Fiscal Analysis

Proposed Rule Changes

15A NCAC 07J .0210

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252-515-5419

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Basic Information

Agency	DEQ, Division of Coastal Management (DCM) Coastal Resources Commission (CRC)
Citations and Titles	15A NCAC 07J .0210 REPLACEMENT OF EXISTING STRUCTURES
Description of the Proposed Rules	The Coastal Resources Commission approved amendments that align its repair and replacement criteria for water-dependent structures with the permit exemption established in G.S. 113A-118(g) for qualifying docks, piers, and walkways.
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Authority	*G.S. 113A-118(g)*
Necessity	Session Law 2024-45 directed the Commission to amend Rule 07J .0210 and other CAMA rules to conform to the statutory exemption. Session Law 2024-53 subsequently added Departmental mapping and public-information requirements.
Impact Summary	State government: No Local government: No Substantial impact: No Federal government: No Private citizens: Minimal

Introduction and Purpose

CRC Rule 15A NCAC 07J .0210 distinguishes the repair of an existing structure from its replacement. Repair of a structure damaged by natural elements, fire, or normal deterioration is not considered development and does not require a CAMA permit. Replacement is considered development and generally requires a permit demonstrating consistency with current CRC rules. For water-dependent structures, existing Rule .0210 generally classifies work as replacement when the structure is enlarged in any dimension or when more than 50 percent of specified structural components must be replaced.

Session Law 2024-45 changed that framework for a defined group of fixed docks, floating docks, fixed piers, floating piers, and walkways. The legislation created G.S. 113A-118(g), which exempts qualifying repair or replacement work from CAMA permitting regardless of the percentage of structural components that must be replaced. The law also permits limited increases in length or width and allows an eligible structure to be increased in height. Session Law 2024-53 subsequently amended the legislation and directed the Department to make maps and other information available to help the public determine whether a structure is adjacent to a federal navigation channel.

DCM began implementing the statutory exemption when the legislation became effective. Accordingly, an eligible project does not require a CAMA permit even though the current text of Rule 15A NCAC 07J .0210 continues to state that enlargement or replacement of more than 50 percent of a water-dependent structure constitutes replacement. During prior discussions, the Commission expressed a preference that the statutory exception be incorporated into the rule rather than administered solely through application of CAMA.

The proposed amendment updates Rule 15A NCAC 07J .0210 so that its repair and replacement criteria can be read consistently with G.S. 113A-118(g). It preserves the existing rule for water-dependent structures that do not qualify for the statutory exemption, identifies the statute as controlling for eligible docks, piers, and walkways, and directs readers to Department-hosted information concerning federal navigation channels. The amendment does not expand the exemption beyond the limits enacted by the General Assembly.

Because the exemption and mapping obligation are already established in statute and are already being implemented, the proposed rule amendment is expected to have only limited incremental fiscal effects. Any reduction in permitting burden, permit fees, or agency workload is principally attributable to Session Laws 2024-45 and 2024-53 rather than to the conforming rule amendment itself.
DCM anticipates the effective date of these rule amendments to be April 1, 2027.

Description of the Rule Amendments

The proposed amendment is limited to 15A NCAC 07J .0210(2), which contains the repair and replacement criteria for water-dependent structures. The existing criteria for non-water-dependent structures in Paragraph (1) are not changed.

Enlargement of Water-Dependent Structures - 15A NCAC 07H .0210(2)

The opening sentence of Paragraph (2) currently provides that work on a water-dependent structure is considered replacement if it enlarges the existing structure in any dimension. Under G.S. 113A-118(g), however, an otherwise eligible dock, pier, or walkway may increase in length or width by up to five feet or five percent, whichever is less, and may increase in height without requiring a CAMA permit.

The proposed amendment retains the general enlargement evaluation but adds an exception when G.S. 113A-118(g) applies. This prevents the rule's broader enlargement language from conflicting with the limited dimensional increases expressly authorized by statute. Structures that do not satisfy the statutory size, cause-of-damage, location, or structure-type limitations remain subject to the existing rule and are treated as replacement if enlarged in any dimension.

Fifty-Percent Structural-Component Test – 15A NCAC 07H .0210(2)(a)

For fixed docks, piers, platforms, boathouses, boatlifts, and freestanding moorings, existing rule language within Rule 15A NCAC 07J .0210(2)(a) classifies work as replacement when more than 50 percent of the framing and structural components (including beams, girders, joists, stringers, or pilings) must be rebuilt to restore the structure to its pre-damage condition. Structurally independent boatlifts and boathouses are treated as separate structures for purposes of the calculation.

