

Fiscal Analysis

Proposed Rule Changes

15A NCAC 07H .0106

15A NCAC 07H .0205

15A NCAC 07H .0206

15A NCAC 07H .0207

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August 11, 2026

Summary

Agency	DEQ, Division of Coastal Management Coastal Resources Commission
Title of Proposed Rules	15A NCAC 07H .0106 GENERAL DEFINITIONS -and- 15A NCAC 07H .0205 COASTAL WETLANDS -and- 15A NCAC 07H .0206 ESTUARINE WATERS -and- 15A NCAC 07H .0207 PUBLIC TRUST AREAS
Description of the Proposed Rules	The CRC proposes changes to its rules to add a definition of man-made ditches, and state that man-made ditches may not be considered public waterways or marshland, or designated an area of environmental concern.
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Authority	G.S. 113A-102; G.S. 113A-107; G.S. 113A-113(b); G.S. 113A-124
Necessity	The CRC proposes these rule changes to conform its rules to recent amendments to the Coastal Area Management Act (CAMA) and the Dredge and Fill Law made by Session Law 2025-48.
Impact Summary	State government: Minimal Local government: Minimal Substantial impact: No Federal government: No Private citizens: Minimal

Introduction and Purpose

The Coastal Area Management Act (CAMA) of 1974 (§113A, Article 7) declares North Carolina's coastal area to be among the most valuable and biologically productive regions of the state, and to have extremely important recreational and aesthetic value that should be preserved and enhanced. CAMA assigned management of coastal areas to the Coastal Resources Commission (CRC), giving CRC the authority to designate areas of environmental concern (AECs) and to establish use standards for development permitted in these AECs. Of particular concern for this fiscal analysis, using the authority granted by CAMA, CRC has designated coastal wetlands, estuarine waters, and other navigable public trust waters in the coastal counties as AECs.

At the time of its establishment, CRC was charged with implementing the Dredge and Fill Law (§ 113-229), which regulates excavation and fill activities within estuarine waters, marshlands, and State-owned lakes.

In July of 2025, Session Law 2025-48 (S.L. 2025-48) made the following changes to the North Carolina General Statutes specific to man-made ditches:

1. It amended CAMA by defining man-made ditches. *“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.*
2. It amended CAMA to specifically state that man-made ditches are excluded from being considered estuarine waters or navigable, public-trust waterways that CRC may designate as AECs.
3. It amended CAMA to prohibit the Coastal Resources Commission from designating man-made ditches as areas of environmental concern.
4. It amended the Dredge and Fill Law to exclude man-made ditches from the definition of marshland.

Prior to S.L. 2025-48, Division of Coastal Management staff may have determined a man-made ditch to be estuarine waters, public trust waters, or marshland/coastal wetlands, if the man-made ditch was consistent with definitions found in CRC rule such as tidal influence, navigability, or presence of coastal wetland vegetation. Such an AEC determination would have been made on site based on the specific conditions at that location. CRC designation of an area as an AEC does not necessarily mean that such areas cannot be developed. It means that the development requires a CAMA permit and shall follow CRC permit conditions.

DCM began implementing the requirements of S.L. 2025-48 as soon as it became law in 2025. These proposed changes to 15A NCAC 07H are to bring CRC rules into alignment with the Session Law and current DCM practice. These rule changes are only those necessary to ensure consistency between CRC’s rules and the Session Law.

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. As implementation of the Session Law continues, the statutory changes may result in limited impacts on permit activity, including minor reductions in permit fee revenue, permitting workload, and associated administrative costs for State and local governments, as well as reduced regulatory burden for certain regulated entities.

DCM anticipates the effective date of these rule amendments to be April 1, 2027.

Description of Rule Amendments

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

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.

Prior to S.L. 2025-48 and the proposed rule changes, types of permissible development in ditches and the required CAMA permit varied by the ditch's characterization and its AEC. A detailed look at the effects of the Session Law is included below, based on which AEC the ditch may have been classified in.

Estuarine Waters and Public Trust Waters AECs

There are numerous man-made ditches, canals, and channels in North Carolina that are jurisdictional due to exclusions in S.L. 2025-48. These exclusions include man-made ditches created through the alteration of natural shorelines, natural streams, or natural wetlands as well as submerged lands that have been dredged for the purpose of navigation. Examples include the Atlantic Intracoastal Waterway and numerous residential canals on barrier islands.

