

NC Division of Coastal Management

NC Department of Environmental Quality
Division of Coastal Management

Fiscal Analysis for 15A NCAC 07H .0106; .0205; .0206; .0207 Man-made Ditches

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Key Elements of the Proposed Rule Language

To align with S.L. 2025-48, the CRC is proposing the following four rule changes:

- To add the **definition** of “man-made ditches” to 15A NCAC 07H .0106

“Man-made ditches” mean constructed, altered, or excavated features used to convey water, including, but not limited to, artificial ponds, culverts, canals, swales, storm channels, minor-drainage features, and roadside ditches. For the purpose of this subdivision, the term “altered” does not include the alteration of a natural shoreline, natural stream, or natural wetland, and the term “excavated” does not include submerged lands that have been dredged for the purpose of navigation.

- To exclude man-made ditches from the definition of the **coastal wetlands** AEC in 15A NCAC 07H .0205
- To exclude man-made ditches from the definition of the **estuarine waters** AEC in 15A NCAC 07H .0206
- To exclude man-made ditches from the definition of the **public trust areas** AEC in 15A NCAC 07H .0207

Fiscal Analysis – Impact of Amendments



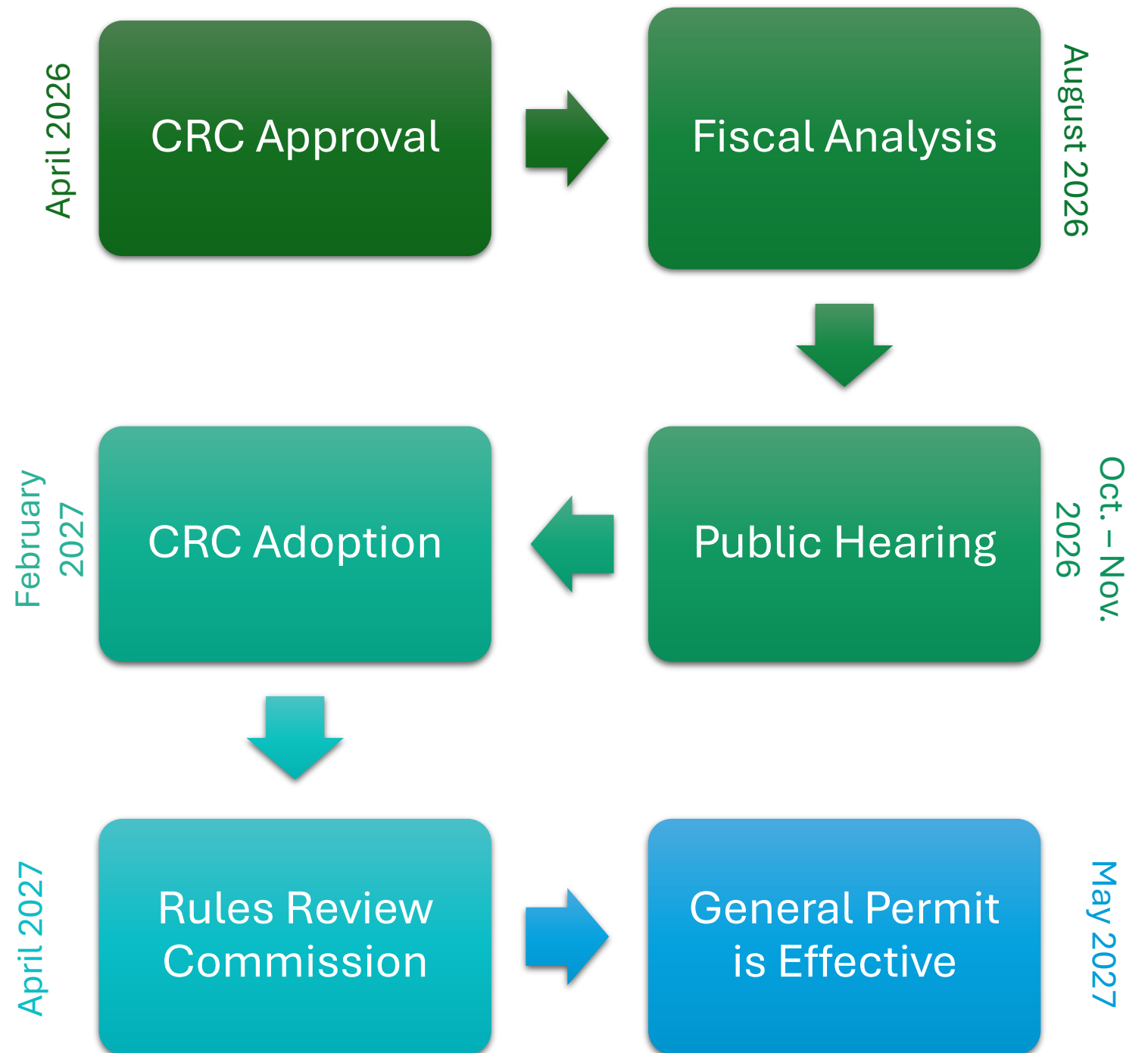
Effects of rule changes:

- Improve consistency between CRC rules and the NC General Statutes
- Reduce confusion and conflicting interpretations
- Provide clearer guidance for staff when making permit decisions
- Reduce regulatory uncertainty for permit applicants

Effects of Session Law 2025-48:

- No significant impact to NCDOT CAMA permitting
- DCM: minor reduction in permit fee revenue and regulatory workload
- Local governments (LPO program): minor reduction in permit revenue and workload
- Private property owners: some regulatory relief
- No significant impact to natural resources.

Rule-Making Process



Next Steps

- The fiscal analysis was approved by OSBM on August 14.
- DCM staff recommends CRC approval of the fiscal analysis for the proposed four rule amendments.



Proposed Rule Changes

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).

Proposed Rule Changes

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.

Proposed Rule Changes



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^[No Title] 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.