

ROY COOPER

Governor

ELIZABETH S. BISER

Secretary

BRAXTON DAVIS

Director



NORTH CAROLINA
Environmental Quality

September 14, 2022

MEMORANDUM

TO: Coastal Resources Commission

FROM: Ken Richardson, *Shoreline Management Specialist*

SUBJECT: Consideration of Adoption of Amendments to 15A NCAC 07H .0304; .0306; .0309 and .0310 & Updated Inlet Hazard Area Boundaries

At the February 2021 CRC meeting, the Commission's approved additional rule amendments associated with the update of Inlet Hazard Areas. Subsequently, DCM Staff held a second round of public hearings in April and May of this year in each of the seven affected counties (Brunswick, New Hanover, Pender, Onslow, Carteret, Hyde and Dare). As of the close of the public comment period (June 17, 2022), only one comment has been received by DCM (Appendix A).

After public comments have been considered by the Commission, DCM Staff are asking the Commission to consider the adoption of the updated Inlet Hazard Area Boundaries and amendments to 15A NCAC 07H. 0304; .0306; 0309; and 0310. Upon the CRC's adoption, both rule amendments and Inlet Hazard Area boundaries will be submitted to the Rules Review Commission for their review and approval, and it is anticipated that they would go into effect November 1, 2022.

Appendix A: Public Comments
Appendix B: Background Summary of IHA Update
Appendix C: Rule Amendments
Appendix D: Updated IHA Boundary Maps



North Carolina Department of Environmental Quality | Division of Coastal Management
Morehead City Office | 400 Commerce Avenue | Morehead City, North Carolina 28557
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Appendix A: Public Comment(s)

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May 3, 2022

Coast Resources Commission
Division of Coastal Management
400 Commerce Ave.
Morehead City, NC 28557

Re: Holden Beach Inlet Hazard Areas

Dear Commissioners:

My wife and I are the owners of a home located at 1083 Ocean Blvd West, Holden Beach. Our home is almost 2 miles from the Shalotte inlet. We were shocked to see that our address falls within the proposed Holden Beach Inlet Hazard Area. The Shalotte Inlet has been stable relative to Holden Beach for decades and the western end of Holden Beach accretes rather than erodes. A decision to place restrictions on the use of our property, and likely impose additional insurance costs, is in no way justified by any data from the historical experience of Holden Beach properties.

Our frustration stems from the fact that we worked hard to avoid such an event. We purchased our home after a 5 year search on Holden Beach. That search involved research into the history of property damage on the island, the presence of erosion in certain areas, and the stability of the Shalotte inlet. It was critical to us that we purchase a home on the western end of the island where the beach accretes. It was also important that we be distant (in relative terms) from the inlet. We have been thrilled by our purchase.

It is our sincere hope that the Inlet Hazard Area for the western end of Holden Beach will be modified to account for the extensive history of accretion and stability in that area. Failure to account for this historical experience can only result in arbitrary and unwarranted restrictions on our property.

Thank you for considering our comments.

Very truly yours,

ELLIS & WINTERS LLP



Andrew S. Chamberlin

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Appendix B: Background Summary of IHA Update

The establishment of Areas of Environmental Concern (AEC) is authorized under the NC Coastal Area Management Act (CAMA) of 1974 (NCGS 113A-100 et seq.) and forms the foundation of the North Carolina Coastal Resources Commission's (CRC) permitting program for regulating coastal development. Specific rules defining three specific ocean hazard AECs appear in 15A NCAC 07H.0300: 1) Ocean Erodible, 2) Inlet Hazard, and 3) Unvegetated Beach AECs. The inlet hazard area (IHA) AEC is defined in 15A NCAC 07H.0301(3) as locations that “are especially vulnerable to erosion, flooding and other adverse effects of sand, wind, and water because of their proximity to dynamic ocean inlets.”

Unlike other CRC jurisdictional areas, IHA boundaries are defined in a report referenced in the CRC's rules, 7H.0304(2). The current IHA boundaries correspond to maps originally developed by Priddy and Carraway (1978) for all the State's then-active inlets. The report designating the IHA boundaries was adopted by the CRC in 1979, with minor amendments since that time.

IHA boundaries in use today are based on statistical analysis (and to a lesser extent previous inlet location) of historical shoreline movement identified on multiple aerial photosets. In most cases, the statistical methods used in the 1978 study identified the landward-most shoreline position (99% confidence interval) projected to occur between 1978 and 1988. Originally, the Commission anticipated that these boundaries were to be updated at the end of the 1980s. However, due to a combination of factors, that update did not occur.

It was not until the late 1990s, after the CRC's Science Panel on Coastal Hazards was formed, that the need to update IHAs became more of a focal point of discussion. The following is a summarized timeline leading up to 2022:

- **1998 - 1999:** the newly-formed Science Panel recommended to the CRC that the IHAs were outdated and should be updated. The Science Panel recommended that DCM hire staff to work on inlet hazards data collection and analysis.
- **November 2002:** DCM hired a Coastal Hazards GIS Specialist to support all oceanfront and inlet data collection, mapping, and analysis efforts.
- **2004 - 2008:** data collection and mapping in preparation for updating IHAs. DCM worked extensively with the Science Panel to develop inlet delineation methodologies.
- **2009:** DCM synthesized data and study results into a report.
- **May - July 2010:** DCM presented a proposed IHA boundary update to the CRC.



- **2010 - 2012:** Given the concern over the increased size of the proposed IHAs, there were many questions about IHA rules, and if “risk” was the same for all areas within the proposed IHAs. Because there were unanswered questions related to IHA development standards, in addition to several key issues consuming much of the Commission’s and Science Panel’s time (i.e., the terminal groin and oceanfront erosion rate update studies), the IHA boundary update was temporarily put on hold.
- **2012:** The General Assembly directed the CRC to study the feasibility of creating a new AEC for the lands adjacent to the mouth of the Cape Fear River. Session Law 2012-202 required the CRC to consider the unique coastal morphologies and hydrographic conditions of the Cape Fear River region, and to determine if action is necessary to preserve, protect, and balance the economic and natural resources of this region through the elimination of current overlapping AECs by incorporating appropriate development standards into one single AEC unique to this location. During this study, the CRC found that while the Cape Fear River inlet did present a unique set of challenges, other inlets may have similar issues. The Commission therefore decided to undertake a comprehensive review of inlet-related issues and with the expectation of developing additional management tools that would allow the CRC to more proactively address the issues confronted by local governments in these dynamic areas.
- **February 2014:** The CRC asked the Science Panel to review a recommendation to remove IHA status from Mad Inlet, which had been naturally closed for some time. From this effort, the Panel made two recommendations that were presented to the CRC: 1) Mad Inlet was not at risk of reopening so IHA status should be removed; and, 2) current IHAs were severely out of date and needed to be updated.
- **September 2014:** DCM presented a report to the Commission that was prepared following a series of stakeholder meetings, entitled, “NC Coastal Resources Commission Inlet Management Study Findings and Policy Options.” Stakeholders made several recommendations to the CRC that pertained specifically to IHAs: 1) The CRC should task the Science Panel to complete the development of methods to define revised IHAs and potential inlet and near-inlet setback lines for CRC review; and, 2) The IHAs should be eliminated and incorporated into the Ocean Erodible Area (OEA) while applying the same development standards currently utilized in the OEA.
- **May 2016:** Staff proposed to the CRC to pick up work on the IHAs, and to update inlet shoreline change rates that were presented in 2010 – CRC unanimously approved.
- **July 2016:** At the CRC meeting in Beaufort, the Commission issued the following scope of work to the Science Panel:



- 1) **Develop a methodology for calculating inlet shoreline change rates:** The Science Panel chose the linear regression method to measure shoreline change at inlets. This method incorporates multiple shorelines, versus the end-point method currently used on the oceanfront which only uses two shorelines (early and current). Inlet shoreline changes rates have not historically been used for determining construction setbacks at inlets.
 - 2) **Re-evaluate points along the oceanfront shoreline where inlet processes no longer influence shoreline position:** When the Science Panel first started working on updating IHA boundaries in 2005, the Panel evaluated changes in shoreline position over time to determine the location along the shoreline where inlet-related processes no longer have a dominant influence on the shoreline's position.
- **November 2018:** the Chair of the Science Panel on Coastal Hazards (Bill Birkemeier) presented the IHA boundary update methodology and results to the Coastal Resources Commission.
 - **February 2019:** the Coastal Resources Commission approved the updated Inlet Hazard Area (IHA) boundaries as recommended in the CRC's Science Panel's report, "*Inlet Hazard Area Boundary, 2019 Update: Science Panel Recommendations to the North Carolina Coastal Resources Commission,*" and the IHA erosion rate setback factors presented in the report "*2019 Inlet Setback Factors.*"
 - **September 2019:** Fiscal analysis associated with IHA rule amendments and boundary updates was approved by NC Department of Environmental Quality (DEQ), Office of State Budget and Management (OSBM), and the Coastal Resources Commission (CRC).
 - **December 2019 – March 2020:** DCM Staff presented the proposed rule amendments at public hearings in the seven affected counties (Brunswick, New Hanover, Pender, Onslow, Carteret, Hyde, and Dare Counties), followed by five workshops (Ocean Isle Beach, Holden Beach, Carolina Beach, Topsail Beach, and North Topsail Beach) to allow for additional public discussion. The rulemaking process was deliberately extended in order to give the Commission, the public, and Staff, the opportunity to work through all issues raised by local governments and the public. Comments were not limited to, but centered on: size of the updated boundaries at some locations, erosion rates, density and size limits, ability to replace existing structures, application of small structure exception and in current rule, and ability to build dunes in an IHA if needed.
 - **November 2020:** Following a minor delay due to the COVID-19 pandemic, public comments were considered by the CRC.



- **February 2021:** CRC allowed additional public comment to be considered, and DCM staff made a couple of documented edits to the final report (typographical errors).
- **April 2022:** Based on public comments received, the CRC made a few additional amendments to IHA rules. The CRC approved both the rule amendments and fiscal analysis after being first approved by DEQ and OSBM.
- **May – June 2022:** DCM Staff presented the proposed rule amendments at the second round of public hearings in the seven affected counties (Brunswick, New Hanover, Pender, Onslow, Carteret, Hyde, and Dare Counties).
- **September 2022:** CRC considering public comments and adoption of updated IHA boundaries and rule amendments (15A NCAC 07H .0304; .0306; .0309 and .0310)

Download:

- [*Inlet Hazard Area Boundary, 2019 Update: Science Panel Recommendations to the North Carolina Coastal Resources Commission*](#)
- [*2019 Inlet Setback Factors*](#)
- [*NC DCM Online Map Explorer*](#)



Appendix C: Rule Amendments

15A NCAC 07H .0304 AECS WITHIN OCEAN HAZARD AREAS

The ocean hazard AECs contain all of the following areas:

