Fiscal Analysis

Repeal of High Hazard Flood AEC
Amendments to 15A NCAC 7H .0304(2) and 15A NCAC 7K .0213

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Summary

The High Hazard Flood (HHF) AEC, identified as the V-Zones on Flood Insurance Rate Maps (FIRM), was established by the Commission Resources Commission (CRC) in 1979 with the intent of providing consistency in construction standards with those of the National Flood Insurance Program (NFIP). Since that time, the CRC has required all residential and commercial structures within the Ocean Hazard AEC (which includes the HHF AEC) to comply with the NC Building Code, including the Coastal and Flood Plain Construction Standards and local flood damage prevention ordinances required by the NFIP, and to be supported by pilings.

The NC Building Code sets standards for piling-supported buildings within Coastal High Hazard Flood Areas (NFIP V-Zones), Ocean Hazard Areas (CRC AEC) and Flood Plain Areas (US Army Corps of Engineers). Typical single family structures must comply with the NC Building Code and local flood damage prevention ordinances in these areas as required by the NFIP.

Single-family residences located in the HHF AEC are currently exempted from CAMA permit requirements (15A NCAC 7K .0213) provided that they are not within the Ocean Erodible or Inlet Hazard AECs, are constructed on pilings and comply with the NC Building Code and local flood damage prevention ordinances as required by the NFIP. A $50 fee for the issuance of an exemption letter is usually paid to the local permitting authority or to the Division of Coastal Management if there is not a local Coastal Area Management Act (CAMA) permitting program in the jurisdiction.

Since the CRC rules defer to the NC Building Code and require adherence to NFIP and local flood prevention standards, the Commission is proposing to repeal the High Hazard Flood AEC. This would remove approximately 10,000 properties from CRC permitting jurisdiction under the HHF AEC. It should be noted that since the V-Zones can extend to the soundside of some areas, not all properties would be completely removed from all CAMA permitting jurisdiction as the Coastal Shorelines AEC and its associated development standards would still apply in these areas. A repeal of the HHF AEC would also not affect the permitting jurisdiction of the remaining Ocean Hazard AECs (Ocean Erodible & Inlet Hazard) and would not affect the setback requirements associated with oceanfront development.

The amendments to 15A NCAC 7H .0304(2) and 15A NCAC 7K .0213 would apply to property owners within the CRC’s Ocean Hazard AEC that are located solely within the V-Zones as designated on FEMA FIRMs. These properties would no longer be subject to CAMA permit requirements. Property owners would only need to comply with The NC Building Code standards for piling-supported buildings within Coastal High Hazard Flood Areas (NFIP V-Zones), Flood Plain Area standards set by the US Army Corps of Engineers and local flood damage prevention ordinances as required by the NFIP.

The Division of Coastal Management and local permitting programs issued 119 Exemptions for single family structures within the HHF AEC over the past five years or an average of 24 per
year. The cost of the Exemption is $50. The Division has also issued five (5) CAMA Major Permits over the past five years or an average of one (1) per year at a cost of $400 per Major permit.

The economic impacts of this proposed rule change are potential financial benefits to property owners, who would no longer need to apply for a CAMA permit Exemption under 15A NCAC 7K .0213 or a CAMA Major Permit. Total financial benefits will be approximately $1,600 per year. Assuming an annual maximum savings of $1,600 the 10-year present value of the benefits of the proposed rule change to property owners is approximately $11,000 using a 7% discount rate.

These amendments will have no impact on NC Department of Transportation (NC DOT) projects as DCM Staff estimate the number of NC DOT permits solely in the HHF AEC to be negligible. While NC DOT would be eligible for the Exemption under 15A NCAC 7K .0213, it is unlikely that NC DOT would be involved in the construction of a single family residence. There will be a $200 per year net savings to the Division of Coastal Management due to a reduction in the reimbursement rates paid to local governments for processing Exemptions. There will be a loss of $1,800 in permit receipts and reimbursements to local governments.

The proposed effective date of these amendments is April 1, 2015.

**Introduction and Purpose**

The Coastal Area Management Act (CAMA) requires permits for development in Areas of Environmental Concern (AEC) as designated by the Coastal Resources Commission (CRC). AECs are the foundation of the CRC’s permitting program for coastal development and are defined in CAMA (G.S. 113A-113) as areas of natural importance that may be susceptible to erosion or flooding; or may have environmental, social, economic, or aesthetic values that make it valuable to the state. The CRC classifies areas as AECs to protect them from incompatible development that may cause irreversible damage to property, public health, or the environment. AECs cover almost all coastal waters and about three percent of the land in the 20 coastal counties.

