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NORTH CAROLINA
Environmental Quality

MEMORANDUM

CRC-22-29

TO: Coastal Resources Commission

FROM: Michael Christenbury, Wilmington District Planner

DATE: October 31, 2022

SUBJECT: Fiscal Analysis for 15A NCAC 7B – CAMA Land Use Plans - Enforceable Policies

Summary of Proposed Rule Change

The proposed amendments to 15A NCAC 7B Land Use Planning Requirements are in response to issues related to the lack of clearly defined enforceable policies in local land use plans, including which policies a community wishes to be considered in CAMA permit decisions. Land use plan policies are used by a local government as a guide for local decision making, to influence or steer local ordinances, actions, and other long-range plans, and are also used by DCM in the review of CAMA permit applications. While most policies are considered non-regulatory, those policies that are definitive and regulatory in their wording are considered “enforceable” and can be the basis to deny a permit application. Enforceable policies are particularly significant when they exceed CRC’s regulatory use standards, or address topics for which the CRC has no use standards or authority to address, for example, use restrictions in designated areas (floating homes; community docks and boating facilities) building height limits or restrictions on the filling of freshwater wetlands.

DCM planning staff reviews permit applications for consistency with the enforceable policies within local land use plans and advise regulatory staff of any inconsistencies. When inconsistencies with enforceable policies are discovered, they are usually addressed through revisions to the proposed development to make it consistent with the land use plan, or by an amendment and re-certification of the land use plan to accommodate the development.

However, it is not always clear which policies within a land use plan are enforceable, or intended to exceed the CRC’s use standards, as some policies may be intended to be guiding in nature rather than regulatory. DCM tries to avoid misinterpreting policies as this could lead to a recommendation of denial on a permit application. There have been occasions in recent years where DCM staff consulted with a local government to clarify whether a policy within their land use plan is intended to be enforceable. In most cases communication with the local government has resolved the question, but in other cases there have been



regulatory-style policies, such as specific building density or height limits which have been challenging to interpret as non-regulatory, even where that was the local government's intent.

The CRC's Land Use Planning Requirements at, 15A NCAC 07B .0700, currently require local land use plans to identify policies that exceed the CRC's 7H use standards. However, 7B does not require plans to identify which policies are intended to be enforceable or considered by DCM during permit review.

Fiscal Analysis Summary

This proposed rule change shall have no monetary impact to state or local governments, nor to private entities. The purpose of this rule change is to help resolve policy ambiguity and differences in interpretation on CAMA permit decisions and appeals. The proposed rule change will also help citizens and property owners better understand which policies may apply.

The proposed amendments will not affect environmental permitting for NC DOT. While it is possible that NC DOT could be affected by the substance of the land use plans, the 15A NCAC 7B State Guidelines for Land Use Planning require that land use plan policies do not violate state or federal law. The CRC's 15A NCAC 7B State Guidelines for Land Use Planning dictate the topics to be covered in a land use plan but not the local policies. The topics to be included in a land use plan are not changed by these amendments and are therefore unlikely to affect the substance of the plans. It is therefore not anticipated that environmental permitting nor costs for NC DOT will be affected by these amendments.



Fiscal Analysis

CAMA Land Use Planning

Amendments to 15A NCAC 7B – CAMA Land Use Plans - Enforceable Policies

Prepared by

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October 31, 2022

Basic Information

Agency	DENR, Division of Coastal Management (DCM) Coastal Resources Commission
Title	CAMA Land Use Planning; Enforceable Policies
Citation	15A NCAC 7B
Description of the Proposed Rule	Subchapter 07B establishes the rules that local governments must follow in developing and adopting land use plans as required by the Coastal Area Management Act (CAMA).
Agency Contact	Michael Christenbury, Wilmington District Planner mike.christenbury@ncdenr.gov (910) 796-7426
Authority	113A-110; 113A-124
Impact Summary	State government: No Local government: Yes Substantial impact: No Private entities: No
Necessity	The Coastal Resources Commission (CRC) is proposing amendments to the CAMA Land Use Planning Program. These amendments include increased flexibility for plan content and policy statements. Specifically, these amendments will require local governments to clarify which of their land use plan policies exceed the CRC's rules, and which policies the local government wishes the Division to apply to CAMA permitting reviews.