- (1) Ocean Erodible Area. This is the area where there exists a substantial possibility of excessive erosion and significant shoreline fluctuation. The oceanward boundary of this area is the mean low water line. The landward extent of this area is the distance landward from the first line of stable and natural vegetation as defined in 15A NCAC 07H .0305(a)(5) to the recession line established by multiplying the long-term annual erosion rate times ~~90. 90; provided that, where there has been no long-term erosion or the rate is less than two feet per year, this distance shall be set at 180 feet landward from the first line of stable and natural vegetation. For the purposes of this Rule, the erosion rates are the long term average based on available historical data.~~ The current long-term average erosion rate data for each segment of the North Carolina coast is depicted on maps entitled "North Carolina 2019 Oceanfront Setback Factors & Long-Term Average Annual Erosion Rate Update Study" and approved by the Coastal Resources Commission on February 28, 2019 (except as such rates may be varied in individual contested cases or in declaratory or interpretive rulings). In all cases, the rate of shoreline change shall be no less than two feet of erosion per year. The maps are available without cost from any Local Permit Officer or the Division of Coastal Management on the internet at <http://www.nccoastalmanagement.net>.
- (2) Inlet Hazard Area. The inlet hazard areas are natural-hazard areas that are especially vulnerable to erosion, flooding, and other adverse effects of sand, wind, and water because of their proximity to dynamic ocean inlets. This area extends landward from the mean low water line a distance encompassing that area within which the inlet migrates, based on statistical analysis, and shall consider such factors as previous inlet territory, structurally weak areas near the inlet, and external influences such as jetties, terminal groins, and channelization. The areas on the maps identified as Inlet Hazard Areas included in the report entitled INLET HAZARD AREAS, The Final Report and Recommendations to the Coastal Resources Commission, 1978, as amended in 1981, by Loie J. Priddy and Riek Carraway—"Inlet Hazard Area Boundary, 2019 Update: Science Panel Recommendations to the North Carolina Coastal Resources Commission" are incorporated by reference and are hereby designated as Inlet Hazard Areas, except for:
 - (a) ~~the location of a former inlet which has been closed for at least 15 years;~~
 - (b) ~~inlets that due to shoreline migration, no longer include the current location of the inlet;~~
and
 - (c) ~~inlets providing access to a State Port via a channel maintained by the United States Army Corps of Engineers.~~

~~In all cases, the Inlet Hazard Area shall be an extension of the adjacent ocean erodible areas and in no case shall the width of the inlet hazard area be less than the width of the adjacent ocean erodible area.~~

~~Inlet Hazard Area setback factors are based on the long term average annual shoreline change rates calculated using methods detailed in the report entitled "Inlet Hazard Area Boundary, 2019 Update: Science Panel Recommendations to the North Carolina Coastal Resources Commission," and are depicted on maps entitled "2019 Inlet Setback Factors" and approved by the Coastal Resources Commission on February 28, 2019 (except as such rates may be varied in individual contested cases or in declaratory or interpretive rulings). In all cases, Inlet Hazard Area setback factors shall be no less than two where accretion is measured, or erosion rates are less than two feet per year. This report is The report and maps are available for inspection at the Department of Environmental Quality, Division of Coastal Management, 400 Commerce Avenue, Morehead City, North Carolina or at the website referenced in Item (1) of this Rule.~~
- (3) Unvegetated Beach Area. Beach areas within the Ocean Hazard Area where no stable and natural vegetation is present may be designated as Unvegetated Beach Areas on either a permanent or temporary basis as follows:
 - (a) An area appropriate for permanent designation as an Unvegetated Beach Area is a dynamic area that is subject to rapid unpredictable landform change due to wind and wave action. The areas in this category shall be designated following studies by the Division of Coastal Management. These areas shall be designated on maps approved by the Coastal Resources



Commission and available without cost from any Local Permit Officer or the Division of Coastal Management on the internet at the website referenced in Item (1) of this Rule.

- (b) An area that is unvegetated as a result of a hurricane or other major storm event may be designated by the Coastal Resources Commission as an Unvegetated Beach Area for a specific period of time, or until the vegetation has re-established in accordance with 15A NCAC 07H .0305(a)(5). At the expiration of the time specified or the re-establishment of the vegetation, the area shall return to its pre-storm designation.

The Commission designates as temporary unvegetated beach areas those oceanfront areas of Surf City and North Topsail Beach in which the vegetation line as shown on the United States National Oceanic and Atmospheric Administration imagery dated September 17, 2018 was destroyed as a result of Hurricane Florence in September 2018. The designation AEC boundaries can be found on the Division's website at

https://files.nc.gov/ncdeq/Coastal%20Management/GIS/unvegetated_beach_aec.pdf. This designation shall continue until such time as the stable and natural vegetation has reestablished, or until the area is permanently designated as an unvegetated beach area pursuant to Sub-Item (3)(a) of this Rule.

- (4) State Ports Inlet Management Area. These are areas adjacent to and within Beaufort Inlet and the mouth of the Cape Fear River, providing access to a State Port via a channel maintained by the United States Army Corps of Engineers. These areas are unique due to the influence of federally-maintained channels, and the critical nature of maintaining shipping access to North Carolina's State Ports. These areas may require specific management strategies not warranted at other inlets to address erosion and shoreline stabilization. State Ports Inlet Management Areas shall extend from the mean low water line landward as designated on maps approved by the Coastal Resources Commission and available without cost from the Division of Coastal Management, and on the internet at the website at

https://files.nc.gov/ncdeq/Coastal%20Management/GIS/state_port_aec.pdf.

*History Note: Authority G.S. 113A-107; 113A-107.1; 113A-113; 113A-124;
Eff. September 9, 1977;
Amended Eff. December 1, 1993; November 1, 1988; September 1, 1986; December 1, 1985;
Temporary Amendment Eff. October 10, 1996;
Amended Eff. April 1, 1997;
Temporary Amendment Eff. October 10, 1996 Expired on July 29, 1997;
Temporary Amendment Eff. October 22, 1997;
Amended Eff. April 1, 2020; July 1, 2016; September 1, 2015; May 1, 2014; February 1, 2013;
January 1, 2010; February 1, 2006; October 1, 2004; April 1, 2004; August 1, 1998;
Readopted Eff. December 1, 2020.*

15A NCAC 07H .0306 GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS

(a) In order to protect life and property, all development not otherwise specifically exempted or allowed by law or elsewhere in the Coastal Resources Commission's rules shall be located according to whichever of the following is applicable:

- a) (1) The ~~ocean hazard~~ Ocean Hazard Area setback for development shall be measured in a landward direction from the vegetation line, the ~~pre-project~~ pre-project vegetation line, or the measurement line, whichever is applicable.
- ~~b) (2) In areas with a development line, the ocean hazard setback shall be set in accordance with Subparagraphs (a)(3) through (9) of this Rule. In no case shall new development be sited seaward of the development line.~~
- ~~c) (3) In no case shall a development line be created or established on State owned lands or oceanward of the mean high water line or perpetual property easement line, whichever is more restrictive.~~
- d) (4)(2) The ~~ocean hazard~~ Ocean Hazard Area setback shall be determined by both the size of development and the shoreline ~~long term~~ long-term erosion rate as defined in Rule .0304 of this Section. "Development size" is defined by total floor area for



structures and buildings or total area of footprint for development other than structures and buildings. Total floor area includes the following:

- (A) The total square footage of heated or air-conditioned living space;
- (B) The total square footage of parking elevated above ground level; and
- (C) The total square footage of non-heated or non-air-conditioned areas elevated above ground level, excluding attic space that is not designed to be load-bearing.

Decks, roof-covered porches, and walkways shall not be included in the total floor area unless they are enclosed with material other than screen mesh or are being converted into an enclosed space with material other than screen mesh.

e) ~~(5)~~(3) With the exception of those types of development defined in 15A NCAC 07H .0309, no development, including any portion of a building or structure, shall extend oceanward of the ~~ocean-hazard~~ Ocean Hazard Area setback. This includes roof overhangs and elevated structural components that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings. The ocean hazard setback shall be established based on the following criteria:

- (A) A building or other structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;
- (B) A building or other structure greater than or equal to 5,000 square feet but less than 10,000 square feet requires a minimum setback of 120 feet or 60 times the shoreline erosion rate, whichever is greater;
- (C) A building or other structure greater than or equal to 10,000 square feet but less than 20,000 square feet requires a minimum setback of 130 feet or 65 times the shoreline erosion rate, whichever is greater;
- (D) A building or other structure greater than or equal to 20,000 square feet but less than 40,000 square feet requires a minimum setback of 140 feet or 70 times the shoreline erosion rate, whichever is greater;
- (E) A building or other structure greater than or equal to 40,000 square feet but less than 60,000 square feet requires a minimum setback of 150 feet or 75 times the shoreline erosion rate, whichever is greater;
- (F) A building or other structure greater than or equal to 60,000 square feet but less than 80,000 square feet requires a minimum setback of 160 feet or 80 times the shoreline erosion rate, whichever is greater;
- (G) A building or other structure greater than or equal to 80,000 square feet but less than 100,000 square feet requires a minimum setback of 170 feet or 85 times the shoreline erosion rate, whichever is greater;
- (H) A building or other structure greater than or equal to 100,000 square feet requires a minimum setback of 180 feet or 90 times the shoreline erosion rate, whichever is greater;
- (I) Infrastructure that is linear in nature, such as roads, bridges, pedestrian access such as boardwalks and sidewalks, and utilities providing for the transmission of electricity, water, telephone, cable television, data, storm water, and sewer requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;
- (J) Parking lots greater than or equal to 5,000 square feet require a setback of 120 feet or 60 times the shoreline erosion rate, whichever is greater;
- (K) Notwithstanding any other setback requirement of this Subparagraph, a building or other structure greater than or equal to 5,000 square feet in a community with a static line exception in accordance with 15A NCAC 07J .1200 requires a minimum setback of 120 feet or 60 times the shoreline erosion rate in place at the time of permit issuance, whichever is greater. The setback shall be measured landward from either the static vegetation line, the vegetation line, or measurement line, whichever is farthest landward; and
- (L) Notwithstanding any other setback requirement of this Subparagraph, replacement of single-family or duplex residential structures with a total floor area greater than 5,000 square feet, and commercial and multi-family residential structures with a total floor area no greater than 10,000 square feet, shall be allowed provided that the structure meets the following criteria:
 - (i) the structure was originally constructed prior to August 11, 2009;
 - (ii) the structure as replaced does not exceed the original footprint or square footage;



- (iii) it is not possible for the structure to be rebuilt in a location that meets the ~~ocean hazard~~ **Ocean Hazard Area** setback criteria required under Subparagraph (a)(5) of this Rule;
 - (iv) the structure as replaced meets the minimum setback required under Part (a)(5)(A) of this Rule; and
 - (v) the structure is rebuilt as far landward on the lot as feasible.
- f) ~~(6)(4)~~ If a primary dune exists in the AEC on or landward of the lot where the development is proposed, the development shall be landward of the crest of the primary dune, the ~~ocean hazard~~ **Ocean Hazard Area** setback, or development line, whichever is farthest from vegetation line, static vegetation line, or measurement line, whichever is applicable. For existing lots, however, where setting the development landward of the crest of the primary dune would preclude any practical use of the lot, development may be located oceanward of the primary dune. In such cases, the development may be located landward of the ~~ocean hazard~~ **Ocean Hazard Area** setback, but shall not be located on or oceanward of a frontal dune or the development line. The words "existing lots" in this Rule shall mean a lot or tract of land that, as of June 1, 1979, is specifically described in a recorded plat and cannot be enlarged by combining the lot or tract of land with a contiguous lot or tract of land under the same ownership.
- g) ~~(7)(5)~~ If no primary dune exists, but a frontal dune does exist in the AEC on or landward of the lot where the development is proposed, the development shall be set landward of the frontal dune, ~~ocean hazard~~ **Ocean Hazard Area** setback, or development line, whichever is farthest from the vegetation line, static vegetation line, or measurement line, whichever is applicable.
- h) ~~(8)(6)~~ If neither a primary nor frontal dune exists in the AEC on or landward of the lot where development is proposed, the structure shall be landward of the ~~ocean hazard~~ **Ocean Hazard Area** setback or development line, whichever is more restrictive.
- i) ~~(9)(7)~~ Structural additions or increases in the footprint or total floor area of a building or structure represent expansions to the total floor area and shall meet the setback requirements established in this Rule and 15A NCAC 07H .0309(a). New development landward of the applicable setback may be cosmetically, but shall not be structurally, attached to an existing structure that does not conform with current setback requirements.
- j) ~~(10)(8)~~ Established common law and statutory public rights of access to and use of public trust lands and waters in ~~ocean hazard areas~~ **Ocean Hazard Areas** shall not be eliminated or restricted. Development shall not encroach upon public accessways, nor shall it limit the intended use of the accessways.
- k) ~~(11)(9)~~ Development setbacks in areas that have received large-scale beach fill as defined in 15A NCAC 07H .0305 shall be measured landward from the static vegetation line as defined in this Section, unless a development line has been approved by the Coastal Resources Commission in accordance with 15A NCAC 07J .1300.
- l) ~~(12)(10)~~ In order to allow for development landward of the large-scale beach fill project that cannot meet the setback requirements from the static vegetation line, but can or has the potential to meet the setback requirements from the vegetation line set forth in Subparagraphs (a)(1) and (a)(5) of this Rule, a local government, group of local governments involved in a regional beach fill project, or qualified "owners' association" as defined in G.S. 47F-1-103(3) that has the authority to approve the locations of structures on lots within the territorial jurisdiction of the association and has jurisdiction over at least one mile of ocean shoreline, may petition the Coastal Resources Commission for a "static line exception" in accordance with 15A NCAC 07J .1200. The static line exception shall apply to development of property that lies both within the jurisdictional boundary of the petitioner and the boundaries of the large-scale beach fill project. This static line exception shall also allow development greater than 5,000 square feet to use the setback provisions defined in Part (a)(5)(K) of this Rule in areas that lie within the jurisdictional boundary of the petitioner, and the boundaries of the large-scale beach fill project. If the request is approved, the Coastal Resources Commission shall allow development setbacks to be measured from a vegetation line that is oceanward of the static vegetation line under the following conditions:



