

15A NCAC 07H .0313 USE STANDARDS FOR STATE PORTS INLET MANAGEMENT AREAS

(a) Development within State Ports Inlet Management Areas are defined by Rule .0304 of this Section in accordance with the standards in this Rule.

(b) All development in the State Ports Inlet Management Areas shall be set back from the first line of stable and natural vegetation, static vegetation line, or measurement line at a distance in accordance with Rule .0305(a)(5) of this Section, except for development exempted under Rule .0309 of this Section.

(c) Notwithstanding the use standards for temporary erosion control structures described in Rule .0308(a)(2) of this Section, a local government or State government agencies may apply for a permit to seek protection of an imminently threatened frontal or primary dune, public and private structures and infrastructure within a State Ports Inlet Management Area. For the purpose of this Rule, a frontal or primary dune, structure, or infrastructure shall be considered imminently threatened in a State Ports Inlet Management Area if:

- (1) its foundation, septic system, right-of-way in the case of roads, or waterward toe of the dune is less than 20 feet away from the erosion scarp;
- (2) site conditions, such as flat beach profile or accelerated erosion, increase the risk of imminent damage to the structure as determined by the Director of the Division of Coastal Management;
- (3) the frontal or primary dune or infrastructure will be imminently threatened within six months as certified by persons meeting all applicable State occupational licensing requirements; or
- (4) the rate of erosion from the erosion scarp or shoreline within 100 feet of the infrastructure, structure, frontal or primary dune was greater than 20 feet over the preceding 30 days.

Permit applications to protect property where no structures are imminently threatened require consultation with the US Army Corps of Engineers.

(d) Temporary erosion control structures constructed by a local or state government shall have a base width not exceeding 20 feet, and a height not to exceed six feet. Individual sandbags shall be tan in color and be a minimum of three feet wide and seven feet in length when measured flat.

(e) Established common-law and statutory public rights of access to the public trust lands and waters in State Ports Inlet Management Areas shall not be eliminated or restricted. Development shall not encroach upon public accessways nor shall it limit the intended use of the accessways.

(f) Except where inconsistent with the above standards, all other rules in this Subchapter pertaining to development in the ocean hazard areas shall be applied to development within the State Ports Inlet Management Areas.

(g) In addition to the types of development excepted under Rule .0309 of this Section, small-scale, non-essential development that does not induce further growth in the State Ports Inlet Management Areas, such as the construction of single-family piers and small-scale erosion control measures that do not interfere with natural inlet movement, may be permitted on those portions of shoreline within a designated State Ports Inlet Management 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 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 and .1200.

History Note: Authority G.S. 113A-107; 113A-107.1; 113A-113; 113A-124;
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