Summary

The NC Coastal Area Management Act (CAMA) requires that the 20 coastal counties prepare and update land use plans according to state guidelines (15A NCAC 7B). Municipalities have the option of preparing individual plans, if they are delegated authority by the county and meet specific community standards. There are a total of 100 local governments in coastal North Carolina with 60 individual or joint land use plans (LUP). The Division of Coastal Management (DCM) has provided both financial and technical assistance to local governments for many of these plans. Technical assistance and training to local government officials and local planners includes guidance on preparing land use plan updates and amendments, LUP policy, and ordinance inquiries. Plans are generally updated at seven- to ten-year intervals with locally initiated amendments at more frequent intervals. Certified plans are used in making CAMA permit decisions, as no permit may be issued that is inconsistent with the local LUP. Updated and amended land use plans are submitted to the NOAA Office of Coastal Management for approval before they may be used for federal consistency determinations.

The proposed amendments to 15A NCAC 7B Land Use Planning Requirements are in response to issues related to the lack of clearly defined enforceable policies in local land use plans, including which policies a community wishes to be considered in CAMA permit decisions. Land use plan policies are used by a local government as a guide for local decision making, to influence or steer local ordinances, actions, and other long-range plans, and are also used by DCM in the review of CAMA permit applications. While most policies are considered non-regulatory, those policies that are definitive and regulatory in their wording are considered “enforceable” and can be the basis to deny a permit application. Enforceable policies are particularly significant when they exceed CRC’s regulatory use standards, or address topics for which the CRC has no use standards or authority to address, for example, building height limits or filling of 404 wetlands.

DCM planning staff reviews permit applications for consistency with the enforceable policies within local land use plans and advise regulatory staff of any inconsistencies. When inconsistencies with enforceable policies are discovered, they are usually addressed through revisions to the proposed development to make it consistent with the land use plan, or by an amendment and re-certification of the land use plan to accommodate the development.

However, it is not always clear which policies within a land use plan are enforceable, or intended to exceed the CRC’s use standards, as some policies may be intended to be guiding in nature rather than regulatory. DCM tries to avoid misinterpreting policies as this could lead to a recommendation of denial on a permit application. There have been occasions in recent years where DCM staff consulted with a local government to clarify whether a policy within their land use plan is intended to be enforceable. In most cases communication with the local government has resolved the question, but in other cases there have been regulatory-style policies, such as specific density and height limits which have been challenging to interpret as non-regulatory, even if that was the local government’s intent.

The CRC’s Land Use Planning Requirements, 15A NCAC 07B .0700, currently require local land use plans to identify policies that exceed the CRC’s 7H use standards. However, 7B does not require plans to identify which policies are intended to be enforceable or considered by DCM during permit review.

Requiring local governments to identify which policies they desire to be enforceable for CAMA permit reviews would help resolve ambiguity and differences in interpretation on permit decisions and appeals. The economic impact of this will save DCM and local government staff time in determining the intent of a local government policy. The proposed rule change will also save citizens and property owners time and money by avoiding changes to permits and proposed development plans because of a misinterpreted land use plan policy.

This amendment will have no impact on NC Department of Transportation (NC DOT) projects. While it is possible that NC DOT could be affected by the substance of the land use plans, the 15A NCAC 7B State Guidelines for Land Use Planning require that land use plan policies do not violate state or federal law to be certified.

The proposed effective date of these amendments is April 2023.

Introduction and Purpose

The Coastal Area Management Act (CAMA) established a cooperative program of coastal area management between local governments and the State, where local governments have the responsibility for developing plans, with the State acting primarily in a supportive, standard-setting, and review capacity. Permitting and enforcement responsibilities are shared between the State and local governments. Under CAMA, each of the 20 coastal counties is required to develop and adopt a land use plan. Municipalities within the 20-county jurisdiction are not required to have a land use plan; however, they may be delegated planning authority if they are currently enforcing a zoning ordinance, subdivision regulations, and the State Building Code. Otherwise, they are considered to be part of the county land use plan.

