the extent that damage to such structures resulting from geological phenomena is likely to~~ ~~if the siting will have significant adverse impacts, as defined in 15A NCAC 07H .0208 (a)(7) and (a)(8), on the use of public trust waters, adjacent lands or coastal resources;~~

~~(6) Procedures necessary to secure an energy facility in the event of severe weather conditions, such as extreme wind, currents and waves due to northeasters and hurricanes, shall be initiated sufficiently in advance of the commencement of severe weather to ensure that significant adverse impacts, as defined in 15A NCAC 07H .0208 (a)(7) and~~

~~(a)(8), on the use of public trust waters, adjacent lands and coastal resources shall be avoided;~~

~~(7) Significant adverse impacts on federally listed threatened or endangered species shall be avoided;~~

(8) Major energy facilities ~~are not appropriate uses in~~ shall not cause significant adverse impacts to fragile or historic areas, and other areas containing environmental or natural resources of more than local significance, as defined in G.S. 113A-113(b)(4), such as parks, recreation areas, wildlife refuges, and historic sites;

(9) ~~No energy~~ Energy facilities shall not be sited in areas where they pose a threat to the integrity of the facility and surrounding areas, such as ~~ocean front~~oceanfront areas with high erosion rates, areas having a history of overwash or inlet formation, and ~~areas in the vicinity of existing inlets~~ Inlet Hazard Areas identified in 15A NCAC 07H .0304;

(10) In the siting of energy facilities and related structures, significant adverse impacts, as defined in 15A NCAC 07H .0208 (a)(7) and (a)(8), to the following areas shall be avoided:

(A) areas of high biological significance, including offshore reefs, rock outcrops, hard bottom areas, sea turtle nesting beaches, coastal wetlands, primary or secondary nursery areas or spawning areas and essential fish habitat areas of particular concern as designated by the appropriate fisheries management agency, oyster sanctuaries, submerged aquatic vegetation as defined by the Marine Fisheries Commission, colonial bird nesting areas, and migratory bird routes;

(B) tracts of maritime forest in excess of 12 contiguous acres and areas identified as eligible for registration or dedication by the North Carolina Natural Heritage Program;

(C) ~~crossings of streams, rivers, and lakes except for existing readily accessible corridors;~~

(D) anchorage areas and port areas;

(E) artificial reefs, shipwrecks, and submerged archaeological resources;

(F) ~~dump sites~~ Ocean Dredged Material Disposal Sites;

(G) primary dunes and frontal dunes;

(H) established recreation or wilderness areas, such as federal, state and local parks, forests, and wildlife refuges ~~and other areas used in a like manner~~;

(I) military air space, training or target area and transit lanes;

(J) cultural or historic sites of more than local significance; and

(K) segments of Wild and Scenic River System.

(11) Construction of energy facilities shall ~~occur only during periods of lowest biological vulnerability~~ be timed to avoid significant adverse impacts on life cycles of estuarine and ocean systems. Nesting and spawning periods shall be avoided.~~; and~~

~~(12) If facilities located in the coastal area are abandoned, habitat of value equal to or greater than that existing prior to construction shall be restored as soon as practicable following abandonment. For abandoned facilities outside the coastal area, habitat in the areas shall be restored to its preconstruction state and functions as soon as practicable if the abandonment of the structure is likely to have significant adverse impacts on the use of public trust waters, adjacent lands or coastal resources.~~

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