



CRC-25-07

February 11, 2025

MEMORANDUM

TO: Coastal Resources Commission

FROM: Daniel Govoni

SUBJECT: Permanent Rulemaking 15A NCAC 07H .0508 Jockey's Ridge Area of Environmental Concern.

Jockey's Ridge is a geologic feature known as a medano located within the Town of Nags Head, in Jockey's Ridge State Park. Development activities in and around the state park boundaries have been regulated by the administrative rules of the Coastal Resources Commission (CRC) since the designation of Jockey's Ridge as a Unique Geologic Feature Area of Environmental Concern (AEC) in 1984. On October 5, 2023, during the Periodic Rules Review Process, the rules designating Jockey's Ridge as an AEC and establishing use standards were returned to the agency and removed from the NC Administrative Code. Following the return of the rules, the CRC adopted emergency and temporary rules re-establishing the AEC and use standards. The emergency rules went into effect on January 3, 2024, and expired on May 13, 2024, when the Rules Review Commission objected to the temporary rule. The CRC approved moving forward with permanent rulemaking on April 25, 2024. A public hearing and notice were conducted on the proposed rule and fiscal analysis. The CRC adopted the permanent rule on November 14, 2024; however, on December 19, 2024, the Rules Review Commission (RRC) objected to the rule on the basis of failure to comply with the public noticing provisions of the Administrative Procedure Act and staff have taken the necessary steps to be in compliance and satisfy this objection. Therefore, staff are recommending beginning permanent rulemaking again to reinstate Jockey's Ridge as an AEC. Since the fiscal analysis has already been approved, staff are recommending approval of the permanent rule for public hearing. Below is a description of the proposed permanent rule.

The proposed permanent rule designates Jockey's Ridge as an AEC with use standards which are nearly identical to the original 1984 standards. There are minor changes proposed for clarity and to comply with current rule formatting requirements. The proposed rule is written in three parts, the first is 15A NCAC 07H .0508(a) Description, which describes the Jockey's Ridge and its importance. Secondly, 15A NCAC 07H .0508(b) Boundary, describes the AEC boundary and where a map of the AEC boundary can be found. And lastly, 15A NCAC 07H .0508(c) Use



Standards, states that removing more than 10 cubic yards of sand per year shall require a CAMA Permit, all sand that is removed shall be deposited at location within Jockey's Ridge State park, and any development within Jockey's Ridge AEC shall not alter the movement of sand except when necessary for maintaining a road, residential or commercial structures, accessways, lawns, gardens, or parking areas, unless otherwise allowed by the Jockey's Ridge State Park Management Plan.

15A NCAC 07H .0508 JOCKEY'S RIDGE AREA OF ENVIRONMENTAL CONCERN

(a) Description. Jockey's Ridge is the tallest active sand dune (medano) along the Atlantic Coast of the United States. Located within the Town of Nags Head in Dare County, between US 158 and Roanoke Sound, Jockey's Ridge represents the southern extremity of a back barrier dune system which extends north along Currituck Spit into Virginia. Given the status of Jockey' Ridge as a State Park, State Nature Preserve, complex natural area, and an area containing a unique geological formation as identified by the State Geologist, the Coastal Resources Commission hereby designates Jockey's Ridge as an Area of Environmental Concern pursuant to G.S. 113A-113.

(b) The boundaries of the Jockey's Ridge AEC shall be as depicted on a map approved by the Coastal Resources Commission on (adoption date), and can be found at the Division of Coastal Management, 400 Commerce Ave., Morehead City, NC 28557 or at the Division of Coastal Management's website at <https://www.deq.nc.gov/about/divisions/division-coastal-management>. The AEC includes the entire rights of way of US 158 Bypass, SR 1221 (Sound Side Road), Virginia Dare Trail, and Conch Street where these roads bound this area.

(c) Use Standards. Development within the Jockey's Ridge AEC shall be consistent with the following use standards:

- (1) Development that requires the removal of greater than ten cubic yards of sand per year from the area within the AEC boundary shall require a Coastal Area Management Act permit from the Division of Coastal Management or designated local official;
- (2) All sand that is removed from the area within the AEC boundary in accordance with Subparagraph (1) of this Paragraph shall be deposited at locations within the Jockey's Ridge State Park designated by the Division of Coastal Management in consultation with the NC Department of Natural Cultural Resources Division of Parks and Recreation;
- (3) Development activities within Jockey's Ridge AEC shall not alter or retard the free movement of sand except when necessary for the purpose of maintaining or constructing a road, residential or commercial structure, accessway, lawn, garden, or parking area unless allowed by Jockey's Ridge State Park's Management Plan. Jockey's Ridge State Park's Management Plan can be found at the Division of Parks and Recreation's website at <https://www.ncparks.gov>

History Note: Authority G.S. 113A-107(a),(b); 113A-113(a); 113A-113(b)(4)a., e., and g.; 113A-124.





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