The State's coastal program employs a two-tiered approach to managing coastal resources. Critical resource areas, designated as Areas of Environmental Concern (AECs), comprise the first tier. The Division of Coastal Management (DCM) regulates activities in these areas through CAMA permits. CAMA permits are required to be consistent with an approved local CAMA land use plan. The second tier comprises non-AEC areas. These areas are managed through a coordinated effort of other state laws, local land use plans, and the requirement for State agency actions to be consistent with local land use plans. Plans are also used in the review of federal actions and federal permits. Local land use plans require approval of the Coastal Resources Commission (CRC) to become effective. Plans are reviewed for consistency with the CRC's 15A NCAC 7B land use planning guidelines and the requirements of CAMA.

The CRC has adopted standards and procedures for the development of land use plans by local governments that include public participation requirements, analyses, and minimum issues to be addressed. Local governments are responsible for developing policies to address the minimum issues as well as those dealing with community character and traditional land use concerns. The initial planning rules came into effect in 1975 and were amended during the 1990s through 2021.

In addition to establishing the standards for the development of land use plans, the CRC's primary role in land use planning is the certification of land use plans and plan amendments in accordance with the requirements of 15A NCAC 7B. The CRC certifies plans and amendments that are consistent with its administrative rules, do not violate state or federal law, contain policies that address the required Land Use Plan Management Topics, and are found by the local government to be internally consistent with local laws and ordinances.

The proposed amendments to the rules in 7B CAMA Land Use Planning Requirements are in response to issues related to the lack of clearly defined enforceable policies in local land use plans, including which policies a community wishes to be considered in CAMA permit decisions. In response, the CRC directed staff to propose amendments to Subchapter 7B that would require local governments to clarify which of the land use policies exceed the Commission's rules, and which policies the local government wishes the Division to apply to CAMA permitting reviews.

Specifically, the proposed amendment shall achieve the following goals:

- Require local governments to identify which policies they desire to be enforceable for CAMA permit reviews in order to resolve ambiguity and differences in interpretation on permit decisions and appeals.

- Create a positive economic impact for local governments by saving staff time in determining the intent of a local government policy. The proposed rule change will also save citizens and property owners time and money by avoiding changes to permits and proposed development plans because of a misinterpreted land use policy.

Description of Rule Amendment

Subchapter 15A NCAC 7B of the Coastal Resources Commission's rules outline the state guidelines for the development of CAMA Land Use Plans. The following section outlines the proposed amendments and the intent of the changes to each section.

SUBCHAPTER 7B .0702 – STATE GUIDELINES FOR LAND USE PLANNING

15A NCAC 7B .0702(d) Future Land Use

This section provides guidance in the development and use of land in a manner that achieves the goals of the Coastal Area Management Act (CAMA) through local government land use and development policies, including a future land use map. Through this amendment, definitions have been added to this section to include a definition for Policy, Exceeding Policy, and Enforceable Policy. Language is also included to allow local governments to identify the policies that shall be used as enforceable policy during the CAMA permit review process.

15A NCAC 7B .0702(e) Tools for Managing Development

The purpose of this element is to describe the management tools and actions the local government will use to implement the plan, and, if applicable, how enforceable policies are used in CAMA permit reviews. Language was added to require that plans describe the role of any enforceable policies selected by the local government for use in the review of CAMA permits in accordance with G.S. 113A-111.

SUBCHAPTER 07B .0800 Land Use Plan Amendment Review and Certification

15A NCAC 07B .0803(c) Use of the Plan

Language is added to this section to provide guidance on how enforceable policies within a certified plan is used by Local Permitting Officers and other officials in the CAMA permit review process and provides clarification as to the local administration of the CAMA permit review process versus the joint administration of the review process.

Fiscal Impacts

Private Property Owners:

While private property owners have an interest in the development of land use plans, their interest is primarily confined to the substance of the plans and not necessarily the procedures. Local governments clarifying which policies are to be used in the CAMA permit review process will have no impact to property owners monetarily.