The CRC has established four broad categories of AECs:

- The Estuarine and Ocean System;
- The Ocean Hazard System;
- Public Water Supplies; and
- Natural and Cultural Resource Areas.

The Ocean Hazard System is comprised of oceanfront lands and the inlets that connect the ocean to the sounds. The CRC has designated three subcategories within the ocean hazard AEC:

1. **The Ocean Erodible AEC** (15A NCAC 7H .0304(1)) covers North Carolina's beaches and any other oceanfront lands that are subject to long-term erosion and significant shoreline changes. The seaward boundary of this AEC is the mean low water line. The landward limit of the AEC is measured from the first line of stable natural vegetation and is determined by adding a distance equal to 60 times the long-term, average annual erosion rate for that stretch of shoreline, to the distance of erosion expected during a major storm (100-year storm).
2. **The High Hazard Flood AEC** (15A NCAC 7H .0304(2)) covers lands subject to flooding, high waves, and heavy water currents during a major storm. These are the lands identified as coastal flood with velocity hazard, or "V zones," on flood insurance rate maps prepared by FEMA. The high hazard flood AEC often overlaps with the ocean erodible and inlet hazard AECs.

3. **The Inlet Hazard AEC** (15A NCAC 7H .0304(3)) covers the lands next to ocean inlets. Each area is mapped based on a statistical analysis of inlet migration, previous inlet locations, narrow or low lands near the inlet, and the influence of man-made features, such as jetties and channel dredging projects.

The High Hazard Flood (HHF) AEC was not one of the original AECs adopted by the CRC in 1977. The HHF AEC was established by the Commission in 1979 after reviewing implementation of existing AECs, with the intent of providing consistency in construction standards with those of the National Flood Insurance Program (NFIP). Since that time, the CRC has required all residential and commercial structures within the Ocean Hazard AEC (which includes the HHF AEC) to comply with the NC Building Code, including the Coastal and Flood Plain Construction Standards and local flood damage prevention ordinances required by the NFIP, and to be supported by pilings. The intent of the rule was to allow for foundation stability during major storm events when the ocean shoreline could move significantly inland for a period of time. During these periods, scour could cause concrete slab or block foundation supported buildings to collapse. In some areas, these requirements were more stringent than the NC Building Code.

After the hurricanes of the 1990’s, FEMA updated the Flood Insurance Rate Maps (FIRM) for many coastal barrier island communities. This update resulted in expansion of the velocity zones, and in doing so, expanded the permitting jurisdiction of the CRC since the HHF AEC is identified as the V-Zones on the FIRM. The NC Building Code sets standards for piling-supported buildings within Coastal High Hazard Flood Areas (NFIP V-Zones), Ocean Hazard Areas (CRC AEC) and Flood Plain Areas (US Army Corps of Engineers). Typical single family structures must comply with the NC Building Code and local flood damage prevention ordinances in these areas as required by the NFIP.

Single-family residences located in the HHF AEC are currently exempted from CAMA permit requirements (15A NCAC 7K .0213) provided that they are not within the Ocean Erodible or Inlet Hazard AECs, are constructed on pilings and comply with the NC Building Code and local flood damage prevention ordinances as required by the NFIP. No other HHF AEC-specific development standards are required; however, the property owner must sign an AEC “hazard notice” acknowledging that special risks and conditions associated with development in this area. A $50 fee for the issuance of an exemption letter is usually paid to the local permitting authority or to the Division of Coastal Management if there is not a local CAMA permitting program in the jurisdiction.

Since the Commission’s rules defer to the NC Building Code and require adherence to NFIP and local flood prevention standards, the CRC is proposing to repeal the High Hazard Flood AEC. This would remove approximately 10,000 properties from CRC permitting jurisdiction under the
HHF AEC. It should be noted that since the V-Zones can extend to the soundside of some areas, not all properties would be completely removed from all CAMA permitting jurisdiction as the Coastal Shorelines AEC and its associated development standards would still apply in these areas. A repeal of the HHF AEC would also not affect the permitting jurisdiction of the remaining Ocean Hazard AECs (Ocean Erodible & Inlet Hazard) and would not affect the setback requirements associated with oceanfront development.