- (A) Development meets all setback requirements from the vegetation line defined in Subparagraphs (a)(1) and (a)(5) of this Rule;
- (B) Development setbacks shall be calculated from the shoreline erosion rate in place at the time of permit issuance;
- (C) No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings, extends oceanward of the landward-most adjacent building or structure. When the configuration of a lot precludes the placement of a building or structure in line with the landward-most adjacent building or structure, an average line of construction shall be determined by the Division of Coastal Management on a case-by-case basis in order to determine ~~ocean hazard~~ Ocean Hazard Area setback that is landward of the vegetation line, a distance no less than 30 times the shoreline erosion rate or 60 feet, whichever is greater;
- (D) With the exception of swimming pools, the development defined in Rule .0309(a) of this Section shall be allowed oceanward of the static vegetation line; and
- (E) Development shall not be eligible for the exception defined in Rule .0309(b) of this Section.

(b) No development shall be permitted that involves the removal or relocation of primary or frontal dune sand or vegetation thereon that would adversely affect the integrity of the dune. Other dunes within the ~~ocean hazard~~ Ocean Hazard Area shall not be disturbed unless the development of the property is otherwise impracticable. Any disturbance of these other dunes shall be allowed only to the extent permitted by 15A NCAC 07H .0308(b).

(c) Development shall not cause irreversible damage to historic architectural or archaeological resources as documented by the local historic commission, the North Carolina Department of Natural and Cultural Resources, or the National Historical Registry.

(d) Development shall comply with minimum lot size and set back requirements established by local regulations.

(e) Mobile homes shall not be placed within the ~~high hazard flood area~~ Ocean Hazard Area unless they are within mobile home parks existing as of June 1, 1979.

(f) Development shall comply with the general management objective for ~~ocean hazard areas~~ Ocean Hazard Area set forth in 15A NCAC 07H .0303.

(g) Development shall not interfere with legal access to, or use of, public resources, nor shall such development increase the risk of damage to public trust areas.

(h) Development proposals shall incorporate measures to avoid or minimize adverse impacts of the project. These measures shall be implemented at the applicant's expense and may include actions that:

- m) (1) minimize or avoid adverse impacts by limiting the magnitude or degree of the action;
- n) (2) restore the affected environment; or
- o) (3) compensate for the adverse impacts by replacing or providing substitute resources.

(i) Prior to the issuance of any permit for development in the ~~ocean hazard AECs,~~ Ocean Hazard Area, there shall be a written acknowledgment from the applicant to the Division of Coastal Management that the applicant is aware of the risks associated with development in this hazardous area and the limited suitability of this area for permanent structures. The acknowledgement shall state that the Coastal Resources Commission does not guarantee the safety of the development and assumes no liability for future damage to the development.

(j) All relocation of structures shall require permit approval. Structures relocated with public funds shall comply with the applicable setback line and other applicable AEC rules. Structures, including septic tanks and other essential accessories, relocated entirely with non-public funds shall be relocated the maximum feasible distance landward of the present location. Septic tanks shall not be located oceanward of the primary structure. All relocation of structures shall meet all other applicable local and state rules.

(k) Permits shall include the condition that any structure shall be relocated or dismantled when it becomes imminently threatened by changes in shoreline configuration as defined in 15A NCAC 07H .0308(a)(2)(B). Any such structure shall be relocated or dismantled within two years of the time when it becomes imminently threatened, and in any case upon its collapse or subsidence. However, if natural shoreline recovery or beach fill takes place within two years of the time the structure becomes imminently threatened, so that the structure is no longer imminently threatened, then it need not be relocated or dismantled at that time. This permit condition shall not affect the permit holder's right to seek authorization of temporary protective measures allowed pursuant to 15A NCAC 07H .0308(a)(2).

History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124; Eff. September 9, 1977;



Amended Eff. December 1, 1991; March 1, 1988; September 1, 1986; December 1, 1985;
RRC Objection due to ambiguity Eff. January 24, 1992;
Amended Eff. March 1, 1992;
RRC Objection due to ambiguity Eff. May 21, 1992;
Amended Eff. February 1, 1993; October 1, 1992; June 19, 1992;
RRC Objection due to ambiguity Eff. May 18, 1995;
Amended Eff. August 11, 2009; April 1, 2007; November 1, 2004; June 27, 1995;
Temporary Amendment Eff. January 3, 2013;
Amended Eff. September 1, 2017; February 1, 2017; April 1, 2016; September 1, 2013;
Readopted Eff. December 1, 2020.

15A NCAC 07H .0308 SPECIFIC USE STANDARDS FOR OCEAN HAZARD AREAS

(a) Ocean Shoreline Erosion Control Activities:

p) (1) Use Standards Applicable to all Erosion Control Activities:

- (A)** All oceanfront erosion response activities shall be consistent with the general policy statements in 15A NCAC 07M .0200.
- (B)** Permanent erosion control structures may cause significant adverse impacts on the value and enjoyment of adjacent properties or public access to and use of the ocean beach, and, therefore, unless specifically authorized under the Coastal Area Management Act, are prohibited. Such structures include bulkheads, seawalls, revetments, jetties, groins and breakwaters.
- (C)** Rules concerning the use of oceanfront erosion response measures apply to all oceanfront properties without regard to the size of the structure on the property or the date of its construction.
- (D)** Shoreline erosion response projects shall not be constructed in beach or estuarine areas that sustain substantial habitat for fish and wildlife species, as identified by natural resource agencies during project review, unless mitigation measures are incorporated into project design, as set forth in Rule .0306(h) of this Section.
- (E)** Project construction shall be timed to minimize adverse effects on biological activity.
- (F)** Prior to completing any erosion response project, all exposed remnants of or debris from failed erosion control structures must be removed by the permittee.
- (G)** Permanent erosion control structures that would otherwise be prohibited by these standards may be permitted on finding by the Division that:
 - (i)** the erosion control structure is necessary to protect a bridge that provides the only existing road access on a barrier island, that is vital to public safety, and is imminently threatened by erosion as defined in Part (a)(2)(B) of this Rule;
 - (ii)** the erosion response measures of relocation, beach nourishment or temporary stabilization are not adequate to protect public health and safety; and
 - (iii)** the proposed erosion control structure will have no adverse impacts on adjacent properties in private ownership or on public use of the beach.
- (H)** Structures that would otherwise be prohibited by these standards may also be permitted on finding by the Division that:
 - (i)** the structure is necessary to protect a state or federally registered historic site that is imminently threatened by shoreline erosion as defined in Part (a)(2)(B) of this Rule;
 - (ii)** the erosion response measures of relocation, beach nourishment or temporary stabilization are not adequate and practicable to protect the site;
 - (iii)** the structure is limited in extent and scope to that necessary to protect the site; and
 - (iv)** a permit for a structure under this Part may be issued only to a sponsoring public agency for projects where the public benefits outweigh the significant adverse impacts. Additionally, the permit shall include conditions providing for mitigation or minimization by that agency of significant adverse impacts on adjoining properties and on public access to and use of the beach.



- (I) Structures that would otherwise be prohibited by these standards may also be permitted on finding by the Division that:
 - (i) the structure is necessary to maintain an existing commercial navigation channel of regional significance within federally authorized limits;
 - (ii) dredging alone is not practicable to maintain safe access to the affected channel;
 - (iii) the structure is limited in extent and scope to that necessary to maintain the channel;
 - (iv) the structure shall not have significant adverse impacts on fisheries or other public trust resources; and
 - (v) a permit for a structure under this Part may be issued only to a sponsoring public agency for projects where the public benefits outweigh the significant adverse impacts. Additionally, the permit shall include conditions providing for mitigation or minimization by that agency of any significant adverse impacts on adjoining properties and on public access to and use of the beach.
- (J) The Commission may renew a permit for an erosion control structure issued pursuant to a variance granted by the Commission prior to 1 July 1995. The Commission may authorize the replacement of a permanent erosion control structure that was permitted by the Commission pursuant to a variance granted by the Commission prior to 1 July 1995 if the Commission finds that:
 - (i) the structure will not be enlarged beyond the dimensions set out in the permit;
 - (ii) there is no practical alternative to replacing the structure that will provide the same or similar benefits; and
 - (iii) the replacement structure will comply with all applicable laws and with all rules, other than the rule or rules with respect to which the Commission granted the variance, that are in effect at the time the structure is replaced.
- (K) Proposed erosion response measures using innovative technology or design shall be considered as experimental and shall be evaluated on a case-by-case basis to determine consistency with 15A NCAC 07M .0200 and general and specific use standards within this Section.
 - q) (2) Temporary Erosion Control Structures:
 - (A) Permittable temporary erosion control structures shall be limited to sandbags placed landward of mean high water and parallel to the shore.
 - (B) Temporary erosion control structures as defined in Part (A) of this Subparagraph may be used to protect only imminently threatened roads and associated right of ways, and buildings and their associated septic systems. A structure is considered imminently threatened if its foundation, septic system, or right-of-way in the case of roads, is less than 20 feet away from the erosion scarp. Buildings and roads located more than 20 feet from the erosion scarp or in areas where there is no obvious erosion scarp may also be found to be imminently threatened when site conditions, such as a flat beach profile or accelerated erosion, increase the risk of imminent damage to the structure.
 - (C) Temporary erosion control structures shall be used to protect only the principal structure and its associated septic system, but not appurtenances such as pools, gazebos, decks or any amenity that is allowed under Rule .0309 of this Section as an exception to the erosion setback requirement.
 - (D) Temporary erosion control structures may be placed waterward of a septic system when there is no alternative to relocate it on the same or adjoining lot so that it is landward of or in line with the structure being protected.
 - (E) Temporary erosion control structures shall not extend more than 20 feet past the sides of the structure to be protected except to align with temporary erosion control structures on adjacent properties, where the Division has determined that gaps between adjacent erosion control structures may result in an increased risk of damage to the structure to be protected. The landward side of such temporary erosion control structures shall not be located more than 20 feet waterward of the structure to be protected, or the right-of-way in the case of roads. If a building or road is found to be imminently threatened and at an increased risk of imminent damage due to site conditions such as a flat beach profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet waterward of the structure being protected. In cases of increased risk of imminent damage, the location



of the temporary erosion control structures shall be determined by the Director of the Division of Coastal Management or the Director's designee in accordance with Part (A) of this Subparagraph.