NC Department of Transportation (NC DOT):

Pursuant to G.S. 150B-21.4, the proposed amendments will not affect environmental permitting for NC DOT. While it is possible that NC DOT could be affected by the substance of the land use plans, the 15A NCAC 7B State Guidelines for Land Use Planning require that land use plan policies do not violate state or federal law. The CRC's 15A NCAC 7B State Guidelines for Land Use Planning dictate the topics to be covered in a land use plan but not the local policies. The topics to be included in a land use plan are not changed by these amendments and are therefore unlikely to affect the substance of the plans. It is therefore not anticipated that environmental permitting nor costs for NC DOT will be affected by these amendments.

Local Government:

This amendment will have no monetary impact to local governments by identifying which policies in their land use plans shall be considered enforceable and utilized for CAMA permitting purposes.

The following is an initial cost estimate for a local government to hold a public hearing to designate which policies will be used for permit purposes. Approximately one 8-hour day shall be required by a salaried planning director to analyze the current land use plan and to make a recommendation as to which policies DCM shall use for CAMA permit review purposes. For a planning director to analyze and make a recommendation to the planning board and elected officials, the cost is approximately \$43/hr. x 8 hrs. = \$344 for one day of salary. The cost of a planning director to present recommendations to the local planning board is approximately \$43/hr. x 2 hrs. = \$86; and to present and make recommendations at a public hearing is approximately \$43/hr. x 2 hrs. = \$86. The cost of advertising the public hearing via a public notice in a local newspaper is approximately \$250. Because planning staff are salaried positions for most local governments, the approximate and unbudgeted cost of a public hearing for a land use plan amendment is approximately \$250.00 for the required legal notice/advertising for the public hearing.

However, as noted, the proposed rule change will reduce land use plan policy ambiguities and misinterpretation, reducing the need for future amendments and public hearings by a local government. Reducing the need for future public hearings will save local governments money by eliminating the cost of publishing legal notices in local newspapers and other forms of required legal advertising.

Division of Coastal Management (DCM):

The economic and fiscal impacts of this proposed rule change take the form of cost savings to DCM in the form of staff time in reviewing CAMA permits. The rule change will also result in fewer meetings between DCM and local governments to resolve disputes on which policies are enforceable during the CAMA permit review process.

Moreover, these amendments do not result in significant changes in how various projects are reviewed or permitted by the Division of Coastal Management, and the Division does not anticipate any changes in permitting receipts due to the proposed action.

