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CRC-23-04

February 9, 2023

**MEMORANDUM**

**TO:** Coastal Resources Commission  
**FROM:** Mike Lopazanski  
**SUBJECT:** Fiscal Analysis– Minimum Growing Seasons for Planted Vegetation

The vegetation line is used as the reference line by the Division of Coastal Management field staff and Local Permit Officers (LPOs) in making oceanfront setback determinations for proposed development within the Ocean Hazard Area of Environmental Concern (AEC). The location of the first line of stable and natural vegetation is determined by visual observation of plant composition and density according to 15A NCAC 7H .0305(5).

In recent years, the Division has found that in order to obtain a more favorable determination, oceanfront property owners have attempted to re-establish vegetation through aggressive planting, fertilizing, and watering regimes which can result in a vegetation line significantly oceanward than the adjacent areas. While the planting of vegetation for stabilization of dunes and other areas should be and is encouraged, Division staff and LPOs have questioned when these newly planted areas are appropriate to use for oceanfront setback determinations given that they can be influenced by number and intensity of storms and other environmental factors.

Staff consulted with specialists in dune ecology and in constructing and planting dune systems along the North Carolina coast. These specialists agreed that, based on their experiences, at least two growing seasons are needed for dune planted grasses to establish. Division staff have also found that 16-18 months are needed before planted vegetation can be considered natural and stable based on the criteria of 15A NCAC 7H .0305(5). Division staff and LPOs typically receive approximately 20-80 requests per year for oceanfront setback determinations associated with planted vegetation. Requiring a minimum of two years before making such determinations will provide the regulated public with a degree of certainty regarding when the planted vegetation will meet the “stable and natural” criteria, reduce the burden of making repeated determinations on the same property by the Division and LPOs, and reduce the risk of improperly sited development due to aggressive planting, watering and fertilization regimes in a single growing season.

**Fiscal Analysis**

Requiring a minimum of two years before making a stable and natural vegetation determination for planted vegetation will provide the regulated public with a degree of certainty regarding when the planted vegetation will meet the “stable and natural” criteria.



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While the two-year minimum timeframe will provide clearer expectations for property owners and local governments, isolating or predicting the impact of the minimum growing season is difficult, if not impossible, since there are many statistically independent criteria that affect structure values.

Pursuant to G.S. 150B-21.4, the proposed amendments to 7H.0305(5) will not significantly affect environmental permitting for the NC Department of Transportation (NCDOT). No cost or benefit applicable to NCDOT is anticipated as a result of these rule amendments. The Division of Coastal Management and Local governments participating in the Local Permitting Officer Program may see a staff time savings benefit through a reduced burden on staff of making repeated oceanfront setback determinations on the same property. There may also be a benefit of reduced public expenditures associated with improperly sited development, as well as impacts to the public access and use along ocean shorelines.

I look forward to discussing any questions you may have on these amendments and the fiscal analysis at our upcoming meeting in Ocean Isle Beach.