- (F) Temporary erosion control structures may remain in place for up to eight years for a building and its associated septic system, a bridge or a road. The property owner shall be responsible for removal of any portion of the temporary erosion control structure exposed above grade within 30 days of the end of the allowable time period.
- (G) An imminently threatened structure or property may be protected only once, regardless of ownership, unless the threatened structure or property is located in a community that is actively pursuing a beach nourishment project, or an inlet relocation or stabilization project in accordance with Part (H) of this Subparagraph. Existing temporary erosion control structures may be permitted for additional eight-year periods provided that the structure or property being protected is still imminently threatened, the temporary erosion control structure is in compliance with requirements of this Subchapter, and the community in which it is located is actively pursuing a beach nourishment or an inlet relocation or stabilization project in accordance with Part (H) of this Subparagraph. In the case of a building, a temporary erosion control structure may be extended, or new segments constructed, if additional areas of the building become imminently threatened. Where temporary structures are installed or extended incrementally, the time period for removal under Part (F) or (H) of this Subparagraph shall begin at the time the initial erosion control structure was installed. For the purpose of this Rule:
 - (i) a building and its septic system shall be considered separate structures,
 - (ii) a road or highway may be incrementally protected as sections become imminently threatened. The time period for removal of each contiguous section of temporary erosion control structure shall begin at the time that the initial section was installed, in accordance with Part (F) of this Subparagraph.
- (H) For purposes of this Rule, a community is considered to be actively pursuing a beach nourishment or an inlet relocation or stabilization project in accordance with G.S. 113A-115.1 if it:
 - (i) has been issued an active CAMA permit, where necessary, approving such project; or
 - (ii) has been identified by a U.S. Army Corps of Engineers' Beach Nourishment Reconnaissance Study, General Reevaluation Report, Coastal Storm Damage Reduction Study, or an ongoing feasibility study by the U.S. Army Corps of Engineers and a commitment of local or federal money, when necessary; or
 - (iii) has received a favorable economic evaluation report on a federal project; or
 - (iv) is in the planning stages of a project designed by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements and initiated by a local government or community with a commitment of local or state funds to construct the project or the identification of the financial resources or funding bases necessary to fund the beach nourishment, inlet relocation or stabilization project.

If beach nourishment, inlet relocation or stabilization is rejected by the sponsoring agency or community, or ceases to be actively planned for a section of shoreline, the time extension is void for that section of beach or community and existing sandbags are subject to all applicable time limits set forth in Part (F) of this Subparagraph.
- (I) Once a temporary erosion control structure is determined by the Division of Coastal Management to be unnecessary due to relocation or removal of the threatened structure, it shall be removed to the maximum extent practicable by the property owner within 30 days of official notification from the Division of Coastal Management regardless of the time limit placed on the temporary erosion control structure. If the temporary erosion control structure is determined by the Division of Coastal Management to be unnecessary due to the completion of a storm protection project constructed by the U.S. Army Corps of Engineers, a large-scale beach nourishment project, or an inlet relocation or stabilization project, any portion of the temporary erosion control structure exposed above grade shall be removed by the property owner within 30 days of official notification from the Division



of Coastal Management regardless of the time limit placed on the temporary erosion control structure.

- (J) Removal of temporary erosion control structures is not required if they are covered by sand. Any portion of the temporary erosion control structure that becomes exposed above grade after the expiration of the permitted time period shall be removed by the property owner within 30 days of official notification from the Division of Coastal Management.
- (K) The property owner shall be responsible for the removal of remnants of all portions of any damaged temporary erosion control structure.
- (L) Sandbags used to construct temporary erosion control structures shall be tan in color and three to five feet wide and seven to 15 feet long when measured flat. Base width of the temporary erosion control structure shall not exceed 20 feet, and the total height shall not exceed six feet, as measured from the bottom of the lowest bag.
- (M) Soldier pilings and other types of devices to anchor sandbags shall not be allowed.
- (N) Existing sandbag structures may be repaired or replaced within their originally permitted dimensions during the time period allowed under Part (F) or (G) of this Subparagraph.
 - r) (3) Beach Nourishment. Sand used for beach nourishment shall be compatible with existing grain size and in accordance with Rule .0312 of this Section.
 - s) (4) Beach Bulldozing. Beach bulldozing (defined as the process of moving natural beach material from any point seaward of the first line of stable vegetation to create a protective sand dike or to obtain material for any other purpose) is development and may be permitted as an erosion response if the following conditions are met:
 - (A) The area on which this activity is being performed shall maintain a slope of adequate grade so as to not endanger the public or the public's use of the beach and shall follow the pre-emergency slope as closely as possible. The movement of material utilizing a bulldozer, front end loader, backhoe, scraper, or any type of earth moving or construction equipment shall not exceed one foot in depth measured from the pre-activity surface elevation;
 - (B) The activity shall not exceed the lateral bounds of the applicant's property unless he has permission of the adjoining land owner(s);
 - (C) Movement of material from seaward of the mean low water line will require a CAMA Major Development and State Dredge and Fill Permit;
 - (D) The activity shall not increase erosion on neighboring properties and shall not have an adverse effect on natural or cultural resources;
 - (E) The activity may be undertaken to protect threatened on-site waste disposal systems as well as the threatened structure's foundations.

(b) Dune Establishment and Stabilization.

- t) (1) Any new **or restored** dunes established shall be aligned to the greatest extent possible with existing adjacent dune ridges and shall be of the same configuration as adjacent natural dunes.
- u) (2) Existing primary and frontal dunes shall not, except for beach nourishment and emergency situations, be broadened or extended in an oceanward direction.
- v) (3) Adding to dunes shall be accomplished in such a manner that the damage to existing vegetation is minimized. The filled areas shall be replanted or temporarily stabilized until planting can be completed.
- w) (4) Sand used to establish or strengthen dunes shall be of the same general characteristics as the sand in the area in which it is to be placed.
- x) (5) **No new dunes shall be created in inlet hazard areas. Dunes may be restored in inlet hazard areas, but no new dunes shall be created.**
- y) (6) Sand held in storage in any dune, other than the frontal or primary dune, shall remain on the lot or tract of land to the maximum extent practicable and may be redistributed within the Ocean Hazard AEC provided that it is not placed any farther oceanward than the crest of a primary dune, if present, or the crest of a frontal dune.
- z) (7) No disturbance of a dune area shall be allowed when other techniques of construction can be utilized and alternative site locations exist to avoid dune impacts.

(c) Structural Accessways:

- aa) (1) Structural accessways shall be permitted across primary or frontal dunes so long as they are designed and constructed in a manner that entails negligible alteration of the



primary or frontal dune. Structural accessways shall not be considered threatened structures for the purpose of Paragraph (a) of this Rule.

- bb) (2) An accessway shall be considered to entail negligible alteration of primary or frontal dunes provided that:
 - (A) The accessway is exclusively for pedestrian use;
 - (B) The accessway is a maximum of six feet in width;
 - (C) The accessway is raised on posts or pilings of five feet or less depth, so that wherever possible only the posts or pilings touch the dune. Where this is deemed by the Division of Coastal Management to be impossible due to any more restrictive local, state, and/or federal building requirements, the structure shall touch the dune only to the necessary; and
 - (D) Any areas of vegetation that are disturbed are revegetated as soon as feasible.
- cc) (3) An accessway that does not meet Part (2)(A) and (B) of this Paragraph shall be permitted only if it meets a public purpose or need which cannot otherwise be met and it meets Part (2)(C) of this Paragraph. Public fishing piers are not prohibited provided all other applicable standards of this Rule are met.
- dd) (4) In order to preserve the protective nature of primary and frontal dunes a structural accessway (such as a "Hatteras ramp") may be provided for off-road vehicle (ORV) or emergency vehicle access. Such accessways shall be no greater than 15 feet in width and may be constructed of wooden sections fastened together, or other materials approved by the Division, over the length of the affected dune area. Installation of a Hatteras ramp shall be done in a manner that will preserve the dune's function as a protective barrier against flooding and erosion by not reducing the volume of the dune.
- ee) (5) Structural accessways may be constructed no more than six feet seaward of the waterward toe of the frontal or primary dune, provided they do not interfere with public trust rights and emergency access along the beach. Structural accessways are not restricted by the requirement to be landward of the FLSNV as described in Rule .0309(a) of this Section.

(d) Building Construction Standards. New building construction and any construction identified in .0306(a)(5) of this Section and 15A NCAC 07J .0210 shall comply with the following standards:

- ff) (1) In order to avoid danger to life and property, all development shall be designed and placed so as to minimize damage due to fluctuations in ground elevation and wave action in a 100-year storm. Any building constructed within the ocean hazard area shall comply with relevant sections of the North Carolina Building Code including the Coastal and Flood Plain Construction Standards and the local flood damage prevention ordinance as required by the National Flood Insurance Program. If any provision of the building code or a flood damage prevention ordinance is inconsistent with any of the following AEC standards, the more restrictive provision shall control.
- gg) (2) All building in the ocean hazard area shall be on pilings not less than eight inches in diameter if round or eight inches to a side if square.
- hh) (3) All pilings shall have a tip penetration greater than eight feet below the lowest ground elevation under the structure. For those structures so located on or seaward of the primary dune, the pilings shall extend to five feet below mean sea level.
- ii) (4) All foundations shall be designed to be stable during applicable fluctuations in ground elevation and wave forces during a 100-year storm. Cantilevered decks and walkways shall meet the requirements of this Part or shall be designed to break-away without structural damage to the main structure.

History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(6)a.,b.,d.; 113A-115.1; 113A-124; Eff. June 1, 1979;
Temporary Amendment Eff. June 20, 1989, for a period of 180 days to expire on December 17, 1989;
Amended Eff. August 3, 1992; December 1, 1991; March 1, 1990; December 1, 1989;
RRC Objection Eff. November 19, 1992 due to ambiguity;
RRC Objection Eff. January 21, 1993 due to ambiguity;
Amended Eff. March 1, 1993; December 28, 1992;
RRC Objection Eff. March 16, 1995 due to ambiguity;
Amended Eff. April 1, 1999; February 1, 1996; May 4, 1995;



Temporary Amendment Eff. July 3, 2000; May 22, 2000;
Amended Eff. April 1, 2019; May 1, 2013; July 1, 2009; April 1, 2008; February 1, 2006; August 1,
2002;
Readopted Eff. December 1, 2020.

15A NCAC 07H .0309 USE STANDARDS FOR OCEAN HAZARD AREAS: EXCEPTIONS

(a) The following types of development shall be permitted seaward of the oceanfront setback requirements of Rule .0306(a) of this Section if all other provisions of this Subchapter and other state and local regulations are met:

- jj) (1) campsites;
- kk) (2) driveways and parking areas with clay, packed sand, or gravel;
- ll) (3) elevated decks not exceeding a footprint of 500 square feet;
- mm) (4) beach accessways consistent with Rule .0308(c) of this Section;
- nn) (5) unenclosed, uninhabitable gazebos with a footprint of 200 square feet or less;
- oo) (6) uninhabitable, single-story storage sheds with a foundation or floor consisting of wood, clay, packed sand or gravel, and a footprint of 200 square feet or less;
- pp) (7) temporary amusement stands consistent with Section .1900 of this Subchapter;
- qq) (8) sand fences; and
- rr) (9) swimming pools.

In all cases, this development shall be permitted only if it is landward of the vegetation line or static vegetation line, whichever is applicable; involves no alteration or removal of primary or frontal dunes which would compromise the integrity of the dune as a protective landform or the dune vegetation; has overwalks to protect any existing dunes; is not essential to the continued existence or use of an associated principal development; is not required to satisfy minimum requirements of local zoning, subdivision or health regulations; and meets all other non-setback requirements of this Subchapter.