- 1 (ix) Environmentally fragile areas, such as wetlands, natural heritage areas, areas
2 containing endangered species, prime wildlife habitats, or maritime forests; and
3 (x) Additional natural features or conditions identified by the local government.
4 (B) Environmental conditions. The plan shall provide an assessment of the following
5 environmental conditions and features:
6 (i) Water quality:
7 (I) Status and changes of surface water quality, including impaired streams
8 from the most recent N.C. Division of Water Resources Basin Planning
9 Branch Reports, Clean Water Act 303(d) List, and other comparable
10 data;
11 (II) Current situation and trends on permanent and temporary closures of
12 shellfishing waters as determined by the Report of Sanitary Survey by
13 the Shellfish Sanitation and Recreational Water Quality Section of the
14 N.C. Division of Marine Fisheries;
15 (III) Areas experiencing chronic wastewater treatment system malfunctions;
16 and
17 (IV) Areas with water quality or public health problems related to non-point
18 source pollution.
19 (ii) Natural hazards:
20 (I) Areas subject to recurrent flooding, storm surges and high winds; and
21 (II) Areas experiencing significant shoreline erosion as evidenced by the
22 presence of threatened structures or public facilities.
23 (iii) Natural resources:
24 (I) Environmentally fragile areas (as defined in Sub-Part (c)(2)(A)(ix) of
25 this Rule) or areas where resource functions are impacted as a result of
26 development; and
27 (II) Natural resource areas that are being impacted or lost as a result of
28 incompatible development. These may include, but are not limited to
29 the following: coastal wetlands, protected open space, and agricultural
30 land.
31 (3) Existing Land Use and Development. The plan shall include a map and descriptions of the
32 following:
33 (A) Existing land use patterns, which may include the following categories: Residential,
34 commercial, industrial, institutional, public, dedicated open space, vacant, agriculture,
35 and forestry. Land use descriptions shall include estimates of the land area allocated to
36 each land use and characteristics of each land use category.
37 (B) Historic, cultural, and scenic areas designated by a state or federal agency or by local
38 government.
39 (4) Community Facilities. The plan shall evaluate existing and planned capacity, location, and
40 adequacy of community facilities that serve the community's existing and planned population and
41 economic base; as well as those that protect important environmental factors such as water quality;
42 and that guide land development in the coastal area. The evaluation shall include:
43 (A) Public and private water supply and wastewater systems. The plan shall describe existing
44 public and private systems, including existing condition and capacity. It shall describe
45 any documented overflows, bypasses, or other problems that may degrade water quality
46 or constitute a threat to public health as documented by the Division of Water Resources
47 (DWR). It shall indicate future needs based on population projections. The plan shall
48 include a map of existing and planned service areas.
49 (B) Transportation systems. The plan shall include a map of the existing and planned
50 multimodal systems and port and airport facilities. It shall describe any highway
51 segments deemed by the North Carolina Department of Transportation (NCDOT) as
52 having unacceptable service as documented in the most recent NCDOT Transportation
53 and/or Thoroughfare Plan. It shall describe highway facilities on the current
54 thoroughfare plan or facilities on the current transportation improvement plan. It shall
55 describe the impact of existing facilities on land use patterns.

1 (C) Stormwater systems. The plan shall describe the existing public stormwater management
2 system. It shall identify existing drainage problems and water quality issues related to
3 point-source discharges of stormwater runoff.

4 (d) Future Land Use. This element of the plan is intended to guide the development and use of land in a manner
5 that achieves the goals of the Coastal Area Management Act through local government land use and development
6 policies, including a future land use map. This element shall include:

7 (1) Policies.

8 (A) Definitions.

9 (i) Policy: A specified policy statement and the future land use map and its designation
10 descriptions.

11 (ii) Exceeding Policy: A policy that is more stringent than the use standards and
12 permitting requirements found in Subchapter 7H, State Guidelines for Areas of
13 Environmental Concern, or that establishes a standard for a development activity not
14 addressed within Subchapter 7H.

15 (iii) Enforceable Policy: A policy that is definitive and regulatory in its wording and not
16 open to broad interpretation.

17 ~~(A)(B)~~ Community Concerns and Aspirations and Existing and Emerging Conditions shall be
18 considered in the development of local government plan policies as required in Rule
19 .0702(b) and (c) of this Section.

20 ~~(B)(C)~~ Policies shall be consistent with the goals of the CAMA, shall address the Land Use Plan
21 Management Topics set forth in Subparagraph (d)(2) of this Rule, and comply with all
22 state and federal rules.

23 ~~(C)(D)~~ ~~Policies that exceed use standards and permitting requirements found in Subchapter 7H,~~
24 ~~State Guidelines for Areas of Environmental Concern,~~ Exceeding policies shall be
25 identified in the plan. For each policy that exceeds the use standards and permitting
26 requirements found in Subchapter 7H, a description that cites the rule being exceeded and
27 explains how the rule is exceeded shall be provided.

28 (E) Enforceable policies shall be identified in the plan.

29 (F) Local governments shall select from the list of exceeding and enforceable policies those
30 that will be used in the review of CAMA permits.

31 (G) Local governments with plans certified prior to the effective date of this rule may amend
32 their plan to identify enforceable policies and select from the identified enforceable
33 policies those that will be used in the review of CAMA permits. In the absence of local
34 government selected enforceable policies, the Division and its Local Permit Officer shall
35 use all policies that meet the definition of enforceable in the review of CAMA permits.