**Description of Rule Amendment**

Subchapter 15A NCAC 7H of the Coastal Resources Commission’s rules outline the state guidelines for Areas of Environmental Concern (AEC), including the provision for AECs and their associated development standards. 15A NCAC 7H .0300 establishes the Ocean Hazard category of AEC with 15A NCAC 7H .0304(2) designating the High Hazard Flood AEC as the “…area subject to high velocity waters (including hurricane wave wash) in a storm having a one percent chance of being equaled or exceeded in any given year, as identified as zone V1-30 on the flood insurance rate maps of the Federal Insurance Administration, U.S. Department of Housing and Urban Development.” Repealing 15A NCAC 7H .0304(2) will remove approximately 10,433 properties from CRC permitting requirements. With the repeal of the High Hazard Flood AEC, the exemption for single family residence under 15A NCAC 7K .0213 is unnecessary.

**Cost or Neutral Impacts**

**Private Property Owners:**

The proposed rule amendments would apply to property owners solely within V-Zones as designated by FEMA and the National Flood Insurance Program. Specifically, property owners seeking to build single family residences in these areas would no longer need a CAMA permit exemption.

Over the past five years, a total of 119 Exemptions have been issued under 15A NCAC 7K .0213 for an average of approximately 24 per year. The average number of applications for the Exemption over this timeframe is considered to be typical and it is assumed that there would continue to be 24 Exemptions issued in the future absent the rule change.

In order to estimate the potential cost savings to property owners, it is assumed that 24 property owners per year would not have to pay the $50 exemption fee resulting in an estimated savings of $1,200 in permit fees per year. Property owners will also likely see a benefit in the form of reduced time spent applying for an Exemption under 15A NCAC 7K .0213.

With regard to other CAMA Permits, the Division has issued five (5) Major Permits for development solely within the High Hazard Flood AEC over the past five (5) years for an average of one (1) Major Permit per year. The average number of applications for Major Permits over this timeframe is considered to be typical and it is assumed that there would continue to be one (1) Major Permit issued per year in the future.

In order to estimate the potential cost savings to property owners relative to Major CAMA Permit, it is assumed that one (1) property owner per year would not have to pay the typical $400 fee resulting in an estimated savings of $400 in permit fees per year. Property owners will also
likely see a benefit in the form of reduced time spent applying for a Major Permit which can take up to 75 days to be issued.

When the permit fee cost savings associated with the permit exemption for single family structures is added to the permit fee savings associated with CAMA Major Permits, there is an estimate annual savings of $1,600, plus time savings, per year to property owners currently within the High Hazard Flood AEC.

**NC Department of Transportation (NC DOT):**

Pursuant to G.S. 150B-21.4, the proposed amendments to 15A NCAC 7H .034(2) will not affect environmental permitting for the NC DOT. While it is possible that NC DOT would apply for a permit solely within the HHF AEC, DCM Staff have determined that the number of NC DOT CAMA permits over the past ten years has been negligible. While NC DOT would be eligible for the 15A NCAC 7K .0213Exemption and its associated uses, it is unlikely that NC DOT will be involved in such a project.

**Local Government:**

While local governments would be eligible for the exemption and its associated uses, they are typically not involved in these types of projects. In the past five years, there have been no local government projects involving the single family residence exemption. However, the CAMA Minor Permit Program is administered by local governments that have CRC approved Implementation and Enforcement Programs. Local governments collect the $50 fee associated with the 7K .0213 Exemption. Local governments are also reimbursed by the Division $25 per exemption processed. The elimination of the AEC and the corresponding Exemption is anticipated to result in a decrease in permitting receipts to local governments participating in the Minor Permitting Program of $1,200 and decreased reimbursements from the Division of $600 for a net loss in permit fees and reimbursements of $1,800 per year.

**Division of Coastal Management (DCM):**

The Division of Coastal Management reimburses local governments for administration of the Minor Permit Program at a rate of $25 per exemption. The repeal of the High Hazard Flood AEC and elimination of the corresponding Exemption under 7K .0213 will result in savings to the Division of $600 in reimbursement costs ($25 per Exemption, 24 Exemptions per year) to local governments for issuing Exemptions. The Division will also see a reduction of $400 per year in Major Permit fees (one Major Permit per year at $400) resulting in a net savings to the Division of $200 per year.

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

**Cost/Benefits Summary**

**Property Owners:**

The amendments to 15A NCAC 7H .0304(2) and 15A NCAC 7K .0213 would apply to property owners within the CRC’s Ocean Hazard AEC that are located solely within the V-Zones (High Hazard Flood AEC) as designated on FEMA FIRMs. These properties would no longer be
subject to CAMA permit requirements. The Division of Coastal Management estimates that approximately 24 permit Exemptions and one CAMA Major Permit per year are issued within the High Hazard Flood AEC. When the permit fee cost savings associated with the permit exemption for single family structures ($1,200 total) is added to the permit fee savings associated with CAMA Major Permits, there is an estimate annual savings of $1,600 in permit fees per year to property owners currently within the High Hazard Flood AEC.