(b) Where application of the oceanfront setback requirements of Rule .0306(a) of this Section would preclude placement of permanent substantial structures on lots existing as of June 1, 1979, buildings shall be permitted seaward of the applicable setback line in ~~ocean erodible areas and Ocean Erodible Areas~~, State Ports Inlet Management Areas, ~~Inlet Hazard Areas~~, but not ~~inlet hazard areas or unvegetated beach areas~~, ~~Unvegetated Beach Areas~~, if each of the following conditions are met:

- ss) (1) The development is set back from the ocean the maximum feasible distance possible on the existing lot and the development is designed to minimize encroachment into the setback area;
- tt) (2) The development is at least 60 feet landward of the vegetation line or static vegetation line, whichever is applicable;
- uu) (3) The development is not located on or in front of a frontal dune, but is entirely behind the landward toe of the frontal dune;
- vv) (4) The development incorporates each of the following design standards, which are in addition to those required by Rule .0308(d) of this Section.
 - (A) All pilings shall have a tip penetration that extends to at least four feet below mean sea level;
 - (B) The footprint of the structure shall be no more than 1,000 square feet, and the total floor area of the structure shall be no more than 2,000 square feet. For the purpose of this Section, roof-covered decks and porches that are structurally attached shall be included in the calculation of footprint;
 - (C) Driveways and parking areas shall be constructed of clay, packed sand or gravel except in those cases where the development does not abut the ocean and is located landward of a paved public street or highway currently in use. In those cases concrete, asphalt, or turfstone may also be used;
 - (D) No portion of a building's total floor area, including elevated portions that are cantilevered, knee braced or otherwise extended beyond the support of pilings or footings, may extend oceanward of the total floor area of the landward-most adjacent building. When the geometry or orientation of a lot precludes the placement of a building in line with the landward most adjacent structure of similar use, an average line of construction shall be determined by the Division of Coastal Management on a case-by-case basis in order to



determine an ocean hazard setback that is landward of the vegetation line, static vegetation line or measurement line, whichever is applicable, a distance no less than 60 feet.

ww)(5) All other provisions of this Subchapter and other state and local regulations are met. If the development is to be serviced by an on-site waste disposal system, a copy of a valid permit for such a system shall be submitted as part of the CAMA permit application.

(c) The following types of water dependent development shall be permitted seaward of the oceanfront setback requirements of Rule .0306(a) of this Section if all other provisions of this Subchapter and other state and local regulations are met:

xx) (1) piers providing public access; and

yy) (2) maintenance and replacement of existing state-owned bridges, and causeways and accessways to such bridges.

(d) Replacement or construction of a pier house associated with an ocean pier shall be permitted if each of the following conditions is met:

zz) (1) The ocean pier provides public access for fishing and other recreational purposes whether on a commercial, public, or nonprofit basis;

aaa)(2) Commercial, non-water dependent uses of the ocean pier and associated pier house shall be limited to restaurants and retail services. Residential uses, lodging, and parking areas shall be prohibited;

bbb) (3) The pier house shall be limited to a maximum of two stories;

ccc)(4) A new pier house shall not exceed a footprint of 5,000 square feet and shall be located landward of mean high water;

ddd) (5) A replacement pier house may be rebuilt not to exceed its most recent footprint or a footprint of 5,000 square feet, whichever is larger;

eee)(6) The pier house shall be rebuilt to comply with all other provisions of this Subchapter; and

fff) (7) If the pier has been destroyed or rendered unusable, replacement or expansion of the associated pier house shall be permitted only if the pier is being replaced and returned to its original function.

(e) In addition to the development authorized under Paragraph (d) of this Rule, small scale, non-essential development that does not induce further growth in the Ocean Hazard Area, such as the construction of single family piers and small scale erosion control measures that do not interfere with natural oceanfront processes, shall be permitted on those non-oceanfront portions of shoreline that exhibit features characteristic of an Estuarine Shoreline. Such features include the presence of wetland vegetation, and lower wave energy and erosion rates than in the adjoining Ocean Erodible Area. Such development shall be permitted under the standards set out in Rule .0208 of this Subchapter. For the purpose of this Rule, small scale is defined as those projects which are eligible for authorization under 15A NCAC 07H .1100, .1200 and 15A NCAC 07K .0203.

(f) Transmission lines necessary to transmit electricity from an offshore energy-producing facility may be permitted provided that each of the following conditions is met:

ggg) (1) The transmission lines are buried under the ocean beach, nearshore area, and primary and frontal dunes, all as defined in Rule .0305 of this Section, in such a manner so as to ensure that the placement of the transmission lines involves no alteration or removal of the primary or frontal dunes; and

hhh) (2) The design and placement of the transmission lines shall be performed in a manner so as not to endanger the public or the public's use of the beach.

(g) Existing stormwater outfalls as of the last amended date of this rule within the Ocean Hazard AEC that are owned or maintained by a State agency or local government, may be extended oceanward subject to the provisions contained within 15A NCAC 07J .0200. Outfalls may be extended below mean low water and may be maintained in accordance with 15A NCAC 07K .0103. Shortening or lengthening of outfall structures within the authorized dimensions, in response to changes in beach width, is considered maintenance under 15A NCAC 07K .0103. Outfall extensions may be marked with signage and shall not prevent pedestrian or vehicular access along the beach. This Paragraph does not apply to existing stormwater outfalls that are not owned or maintained by a State agency or local government.

History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(6)a; 113A-113(b)(6)b; 113A-113(b)(6)d; 113A-124; Eff. February 2, 1981;



Amended Eff. April 1, 2020; June 1, 2010; February 1, 2006; September 17, 2002 pursuant to S.L. 2002-116; August 1, 2000; August 1, 1998; April 1, 1996; April 1, 1995; February 1, 1993; January 1, 1991; April 1, 1987;
Readopted Eff. December 1, 2020.

15A NCAC 07H .0310 USE STANDARDS FOR INLET HAZARD AREAS

(a) Inlet Hazard Areas of Environmental Concern as defined by Rule .0304 of this Section are subject to inlet migration, rapid and severe changes in watercourses, flooding and strong tides. Due to this extremely hazardous nature of the Inlet Hazard Areas, all development within these areas shall be permitted in accordance with the following standards:

- iii) (1) ~~All development in the inlet hazard area shall be set back from the first line of stable natural vegetation a distance equal to the setback required in the adjacent ocean hazard area. The Inlet Hazard Area setback for development shall be measured in a landward direction from the vegetation line, the pre-project vegetation line, or the measurement line, whichever is applicable; applicable in accordance with 15A NCAC 7H .0306;~~
- jjj) (2) ~~Inlet Hazard Area setback factors are based on the long-term average annual shoreline change rates calculated using methods detailed in the report entitled "Inlet Hazard Area Boundary, 2019 Update: Science Panel Recommendations to the North Carolina Coastal Resources Commission," and are depicted on maps entitled "2019 Inlet Setback Factors," approved by the Coastal Resources Commission on February 28, 2019. Inlet Hazard Area setback factors shall be no less than two where accretion is measured, or erosion rates are less than two feet per year.~~
- kkk) (3) ~~All development not otherwise specifically exempted or allowed by law or elsewhere in the Coastal Resources Commission's rules shall be located in accordance with 15A NCAC 07H .0306;~~
- III) ~~(2)(4) Permanent structures shall be permitted at a density of no more than one commercial or residential unit structure per 15,000 square feet of land area on lots subdivided or created after July 23, 1981; insert effective date of rule amendment;~~
- mmm) ~~(3)(5) Only residential structures of four units or less or non residential structures of less than 5,000 square feet total floor area shall be allowed within the inlet hazard area. New structures within an Inlet Hazard Area shall not exceed 5,000 square feet total floor area in accordance with 15A NCAC 7H .0306(a)(4), except that access roads to those areas and maintenance and replacement of existing bridges shall be allowed;~~
- nnn) ~~(4)(6) Established common-law and statutory public rights of access to the public trust lands and waters in Inlet Hazard Areas shall not be eliminated or restricted. Development shall not encroach upon public accessways nor shall it limit the intended use of the accessways;~~
- ooo) ~~(5)(7) All other rules in this Subchapter pertaining to development in the ocean hazard areas-Ocean Hazard Areas shall be applied to development within the Inlet Hazard Areas.~~
- (8) ~~Notwithstanding any other setback requirement of this Subparagraph, replacement of structures with a total floor area no greater than 10,000 square feet, shall be allowed provided that the structure meets the following criteria:~~
 - (i) ~~the structure was originally constructed prior to insert effective date of rule amendment;~~
 - (ii) ~~the structure as replaced does not exceed the original footprint or square footage;~~
 - (iii) ~~it is not possible for the structure to be rebuilt in a location that meets the Ocean Hazard Area setback criteria required under 15A NCAC 07H .0306 of this Rule;~~
 - (iv) ~~the structure as replaced meets the minimum setback required under 15A NCAC 07H .0306(a)(5); and~~
 - (v) ~~the structure is rebuilt as far landward on the lot as feasible.~~



- (b) The ~~inlet hazard area~~ **Inlet Hazard Area** setback requirements shall not apply to the types of development exempted from the ocean setback rules in 15A NCAC 07H .0309(a), nor, to the types of development listed in 15A NCAC 07H .0309(c).
- (c) In addition to the types of development excepted under Rule .0309 of this Section, **small-scale small-scale** development that does not induce further growth in the Inlet Hazard Area, such as the construction of single-family piers and **small-scale small-scale** erosion control measures that do not interfere with natural inlet movement, may be permitted on those portions of shoreline within a designated Inlet Hazard Area that exhibit features characteristic of Estuarine Shoreline. Such features include the presence of wetland vegetation, lower wave energy, and lower erosion rates than in the adjoining Ocean Erodeable Area. Such development shall be permitted under the standards set out in Rule .0208 of this Subchapter. For the purpose of this Rule, **small-scale small-scale** is defined as those projects which are eligible for authorization under 15A NCAC 07H .1100, .1200 and 07K .0203.

History Note:

Authority G.S. 113A-107; 113A-113(b); 113A-124;

Eff. December 1, 1981;

Emergency Rule Eff. September 11, 1981, for a period of 120 days to expire on January 8, 1982;

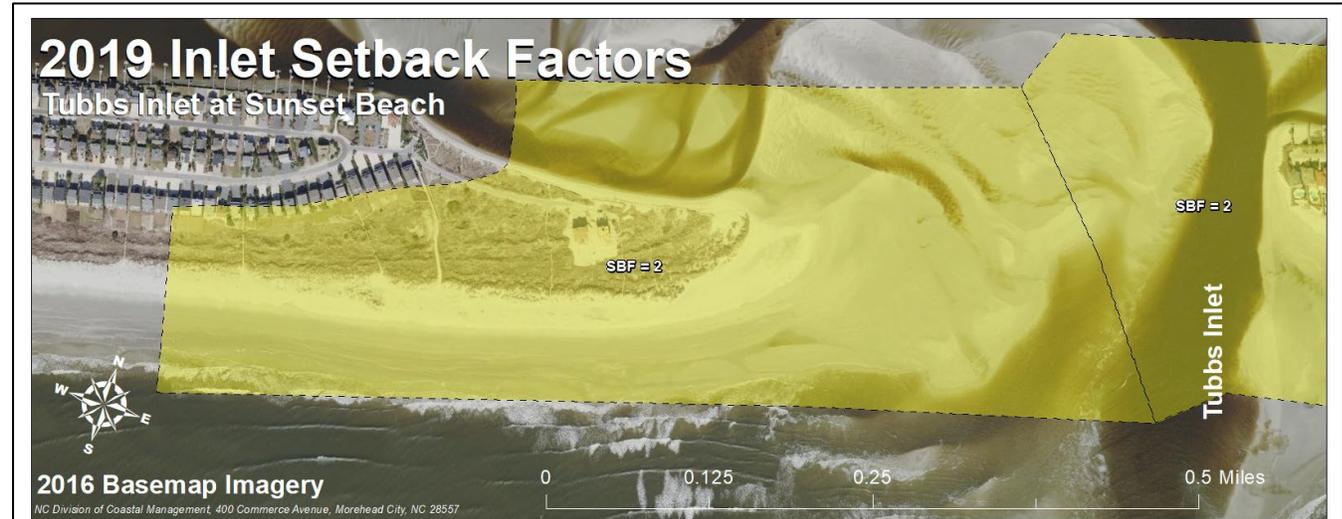
Temporary Amendment Eff. October 30, 1981, for a period of 70 days to expire on January 8, 1982;

Amended Eff. April 1, 1999; April 1, 1996; December 1, 1992; December 1, 1991; March 1, 1988;

Readopted Eff. December 1, 2020.