Nevertheless, there are still instances where DCM historically determined a man-made ditch, as defined in S.L. 2025-48, to be estuarine waters or public trust waters but now S.L. 2025-48 has removed that determination. In these instances, CAMA permits are no longer required:

Requirements before S.L. 2025-48	Requirements after S.L. 2025-48
Water-dependent development (docks, piers, boat ramps, moorings, etc.) is allowed in estuarine and public trust waters with a CAMA General Permit .	Man-made ditches are not classified as estuarine waters or public trust waterways and therefore do not require a CAMA General Permit for water-dependent development.
Maintenance dredging requires a general permit under 15A NCAC 07H .1500.	Maintenance is exempt from CAMA permitting because the ditch is not jurisdictional, unless the ditch is within another AEC created by another coastal feature (see topic below).
Estuarine waters may not be filled.	Because the ditch is not an Estuarine Waters AEC, it may be filled without a CAMA permit unless it is located within another AEC created by another coastal feature (see topic below)
Other development within 75 feet of estuarine waters or 30 feet of public trust waters is allowed with a CAMA Minor Permit .	No CAMA permit is required for other development within 30 feet or 75 feet of the ditch.

Coastal Wetlands AEC

This paragraph considers man-made ditches through uplands that may have coastal wetland plants growing in the ditch. Prior to S.L. 2025-48, if a man-made ditch met CRC's definition of coastal wetlands (vegetation plus occasional tidal flooding), CRC's rules for the Coastal Wetlands AEC could have applied. Under S.L. 2025-48 no man-made ditch may now be considered part of the coastal wetlands AEC unless the ditch meets one of the exclusions.

S.L. 2025-48 does not remove jurisdiction from man-made ditches that were excavated through existing coastal wetlands, because the Session Law reads in part “does not include the alteration of a... natural wetland.” Mosquito ditches are the primary example of this type of feature, and CAMA continues to have permitting jurisdiction.

Requirements before S.L. 2025-48	Requirements after S.L. 2025-48
Mowing vegetation in the ditch is exempt from CAMA permitting, under certain circumstances.	CRC coastal wetland rules do not apply, and all these activities are statutorily exempt from CAMA permitting. However, the statutory exemption is not referring to ditches that were excavated through existing coastal wetlands, i.e. mosquito ditches.
Maintenance excavation of the coastal wetland vegetation is not permissible (but see agricultural and forestry exemption below).	
Ditch may not be filled in.	

Man-made ditches in an AEC due to another coastal feature

S.L. 2025-48 establishes that man-made ditches cannot be an AEC. However, whether before and after the Session Law, man-made ditches can be *in* an AEC, for example the estuarine shoreline AEC, public trust shoreline AEC, or ocean erodible area AEC. The important distinction here is that it must be an AEC created by another coastal feature, not by the ditch itself. Any development in that ditch in the AEC requires a CAMA permit.

Agriculture and Forestry Ditch Exemption

Since 1984, CRC rule 15A NCAC 07K .0206 has exempted from CAMA permitting the excavation and maintenance of small (6’ wide by 4’ deep) agricultural and forestry ditches in AECs, in recognition of the fact that CRC does not consider agriculture or forestry to be development unless subject to the Dredge and Fill Law. Permitting requirements for the maintenance of larger ditches in an AEC would be assessed on a case-by-case basis regarding the ditch’s function (ensuring that it is for agricultural or forestry use) the amount of disturbance involved, and its effect on coastal resources. This exemption has been available regardless of whether the man-made ditch contained coastal wetland vegetation or experienced tidal inundation. S.L. 2025-48 does not change this exemption.

The exemption in .07K .0206 is for the creation and maintenance of ditches. It does not address the filling of man-made ditches, i.e. a ditch ceasing to be a ditch. If after filling, the location continued to be used for agriculture or forestry, the act of filling has historically been considered exempt from CAMA permitting based on the definition of development in CAMA. However, if the ditch is filled for non-agriculture or non-forestry uses, the act of filling requires a CAMA permit as per the explanation in the previous section.

