

Fiscal & Regulatory Impact Analysis

Jockey's Ridge Area of Environmental Concern
15A NCAC 07H .0508

Prepared by

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Basic Information

Agency	DEQ, Division of Coastal Management (DCM) Coastal Resources Commission (CRC).	
Title	Jockey's Ridge Area of Environmental Concern	
Citation	15A NCAC 07H .0508	
Description of the Proposed Rule	7H .0508 is the proposed rule to re-designate Jockey's Ridge as an Area of Environmental Concern.	
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Authority	Coastal Area Management Act (CAMA) 113A-107(a), (b); 113A-113(a); 113A-113(b)(4)a., e., and g.; 113A-124	
Necessity	The CRC is proposing a rule to re-designate Jockey's Ridge as an Area of Environmental Concern (AEC), as well as use standards to protect the AEC from incompatible development and loss of sand.	
Impact Summary	State government:	Yes, but minimal as compared to previous rule.
	Local government:	Yes, but minimal as compared to previous rule.
	Substantial impact:	No
	Federal government:	No
	Private property owners:	Yes, but minimal as compared to previous rule.

Background

Jockey's Ridge is a geologic feature known as a medano located within the Town of Nags Head, in Jockey's Ridge State Park. In addition to being a state park, Jockey's Ridge is also a dedicated nature preserve under G.S. § 143B-135.260 State Nature Preserves Act.

In the 1980's there was concern that commercial mining of sand from Jockey's Ridge could have a negative impact on the integrity of the dune system and surrounding environment. Additionally, prevailing winds, cause the natural removal of sand from the dune system, including outside the boundaries of Jockey's Ridge State Park where the commercial removal of sand from this fragile system was threatening the integrity of Jockey's Ridge dune system. With no new sand sources to help replenish the system, it was imperative to protect existing sand resources to prevent major irreversible damage from occurring. To address these concerns, the CRC designated Jockey's Ridge as an AEC subject to use standards designed to protect the integrity of the sand dunes by requiring sand removed from within the AEC boundary be returned within the system.

Development activities in and around the state park boundaries have been regulated by the administrative rules of the Coastal Resources Commission (CRC) since the designation of Jockey's Ridge as a Unique Geologic Feature Area of Environmental Concern (AEC) in 1984. On October 5, 2023, during the Periodic Rules Review Process, the rules designating Jockey's Ridge as an AEC and established use standards were returned to the agency resulting in the rules being removed from the NC Administrative code. Following the return of the rules designating Jockey's Ridge as an AEC and use standards, the CRC began permanent rulemaking to reinstate protections for this unique geologic feature. The proposed effective date of this rule is December 2024.

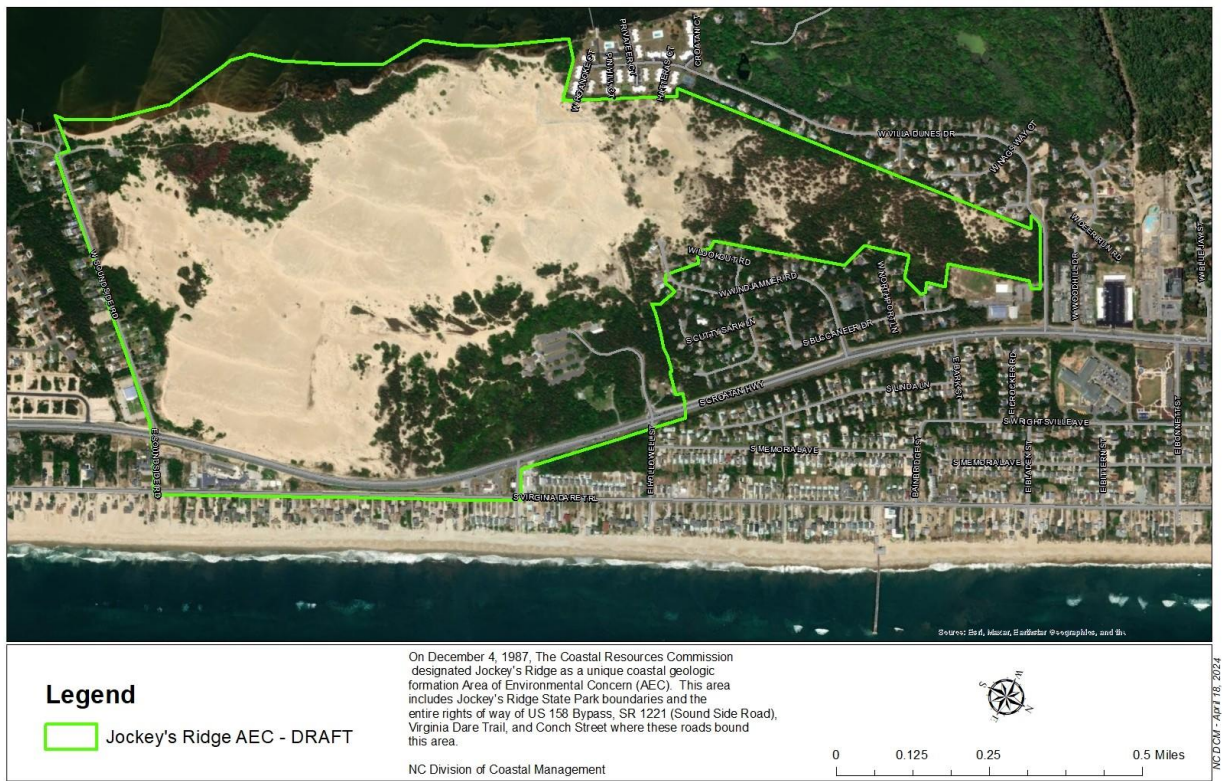
Pursuant to G.S. § 113A-113(b)(4)(g), the CRC is authorized to designate a unique geologic feature as an AEC when the State Geologist has identified that area as containing unique geological formations. On April 24, 2024, the State Geologist identified Jockey's Ridge as an excellent example of a medano, a large, isolated hill of sand with a characteristic slip face of unconsolidated sand lacking vegetation. This unique system is not only the largest medano in North Carolina, but it is the largest anywhere along the Atlantic and Gulf Coasts, and one in which the majority of the surface area has been protected by the State through its dedication as a State Park.