Appendix D: Updated IHA Boundary Maps



Legend

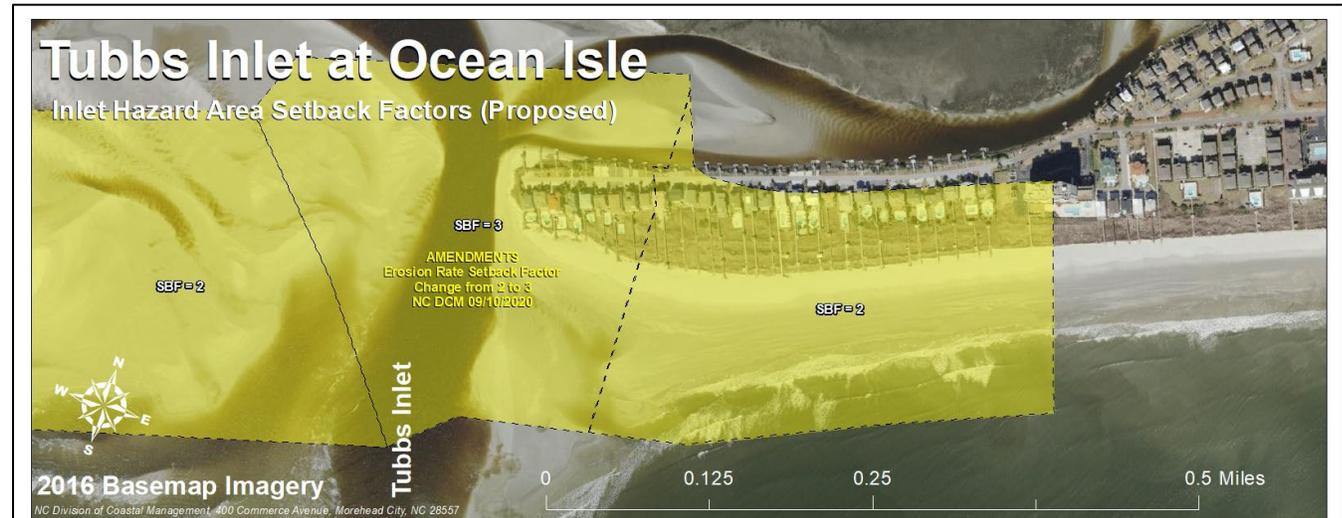
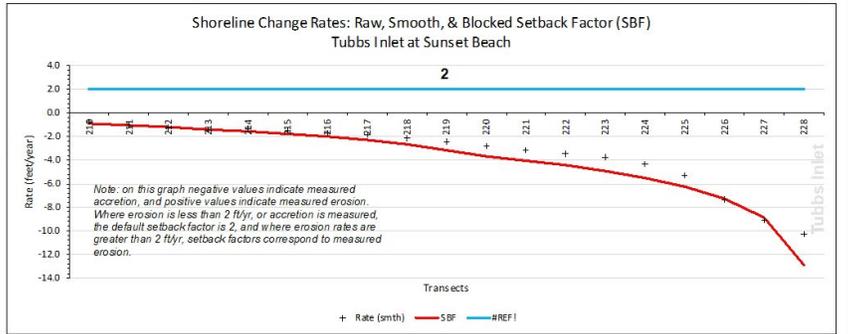
- Inlet Setback Factors (2019)
- Inlet Hazard Areas (2019)

February 20, 2019

This map illustrates proposed 2019 Inlet Hazard Areas updated boundaries and inlet setback factors using inlet shoreline change rates.

This map is provided for public review only as these data and maps have not been formally adopted by the North Carolina Coastal Resources Commission.

NC Division of Coastal Management
400 Commerce Avenue, Morehead City, NC 28557
contact: ken.richardson@ncdenr.gov



Legend

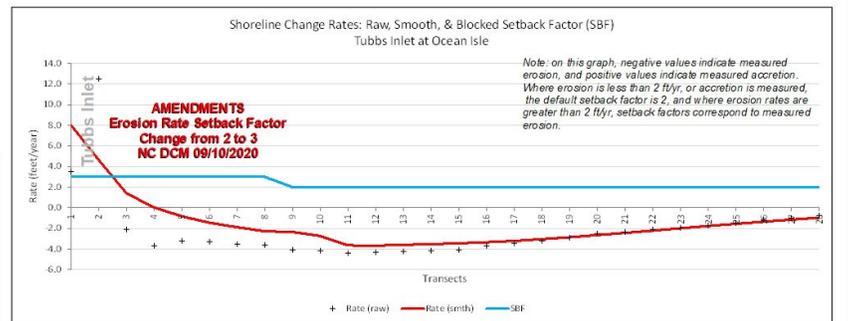
- Inlet Setback Factors (2019)
- Inlet Hazard Areas (Proposed)

February 20, 2019

This map illustrates 2019 proposed Inlet Hazard Areas updated boundaries, and draft inlet setback factors that were calculated using inlet shoreline change rates.

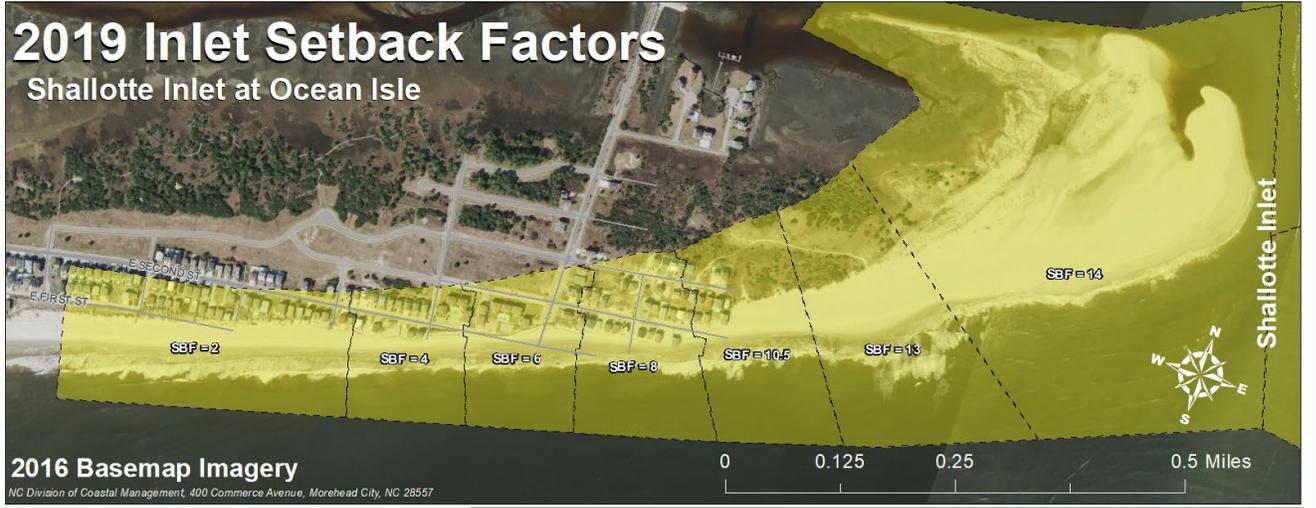
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2019 Inlet Setback Factors

Shalotte Inlet at Ocean Isle



2016 Basemap Imagery

NC Division of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557

Legend

- Inlet Setback Factors (2019)
- Inlet Hazard Areas (2019)

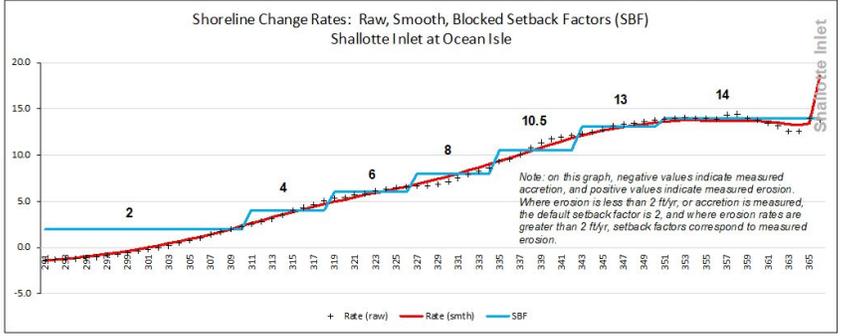
February 20, 2019



This map illustrates proposed 2019 Inlet Hazard Areas updated boundaries and inlet setback factors using inlet shoreline change rates.

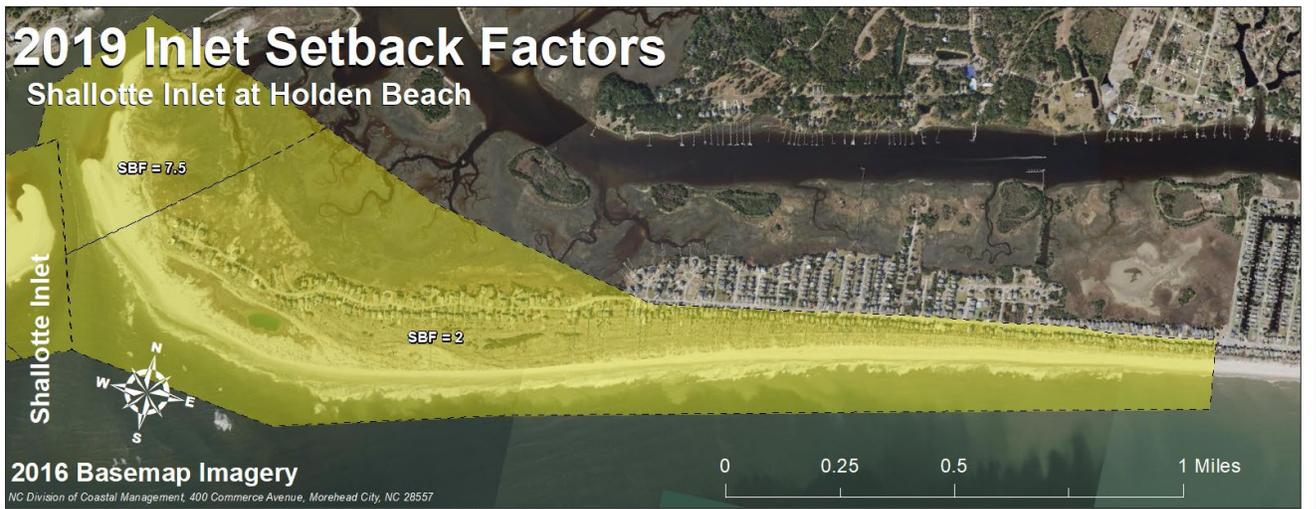
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2019 Inlet Setback Factors

Shalotte Inlet at Holden Beach



2016 Basemap Imagery

NC Division of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557

Legend

- Inlet Setback Factors (2019)
- Inlet Hazard Areas (2019)

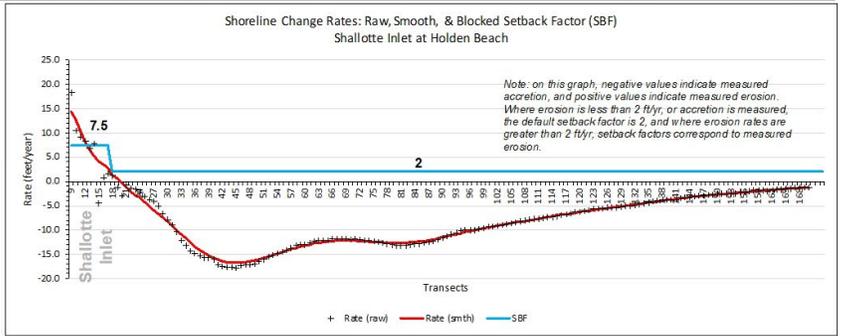
February 20, 2019



This map illustrates proposed 2019 Inlet Hazard Areas updated boundaries and inlet setback factors using inlet shoreline change rates.