The economic impacts of this proposed rule change are potential financial benefits to property owners, who may experience a $50 to $400 savings in permit fees. Total financial benefits will be approximately $1,600 each year. Assuming an annual maximum savings of $1,600 the 10-year present value of the benefits of the proposed rule change to property owners is approximately $11,000, using a 7% discount rate.

Table 1. Fiscal Impact Summary

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<td>Property Owners</td>
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<td>Division of Coastal Mgmt</td>
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The ocean hazard AECs contain all of the following areas:

1. Ocean Erodible Area. This is the area in which 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 determined as follows:
   (a) a distance landward from the first line of stable and natural vegetation as defined in 15A NCAC 07H .0305(a)(5) to the recession line that would be established by multiplying the long-term annual erosion rate times 60, 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 120 feet landward from the first line of stable 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 “2011 Long-Term Average Annual Shoreline Rate Update” and approved by the Coastal Resources Commission on May 5, 2011 (except as such rates may be varied in individual contested cases, 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; and
   (b) a distance landward from the recession line established in Sub-Item (1)(a) of this Rule to the recession line that would be generated by a storm having a one percent chance of being equaled or exceeded in any given year.

2. The High Hazard Flood Area. This is the area subject to high velocity waters (including hurricane wave wash) in a storm having a one percent chance of being equaled or exceeded in any given year, as identified as zone V1-30 on the flood insurance rate maps of the Federal Insurance Administration, U.S. Department of Housing and Urban Development.

3. 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 sufficient to encompass that area within which the inlet shall migrate, 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 and channelization. The areas identified as suggested 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 Rick Carraway are incorporated by reference and are hereby designated as Inlet Hazard Areas except for:
   (a) the Cape Fear Inlet Hazard Area as shown on the map does not extend northeast of the Bald Head Island marina entrance channel; and
   (b) the former location of Mad Inlet, which closed in 1997. 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. This report is available for inspection at the Department of Environment and Natural Resources, Division of Coastal Management, 400 Commerce Avenue, Morehead City, North Carolina or at the website referenced in Sub-item (1)(a) of this Rule. Photo copies are available at no charge.

4. Unvegetated Beach Area. Beach areas within the Ocean Hazard Area where no stable natural vegetation is present may be designated as an Unvegetated Beach Area 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 from 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 Sub-item (1)(a) of this Rule.
(b) An area that is suddenly unvegetated as a result of a hurricane or other major storm event may be designated as an Unvegetated Beach Area for a specific period of time. At the expiration of the time specified by the Coastal Resources Commission, the area shall return to its pre-storm designation.

15A NCAC 07K .0213  SINGLE FAMILY RESIDENCES EXEMPTED FROM THE CAMA PERMIT REQUIREMENTS WITHIN THE HIGH HAZARD FLOOD AREA OF ENVIRONMENTAL CONCERN

(a) All single family residences, including associated infrastructure, accessory structures or structural additions to an existing single family structure, constructed within the High Hazard Flood Area of Environmental Concern are exempt from the CAMA permit requirements provided that the development is consistent with all other applicable CAMA permit standards and local land use plans and/or rules in effect at the time the exemption is granted including the following conditions and limitations:

(1) The development shall not be located within the Ocean Erodible or Inlet Hazard Areas of Environmental Concern.

(2) Any building shall be on pilings and comply with the North Carolina Building Code and the local flood damage prevention ordinance as required by the National Flood Insurance Program.

(3) The development does not require any permission, licensing, approval, certification or authorization, licensing or approval from any state or federal agency.

(b) Prior to commencing any work under this exemption, the Department of Environment and Natural Resources (DENR) representative or local CAMA permitting officer must be notified of the proposed activity to allow on-site review. Notification shall be given in person or in writing. Notification must include:

(1) the name, address and telephone number of the landowner and the location of the work, including the county, nearest community and water body closest to the development;

(2) the dimensions of the proposed house, driveway, landscaping or other accessory developments proposed on the property; and

(3) a signed AEC hazard notice indicating the property owner is aware of the special risks and conditions associated with development in this area. The DENR representative or local CAMA permitting officer shall provide the applicable notice form to the landowner.

(c) The applicant for a permit exemption must submit with the request a check or money order payable to the Department of Environment and Natural Resources (DENR) or local permitting authority in the sum of fifty dollars ($50.00).

History Note:  Authority G.S. 113A-103(5)(a); 113A-113(b)(6); 113A-118(d)(2); 113A-119.1; Eff. August 1, 2002.