Costs or Neutral Impacts

Department of Transportation (DOT)

Pursuant to G.S. 150B-21.4, DCM does not expect the proposed rule changes to affect CAMA permitting for NC DOT. Construction of new roadside ditches will remain within the CAMA major permit required for the total road construction project. Additionally, prior to Session Law 2025-48, maintenance work in existing DOT ditches had negligible fiscal impact.

State Government

To date, there are two known instances of a man-made ditch that was removed from estuarine waters or public trust waters under S.L. 2025-48. This may result in minor reductions in permit fee revenue, and the reduction in fee revenue would be accompanied by a corresponding reduction in regulatory workload. These impacts are attributable to the statutory changes enacted by S.L. 2025-48 and are not a result of the proposed rule amendments.

The proposed amendments will provide additional benefits to DCM by improving consistency between the rules and statutory requirements, reducing potential confusion or conflicting interpretations, and providing clearer guidance for staff when administering permitting requirements. These changes may improve the efficiency and predictability of the permitting process for both DCM and regulated entities.

Local Government

Local governments that issue CAMA minor permits may be affected by S.L. 2025-48. The changes are not expected to significantly affect local government operations; however, they may result in minor reductions in permit fee revenue and associated State reimbursements due to fewer required permits. These reductions would be accompanied by corresponding decreases in permitting workload and administrative costs. These impacts are attributable to the statutory changes enacted by S.L. 2025-48 and are not a result of the proposed rule amendments.

The proposed rule amendments may provide additional benefits to local governments with CAMA permitting responsibilities by improving consistency between regulatory requirements and statutory authority, reducing uncertainty when determining whether permitting requirements apply, and providing clearer guidance for permit applicants and local permitting staff. These changes may support more efficient and predictable administration of the CAMA permitting program.

Local governments with LPO programs may continue to receive permit fee revenue associated with permits required due to other coastal features or applicable regulatory requirements. S.L. 2025-48 does not change those existing permitting requirements.

Private Property Owners

The proposed rule amendments may benefit private property owners and other regulated entities by improving consistency between the rules and statutory requirements, removing potential regulatory uncertainty, and providing greater clarity for property owners, applicants, and permitting staff when determining whether permitting requirements apply.

Private property owners and other regulated entities may experience minor regulatory relief as a result of S.L. 2025-48. The changes may reduce permitting requirements for certain activities involving man-made ditches, resulting in reduced permit fees, administrative requirements, and associated time costs for entities that would have otherwise needed permits. These impacts are expected to be limited, as relatively few known locations are affected and the types of activities that would result in regulatory relief are expected to be infrequent. The regulatory relief is attributable to the statutory changes enacted by S.L. 2025-48 and is not a result of the proposed rule amendments.

S.L. 2025-48 does not affect permitting requirements for man-made ditches that remain within an AEC due to the presence of another coastal feature or for activities already exempt under existing statutes and rules such as agricultural and forestry ditches.

Natural Resources

The proposed rule amendments are not expected to result in direct changes to coastal natural resources because they do not independently modify permitting requirements, development standards, or environmental protections. The amendments align the rules with statutory changes enacted by S.L. 2025-48, improving consistency and clarity in the administration of legislated CAMA requirements.

Although man-made ditches can provide some habitat or ecosystem functions, DCM has identified only a limited number of known locations affected by the Session Law based on available permit history and therefore does not anticipate significant impacts to coastal natural resources. However, the removal of the AEC designation could allow certain activities that were previously subject to CAMA permitting requirements to occur without a permit, which may result in localized changes to resource conditions in the future.

The long-term effects of the statutory changes on coastal resources are uncertain because future development decisions will be shaped by an on-the-ground jurisdictional call during the permit application process and cannot be predicted without analyzing site-specific conditions.

Cost/Benefit Summary

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.

As implementation of S.L. 2025-48 continues, the statutory changes may result in limited impacts on permit activity, including minor reductions in permit fee revenue, permitting workload, and associated administrative costs for State and local governments, as well as reduced regulatory burden for certain regulated entities. The long-term effects of the statutory changes on coastal natural resources are uncertain because future development decisions cannot be predicted without analyzing site specific conditions; however, DCM does not anticipate significant impacts based on the limited number of known locations affected and available permit history. These impacts are attributable to S.L. 2025-48 rather than the proposed rule 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" 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.