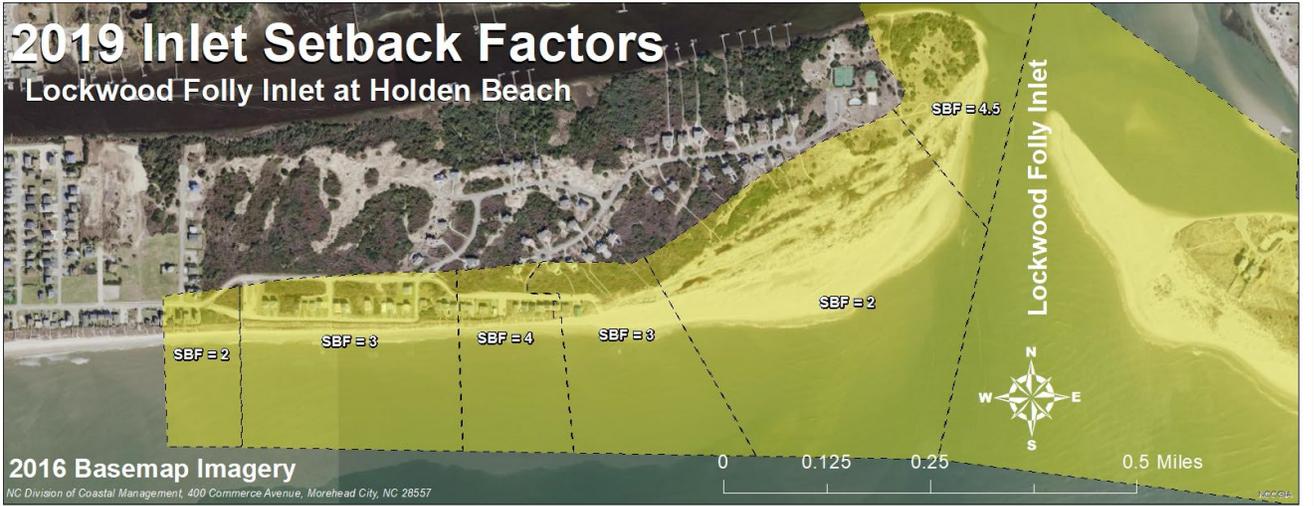
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2019 Inlet Setback Factors

Lockwood Folly Inlet at Holden Beach

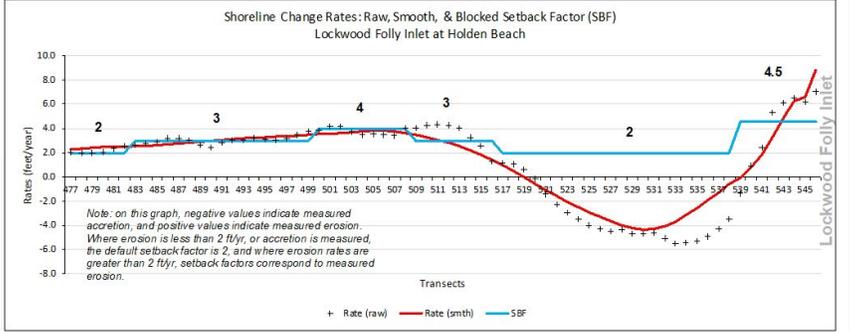


Legend

- Inlet Setback Factors (2019)
- Inlet Hazard Areas (2019)

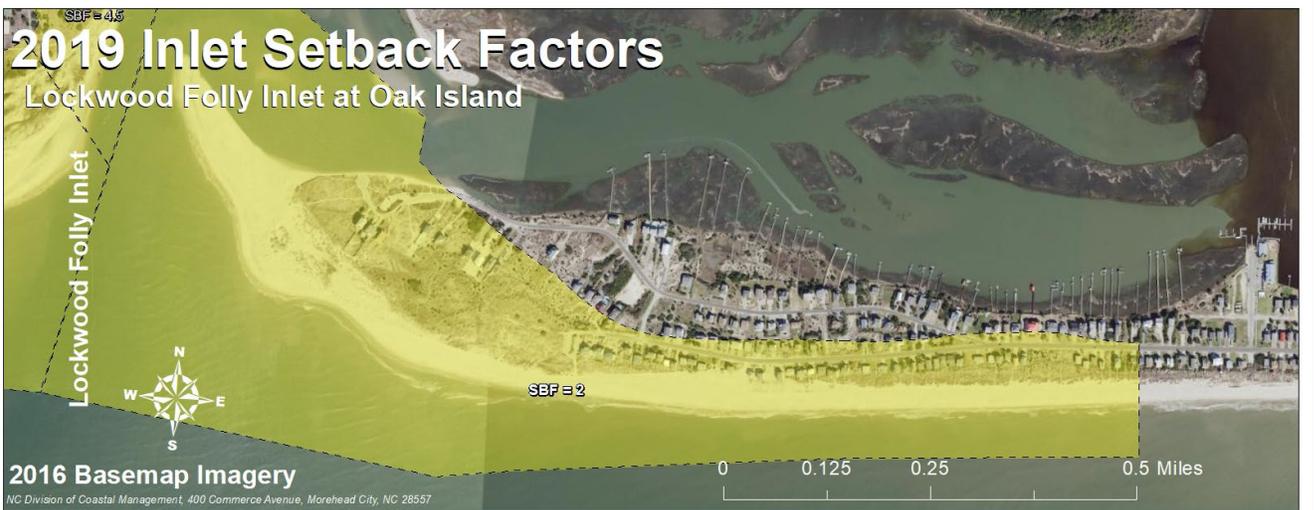
February 20, 2019

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2019 Inlet Setback Factors

Lockwood Folly Inlet at Oak Island

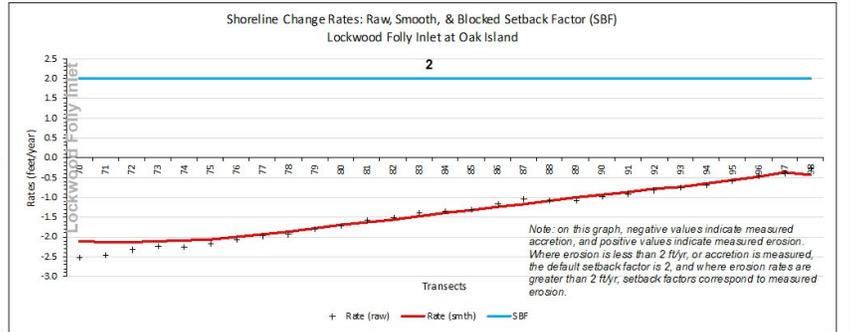


Legend

- Inlet Setback Factors (2019)
- Inlet Hazard Areas (2019)

February 20, 2019

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2019 Inlet Setback Factors

Carolina Beach Inlet at Carolina Beach



Legend

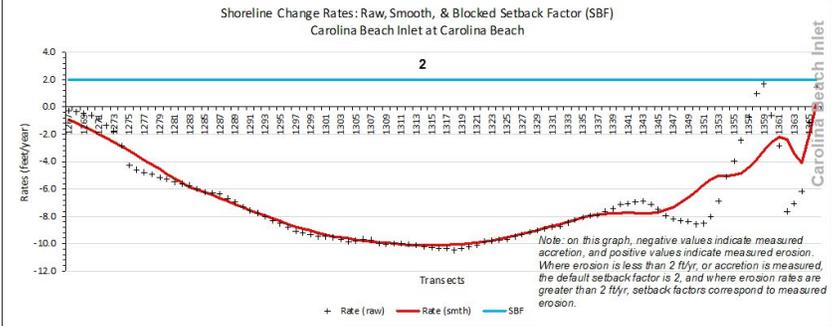
- Inlet Setback Factors (2019)
- Inlet Hazard Areas (2019)

February 20, 2019
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2019 Inlet Setback Factors

Masonboro Island (Carolina & Masonboro Inlets)



Legend

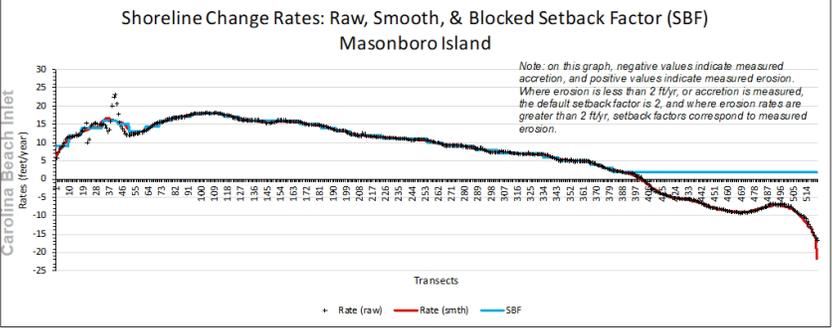
- Inlet Setback Factors (2019)
- Inlet Hazard Areas (2019)

February 20, 2019
 NC DIVISION OF COASTAL MANAGEMENT

This map illustrates proposed 2019 Inlet Hazard Areas updated boundaries and inlet setback factors using inlet shoreline change rates.

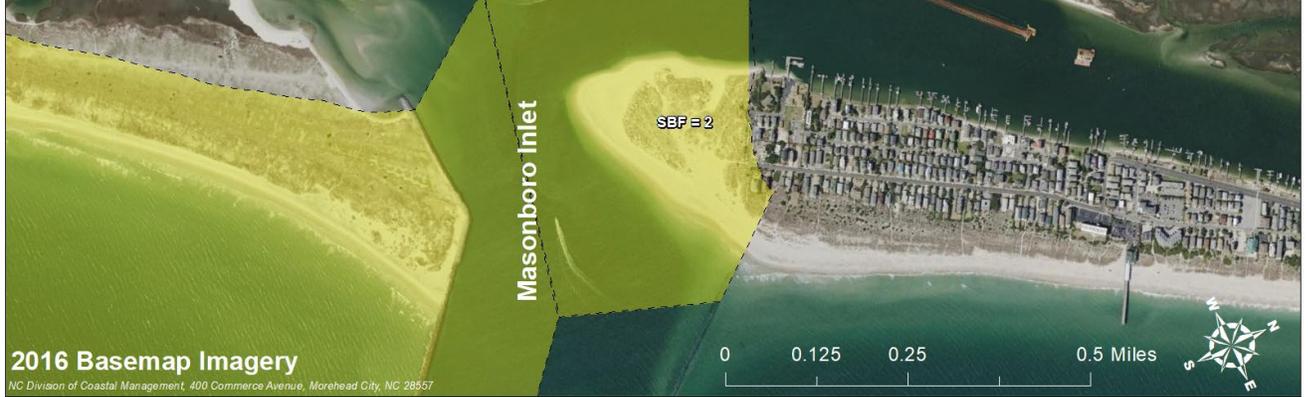
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2019 Inlet Setback Factors

Masonboro Inlet at Wrightsville Beach



Legend

- Inlet Setback Factors (2019)
- Inlet Hazard Areas (2019)

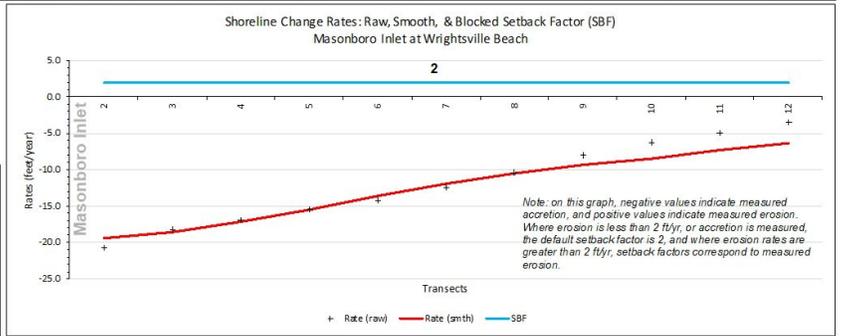


This map illustrates proposed 2019 Inlet Hazard Areas updated boundaries and inlet setback factors using inlet shoreline change rates.