G.S. 113A-118(g) removes the percentage limitation for qualifying docks, piers, and walkways. The proposed amendment therefore clarifies that the 50-percent consideration continues to apply to the listed water-dependent structures that do not meet the statutory exemption. This preserves the Commission's existing repair/replacement framework for boathouses, boatlifts, platforms, moorings, oversized facilities, facilities adjacent to federal channels, and other nonqualifying structures while recognizing that an eligible dock, pier, or walkway may be rebuilt without a CAMA permit even when more than half of its structural components are replaced.

Federal Navigation Channel Information - Rule .0210(2)(a)

Because facilities adjacent to federal navigation channels are excluded from G.S. 113A-118(g), adjacency is a threshold eligibility question for property owners and permitting staff. The proposed amendment adds a reference to the Department webpage containing federal navigation channel maps and related information developed using mapping supplied by the U.S. Army Corps of Engineers.

The web reference does not create a new substantive standard. It provides a practical means for applicants, consultants, and DCM staff to identify when the statutory exemption may be unavailable because of federal-channel adjacency.

Cost or Neutral Impacts

Department of Transportation (DOT)

Pursuant to G.S. 150B-21.4, DCM does not expect the proposed amendment to affect the North Carolina Department of Transportation. The rule concerns repair and replacement of specified docking facilities and does not establish new requirements for transportation infrastructure. Any qualifying State-owned docking facility would be evaluated under the same statutory criteria applicable to other property owners.

State Government

DCM may incur minimal staff time to complete rulemaking, update guidance, maintain the federal navigation channel webpage, and respond to questions regarding eligibility for the exemption. These activities can be absorbed within existing resources. The Department's obligation to make federal navigation channel maps and related information available arises from Session Law 2024-53, rather than from the proposed rule amendment, and DCM has already coordinated with the U.S. Army Corps of Engineers to obtain the mapping.

The exemption established in G.S. 113A-118(g) does not require a property owner to notify DCM or obtain an exemption determination before proceeding with qualifying work. Consequently, DCM does not receive notice each time the exemption is used and does not have data identifying how many existing facilities qualify or how many property owners have relied on the exemption since its enactment.

The statutory exemption may reduce the number of CAMA permit applications submitted for qualifying dock and pier projects. However, because exempt activities are not reported to DCM, the Division cannot reliably estimate the number of avoided permits, the associated reduction in permit-fee revenue, or the change in staff workload. Any such effects arise from the statutory exemption and are already part of the regulatory baseline; they are not caused by the proposed conforming rule amendment.

The proposed amendment may provide a modest administrative benefit by reducing inconsistencies between the rule and statute and directing staff and the public to a common source of information regarding federal navigation channel locations. To the extent this added clarity prevents property owners from mistakenly applying for a permit they do not need, the State may forgo the corresponding $474 permit fee for each avoided application. Any resulting reduction in fee revenue is expected to be minimal, however, because it reflects only permits that would have been submitted unnecessarily and, like the applicant-side savings, cannot be reliably estimated from available data.

Local Government

Local permit officers administer CAMA minor permits, which generally address development occurring landward of the normal high-water or normal water level. Because docks and piers are water-dependent structures located primarily waterward of those boundaries, their permitting is administered by DCM rather than through local CAMA minor permit programs. Therefore, the statutory exemption is not expected to reduce local permit-fee revenue, State reimbursements, or permitting workload.

Private Property

Owners of qualifying facilities may avoid CAMA permit fees, application preparation, plans or surveys required solely for CAMA review, and time associated with the permitting process. The statute may also allow owners to rebuild after damage or deterioration without limiting the work to 50 percent of the structure and to make the limited dimensional or height increases authorized by G.S. 113A-118(g). These benefits are attributable to the statutory exemption rather than to the proposed rule amendment.

The proposed amendment provides an additional, incremental benefit by improving clarity. By incorporating the statutory exemption directly into Rule 07J .0210 and providing a link to channel-adjacency information, the amendment offers clearer guidance on when a permit is not required. This reduces the likelihood that owners will unnecessarily apply for – and pay for – a permit they do not need. Because the cost of a CAMA permit is $474, a property owner who might otherwise have mistakenly applied for a permit when the project already qualifies for the statutory exemption could avoid this fee as a direct result of the amendment's added clarity. The amendment may also reduce transaction costs more broadly: property owners, contractors, consultants, building inspectors, and permit officers may spend less time determining whether the older enlargement and 50-percent criteria still control. The principal incremental benefit of the rule amendment is therefore improved clarity and consistency among Rule 07J .0210, current law, and DCM practice. The amount of these savings is expected to be primarily associated with permitting fees and is therefore relatively small for any individual project.