36 (2) Land Use Plan Management Topics. The purposes of the CRC management topics are to ensure
37 that plans support the goals of the CAMA, define the CRC's expectations for land use policies, and
38 provide a basis for plan review and certification by the CRC. In addition to the management
39 topics outlined below, plans may also include policies to address local areas of concern. Each
40 management topic includes two components: a management goal and planning objectives.

41 (A) Public Access:

42 (i) Management Goal: Maximize public access to the beaches and the public trust
43 waters of the coastal region.

44 (ii) Planning Objectives: The plan shall include policies that address access needs
45 and opportunities, with strategies to develop public access and provisions for all
46 segments of the community, including persons with disabilities. Oceanfront
47 communities shall establish access policies for beach areas targeted for
48 nourishment.

49 (B) Land Use Compatibility:

50 (i) Management Goal: Ensure that development and use of resources or
51 preservation of land balance protection of natural resources and fragile areas
52 with economic development, avoids risks to public health, safety, and welfare.

53 (ii) Planning Objectives: The plan shall include policies that characterize future land
54 use development patterns and establish mitigation criteria and concepts to
55 minimize conflicts.

56 (C) Infrastructure Carrying Capacity:

- 1 (i) Management Goal: Ensure that public infrastructure systems are sized, located,
2 and managed so the quality and productivity of AECs and other fragile areas are
3 protected or restored.
- 4 (ii) Planning Objectives: The plan shall include policies that establish service
5 criteria and ensure improvements minimize impacts to AECs and other fragile
6 areas.
- 7 (D) Natural Hazard Areas:
- 8 (i) Management Goal: Conserve and maintain barrier dunes, beaches, flood plains,
9 and other coastal features for their natural storm protection functions and their
10 natural resources giving recognition to public health, safety, and welfare issues.
- 11 (ii) Planning Objectives: The plan shall include policies that establish mitigation and
12 adaptation concepts and criteria for development and redevelopment, including
13 public facilities, and that minimize threats to life, property, and natural resources
14 resulting from erosion, high winds, storm surge, flooding, or other natural
15 hazards.
- 16 (E) Water Quality:
- 17 (i) Management Goal: Maintain, protect, and where possible enhance water quality
18 in all coastal wetlands, rivers, streams, and estuaries.
- 19 (ii) Planning Objectives: The plan shall include policies that establish strategies and
20 practices to prevent or control nonpoint source pollution and maintain or
21 improve water quality.
- 22 (3) Future land use map. The plan shall include a map that depicts the policies for growth and
23 development, and the desired future patterns of land use and land development with consideration
24 given to natural system constraints and infrastructure. The plan shall include map designations
25 with descriptions of land uses and development.
- 26 (e) Tools for Managing Development. The purpose of this element is to describe the management tools and actions
27 the local government will use to implement the ~~plan~~. plan, and, if applicable, how enforceable policies are used in
28 CAMA permit reviews. This element shall include:
- 29 (1) Guide for land use decision-making. The plan shall describe the role of the plan policies,
30 including the future land use map, in local decisions regarding land use and development.
- 31 (2) Development program. The plan shall describe the community's development management
32 program, including local ordinances, codes, other plans and policies.
- 33 (3) Action plan and implementation schedule. The plan shall describe the actions that will be taken
34 by the local government to implement policies that meet the CRC's management topic goals and
35 objectives. It shall specify the fiscal year(s) in which each action is anticipated to start and finish.
36 It shall describe the specific steps the local government plans to take to implement the policies,
37 including the adoption and amendment of local ordinances, other plans, and special projects. The
38 action plan shall be used to prepare the implementation status report for the plan.
- 39 (4) The plan shall describe the role of any enforceable policies selected by the local government for
40 use in the review of CAMA permits in accordance with G.S. 113A-111.