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2019 Inlet Setback Factors

Mason Inlet at Wrightsville Beach



Legend

- Inlet Setback Factors (2019)
- Inlet Hazard Areas (2019)

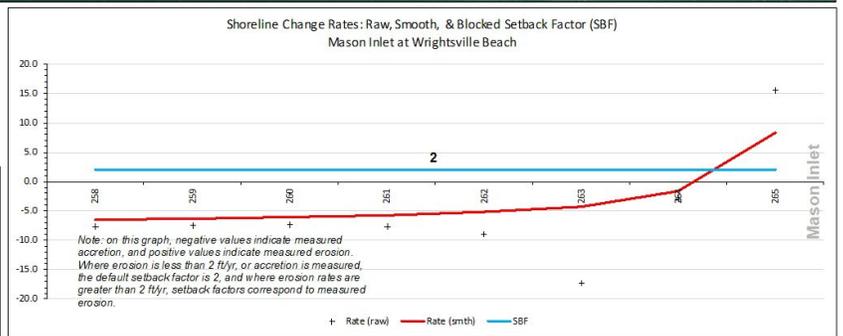


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2019 Inlet Setback Factors

Mason Inlet at Figure Eight Island



Legend

- Inlet Setback Factors (2019)
- Inlet Hazard Areas (2019)

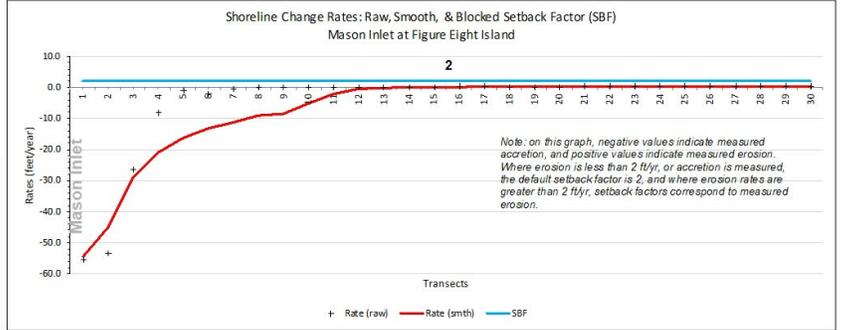


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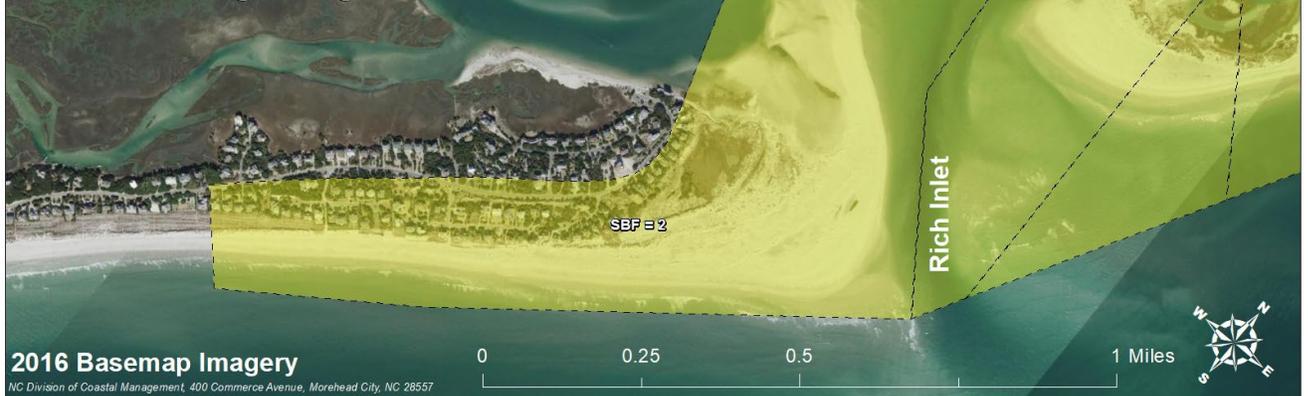
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2019 Inlet Setback Factors

Rich Inlet at Figure Eight Island



Legend

- Inlet Setback Factors (2019)
- Inlet Hazard Areas (2019)

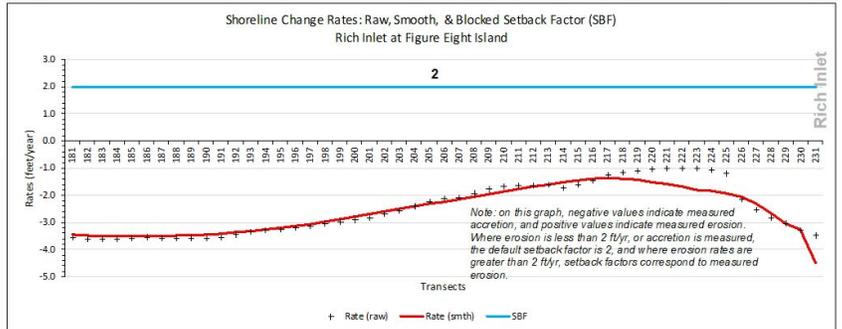


This map illustrates proposed 2019 Inlet Hazard Areas updated boundaries and inlet setback factors using inlet shoreline change rates.

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February 20, 2019



2019 Inlet Setback Factors

Lea-Hutaff Island (Rich and New Topsail Inlets)



Legend

- Inlet Setback Factors (2019)
- Inlet Hazard Areas (2019)

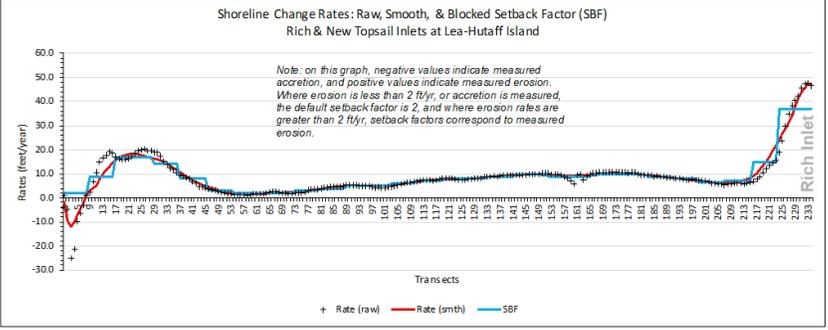
February 20, 2019

NC DIVISION OF COASTAL MANAGEMENT

This map illustrates proposed 2019 Inlet Hazard Areas updated boundaries and inlet setback factors using inlet shoreline change rates.

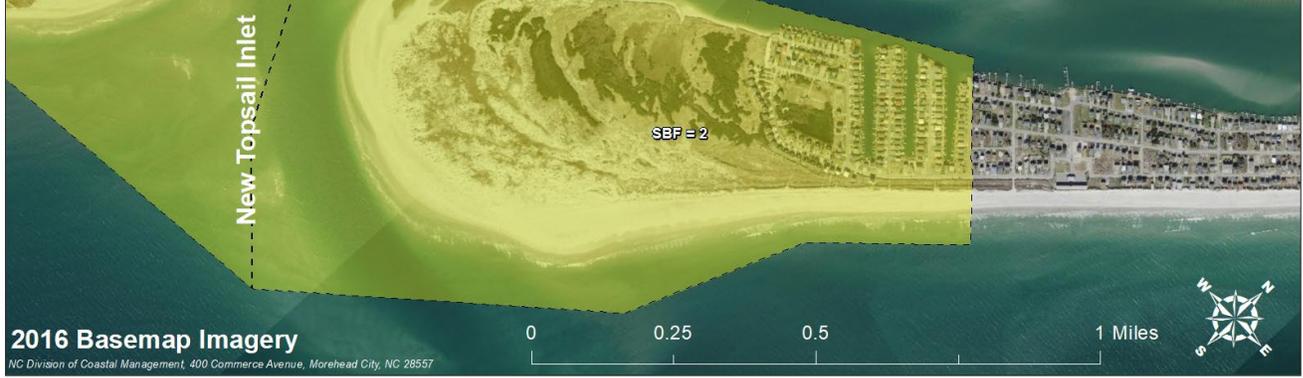
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2019 Inlet Setback Factors

New Topsail Inlet at Topsail Beach



Legend

- Inlet Setback Factors (2019)
- Inlet Hazard Areas (2019)

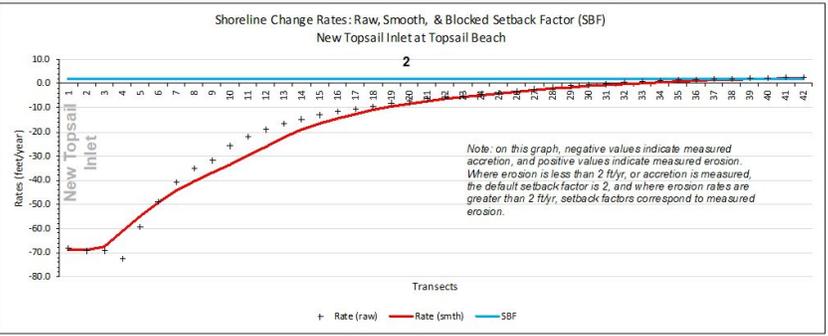
February 20, 2019

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This map illustrates proposed 2019 Inlet Hazard Areas updated boundaries and inlet setback factors using inlet shoreline change rates.

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2019 Inlet Setback Factors

New River Inlet at North Topsail Beach



2016 Basemap Imagery

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Legend

- Inlet Setback Factors (2019)
- Inlet Hazard Area - Proposed (2019)
- Inlet Hazard Area - Existing (1979)

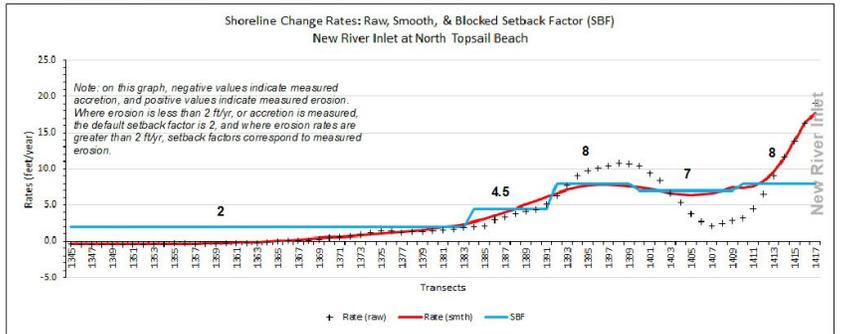
February 20, 2019



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2019 Inlet Setback Factors

Bogue Inlet at Emerald Isle



2016 Basemap Imagery

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Legend

- Inlet Setback Factors (2019)
- Inlet Hazard Areas (2019)

February 20, 2019



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