15A NCAC 07M .0402 is adopted under emergency procedures as follows:

15A NCAC 07M .0402 DEFINITIONS

(a) "Adverse impact", "adverse impacts", "adverse effects", or similar formulations, are defined as an effect or impact that is opposed or antagonistic to the goals of the Coastal Area Management Act as found in G.S. 113A-102(b) and with the provisions of G.S. 113-229(3).

(b) "Impact Assessment" is an analysis of the potential environmental, economic, and social consequences, including cumulative and secondary impacts of a proposed major energy facility. An Impact Assessment includes the following and for each of the following assess the effects the project will have on the use of public trust waters, adjacent lands, and on the coastal resources, including the effects caused by activities related to exploration or development of OCS resources and other energy facilities outside the coastal area:

(1) An analysis of the preferred sites for those elements of the project affecting the use of public trust waters, adjacent lands and the coastal resources:

(A) In all cases where the preferred site is located within an area of environmental concern (AEC) or on a barrier island, the applicant shall identify alternative sites considered and present a full analysis [in terms of Subparagraphs (a)(2) through (9) of this Rule] of the reasons why the chosen location was deemed more suitable than another feasible alternate site;

(B) If the preferred site is not located within an AEC or on a barrier island, the applicant shall present an analysis to support the proposed location over an alternate site.

(2) An analysis of the economic impacts, both positive and negative, of the proposed project. The analysis shall focus on economic impacts to the public, not on matters that are purely internal to the corporate operation of the applicant. No proprietary or confidential economic data shall be required. This analysis shall include potential adverse impacts upon the ability of any governmental unit to furnish necessary services or facilities as well as other secondary impacts.

(3) An analysis of potential adverse impacts on coastal resources, including marine and estuarine resources and wildlife resources, as defined in G.S. 113-129;

(4) An analysis of potential adverse impacts on existing industry and potential limitations on the availability of, and accessibility to, coastal resources, including beach compatible sand and water, for future use or development;

(5) An analysis of potential significant adverse impacts on recreational uses and scenic, archaeological and historic resources;

(6) An analysis of potential risks to human life or property;

(7) An analysis of the impacts on the human environment including noise, vibration and visual impacts;

(8) An analysis of the procedures and time needed to secure an energy facility in the event of severe weather conditions, such as extreme wind, currents and waves due to northeasters and hurricanes;

(9) Other specific data required for the various state and federal agencies and commissions with jurisdiction to evaluate the consistency of the proposed project with relevant standards and guidelines;

(10) A plan regarding the action to be taken upon the decommissioning and removal of the facility and related structures. The plan shall include an estimate of the cost to decommission and remove the energy facility including a discussion of the financial instrument(s) used to provide for the decommissioning and the removal of the structures that comprise the energy facility. The plan shall also include a proposed description of the condition of the site once the energy facility has been decommissioned and removed; and

(11) An analysis that the proposed project is consistent with local land use plans.

An impact analysis for a proposed major energy facility shall include the items described in Subparagraphs (a)(1) through (11) of this Rule for the associated energy exploration or development activities related to exploration or development of OCS resources and other energy facilities, including all foreseeable assessments of resource potential, the gathering of scientific data, exploration wells, and any delineation activities that are likely to follow development, production, maintenance, and decommissioning.

(c) "Major energy facilities" are those energy facilities, including those described in G.S. 113A-119.2(3), which have the potential to negatively impact any land or water use or coastal resource of the coastal area. For purposes of this definition, major energy facilities shall include the following:

(1) Any facility refining petroleum consistent with G.S. 143-215.77;

(2) Any terminals (and associated facilities) capable of handling, processing, or storing petroleum products or synthetic gas as defined in G.S 143-215.96;

(3) Any petroleum storage facility that is capable of storing 15 million gallons or more on a single site;

(4) Gas, coal, oil or nuclear electric generating facilities 300 MGW or larger;

(5) Wind energy facilities, including turbines, accessory buildings, transmission facilities, and other equipment necessary for the operation of a wind generating facility that cumulatively, with any other wind energy facility whose turbines are located within one-half mile of one another, are capable of generating three megawatts or larger;

(6) Thermal energy generation;

(7) Pipelines 12 inches or more in diameter that carry petroleum products or synthetic gas;

(8) Structures, including drillships and floating platforms located in offshore waters for the purposes of energy exploration, development, or production; and

(9) Onshore support or staging facilities related to offshore energy exploration, development, or production.

(d) "Offshore waters" are those waters seaward of the state's three-mile offshore jurisdictional boundary in which development activities may impact any land or water use or natural resource of the state's coastal area.

(e) “Significant” as used in this section includes consideration of both context and intensity. Context means that the significance of an adverse impact or effect must be analyzed from several perspectives that include society as a whole

(human, national), the affected subregion of the North Carolina coast, the local area and all directly and indirectly affected parties. Both short-and long-term effects are relevant. Intensity refers to the severity of impact or effect. The following shall be considered in evaluating intensity:

(1) Both beneficial and adverse impacts;

(2) The degree to which the proposed action affects public health or safety;

(3) Unique characteristics of the geographic area;

(4) The degree to which the effects on the quality of the human environment are likely to be controversial;

(5) The degree to which the possible effects on the environment are uncertain or involve unique or unknown risks;

(6) The degree to which the action may establish a precedent for future actions;

(7) The degree to which the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts;

(8) The degree to which the action may cause the loss or destruction of scientific, cultural, historical, and environmental resources and;

(9) The impact is more than de minimus, that is, large enough to make a difference.

History Note: *Authority G.S. 113A-102(b); 113A-107; 113A-119.2; 113A-124;*
Emergency Adoption Eff. January 2, 2024.