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42 *History Note: Authority G.S. 113A-102; 113A-107(a); 113A-110; 113A-111; 113A-124;*
43 *Eff. August 1, 2002;*
44 *Amended Eff. April 1, 2003;*
45 *Readopted Eff. February 1, 2016.*
46 *Amended Eff. Month X, Year.*
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1 **SECTION .0800 –LAND USE PLAN AND AMENDMENT REVIEW AND CERTIFICATION**

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3 **15A NCAC 07B .0803 CERTIFICATION AND USE OF THE PLAN**

4 (a) Certification of Plans and Amendments: This Rule outlines the certification procedures and conditions for
5 locally adopted land use plans or comprehensive plans, hereinafter referred to as "the plan," or plan amendments.
6 The procedures shall be as follows:

- 7 (1) The Division District Planner shall submit a written report to the CRC, or qualified employee of
8 the Department pursuant to G.S. 113A-124(c)(9), on the locally adopted plan or amendment and
9 either recommend certification or identify how the plan or amendment does not meet the
10 procedures and conditions for certification as set forth in Subparagraph (a)(3) of this Rule.
11 (2) The public shall have an opportunity to submit written objections or comments on the locally
12 adopted plan or amendment prior to certification pursuant to G.S. 113A-110(e). Written objections
13 or comments shall be received by the Division no more than 30 calendar days after local adoption
14 of the plan or amendment. Written objections shall be limited to the criteria for certification as
15 defined in Subparagraph (a)(3) of this Rule, and shall identify the specific plan elements that are
16 opposed. Written objections or comments shall be sent by the Division to the local government
17 submitting the plan or amendment. Written objections or comments shall be considered in the
18 certification of the local plan or amendment.
19 (3) The CRC or qualified employee of the Department, pursuant to G.S. 113A-124(c)(9), shall certify
20 plans and amendments following the procedures and conditions specified in this Rule, and that the
21 plans and amendments meet the following conditions:
22 (A) are consistent with the Coastal Area Management Act G.S. 113A-110;
23 (B) are consistent with the rules of the CRC;
24 (C) do not violate State or federal law; and
25 (D) contain policies that address each management topic as set forth in Rule .0702(d)(2) of
26 this Subchapter.
27 (4) If the plan or amendment does not meet certification requirements, the applicant shall be informed
28 by the Division of Coastal Management within 45 calendar days regarding how the plan or
29 amendment does not meet the procedures and conditions for certification.

30 (b) Copies of the Plan. Within 90 calendar days of certification of the plan or an amendment, the local government
31 shall provide one printed and one digital copy of the plan to the Division. Amendments shall be incorporated in all
32 copies of the plan. The dates of local adoption, certification, and amendments shall be published on the cover.

33 (c) Use of the Plan. Local governments shall implement the plan ~~Once certified, the plan shall be utilized in the~~
34 ~~review of the CAMA permits in accordance with G.S. 113A-111. Once certified, any enforceable policies selected~~
35 ~~by the local government shall be used by the Division and its Local Permit Officer in the review of CAMA permits~~
36 ~~in accordance with G. S. 113A-111. For plans certified prior to the effective date of this rule, in the absence of~~
37 ~~clearly identified enforceable policies the Division and its Local Permit Officer shall use all policies that meet the~~
38 ~~definition of enforceable under 7B .0702(d)(1)(A) in the review of CAMA permits. Local governments shall have~~
39 ~~the option to exercise their enforcement responsibility by choosing from the following:~~

- 40 (1) Local administration: The local government reviews the CAMA permits for consistency with the
41 plan;
42 (2) Joint administration: The local government identifies enforceable policies, including the future
43 ~~land use map and implementation actions~~ that will be used by the Division for the CAMA permit
44 consistency ~~reviews or~~ reviews.
45 (3) ~~Division administration: The Division reviews the CAMA permits for consistency with the plan~~
46 ~~policies, including the future land use map and implementation actions.~~

47 (d) Plan updates and Amendments. Local governments shall determine the scope, timing, and frequency of plan
48 updates and amendments.

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50 *History Note:* *Authority G.S. 113A-107(a); 113A-110; 113-111; 113A-124;*
51 *Eff. August 1, 2002;*
52 *Amended Eff. April 1, 2008; September 1, 2006;*
53 *Readopted Eff. February 1, 2016;*
54 *Amended Eff. Month, XX, Year; February 1, 2019.*