Cost Benefit Summary

Because DCM is already implementing G.S. 113A-118(g), the proposed amendment to 15A NCAC 07J .0210 is expected to have minimal incremental fiscal impact. State implementation costs consist primarily of limited staff time for rulemaking, guidance, webpage maintenance, and public assistance and can be absorbed within existing resources. Local-government and federal-government impacts are expected to be minimal or none.

The statutory exemption may provide minor to potentially meaningful project-specific benefits to owners through avoided permit fees, reduced application burden, greater repair flexibility, and limited dimensional increases. State and local permitting programs may experience corresponding reductions in fee revenue and workload. Available information does not support a reliable estimate of affected project volume or aggregate savings. These effects are attributable to Session Laws 2024-45 and 2024-53, not to the proposed conforming rule amendment.

The principal incremental benefit of the rule amendment is improved consistency between Rule .0210, current law, and DCM practice. The amendment provides clearer notice of which structures remain subject to the existing enlargement and 50-percent tests and directs the public to information needed to evaluate federal-channel adjacency. By clarifying when a permit is not required, the amendment may also reduce the likelihood that a property owner mistakenly applies for a CAMA permit -- avoiding the $474 permit fee for the owner while modestly reducing the State's corresponding fee revenue. Any such effect is expected to be minimal and cannot be reliably estimated from available data. The proposed amendment is not expected to generate aggregate costs or benefits meeting the substantial economic-impact threshold.

15A NCAC 07J .0210 REPLACEMENT OF EXISTING STRUCTURES

Replacement of structures damaged or destroyed by natural elements, fire or normal deterioration is considered development and requires CAMA permits. Replacement of structures shall be permitted if the replacement is consistent with current CRC rules. Repair of structures damaged by natural elements, fire or normal deterioration is not considered development and shall not require CAMA permits. The CRC shall use the following criteria to determine whether proposed work is considered repair or replacement.

(1) NON-WATER DEPENDENT STRUCTURES. Proposed work is considered replacement if the Department determines that the cost to do the work exceeds 50 percent of the market value of an existing structure either prior to a catastrophic event such as a fire or hurricane or if there is no catastrophic event, at the time of the request market value and costs are determined as follows:

(a) The market value of the structure shall be determined by the Division based on information provided by the applicant that is no more than one year old as of the date the request is made. The market value of the structure shall not include the value of the land or value resulting from the location of the property, the value of accessory structures, or the value of other improvements located on the property. The information provided by the applicant may include any of the following:

(i) an appraisal;

(ii) the replacement cost with depreciation for age of the structure and quality of construction;

(iii) or the tax assessed value.

(b) The cost to do the work is the cost to return the structure to its pre-damaged condition, using labor and materials obtained at market prices, regardless of the actual cost incurred by the owner to restore the structure. It shall include the costs of construction necessary to comply with local and state building codes. The cost shall be determined by the Division utilizing any or all of the following provided by the applicant:

(i) an estimate provided by a North Carolina licensed contractor qualified by license to provide an estimate or bid with respect to the proposed work;

(ii) an insurance company's report itemizing the cost, excluding contents and accessory structures;

(iii) or an estimate provided by the local building inspections office.

(2) WATER DEPENDENT STRUCTURES. The proposed work is considered replacement if it enlarges the existing structure in any dimension, except where G.S. 113A-118(g) applies for _____. The proposed work is also considered replacement if:

(a) ~~In~~ the case of fixed docks, piers, platforms, boathouses, boatlifts, and free standing ~~structures~~ _____ more than 50 percent of the framing and structural components (beams, girders, joists, stringers, or pilings) must be rebuilt in order to restore the structure to its pre-damage condition. Water dependent structures that are structurally independent from the principal pier or dock, such as boatlifts or boathouses, are considered as separate structures for the purpose of this ~~rule~~ _____ https://www.deq.nc.gov/about/divisions/division-coastal-management/coastal-management-rules-regulations/usace-federal-navigation-channel-gis;

(b) ~~in~~In the case of boat ramps, ramps and floating structures such as docks, piers, platforms, and modular floating systems, more than 50 percent of the square feet area of the structure must be rebuilt in order to restore the structure to its pre-damage condition;

(c) ~~In~~ the case of bulkheads, seawalls, groins, breakwaters, and revetments, more than 50 percent of the linear footage of the structure must be rebuilt in order to restore the structure to its pre-damage condition.

History Note: *Authority G.S. 113A-103(5)b.5.; 113A-107(a),(b);*
Eff. July 1, 1990;
Amended Eff. August 1, 2007;
Readopted Eff. January 1, 2023.