Description of Rule Amendment

The proposed rule designates Jockey's Ridge as an AEC with proposed use standards which are nearly identical to the original 1984 standards. There are minor changes proposed for clarity and to comply with current rule NC Administrative Procedures Act formatting requirements.

The proposed rule is written in three parts, the first is 15A NCAC 07H .0508(a) Description, which describes the Jockey's Ridge and its importance. Secondly, 15A NCAC 07H .0508(b) Boundary, describes the AEC boundary and where a map of the AEC boundary can be found (see Figure 1). And lastly, 15A NCAC 07H .0508(c) Use Standards, states that removing more than 10 cubic yards of sand per year shall require a CAMA Permit, all sand that is removed shall be deposited at location within Jockey's Ridge State park, and any development within Jockey's Ridge AEC shall not alter the movement of sand except when necessary for maintaining a road, residential or commercial structures, accessways, lawn, garden or parking areas unless otherwise allowed by Jockey's Ridge State Park Management Plan.

Figure 1: Boundaries of Jockey’s Ridge AEC



Affected Parties

Private Property Owners/Developers:

As compared to the rules for Jockey’s Ridge that had been in place since 1984, DCM does not anticipate any increased costs to private property owners as a result of the adoption of this rule. There will not be any change in permitting requirements or permit fees. Private Property owners whose land is within the boundaries of Jockey’s Ridge AEC will be subject to the use standards of this proposed rule if they propose to remove sand from their property; however, they have been subject to these use standards since 1984.

As compared to the absence of a rule designating Jockey’s Ridge as an AEC, and notwithstanding the emergency rule that was in place from January 3 to May 13th, 2024, the proposed rule could result in impacts to private entities. The main impacts would be that a CAMA permit would be required due to the permit trigger (removal of 10 cubic yards of sand). However, as this permitting trigger has been in place since 1984, the Division does not see an increase in the number of projects needing to apply for a CAMA permit where they wouldn’t have had otherwise. In such rare instances, the cost impact would be the permit application fee (up to \$475) and time spent preparing the permit application.

The primary impact from the proposed rule (when comparing it to the absence of the rule) is related to the requirement to deposit all sand removed from the AEC to the Jockey’s Ridge State Park. Without this designation as an AEC, sand that is removed from Jockey’s Ridge can be used as fill for construction activities or be removed for future developments.

NC Department of Transportation (DOT):

As compared to the rules for Jockey's Ridge that had been in place since 1984, the proposed rule will not affect environmental permitting for the NC DOT (G.S. § 150B-21.4).

As compared to the absence of a rule designating Jockey's Ridge as an AEC, and notwithstanding the emergency rule that was in place from January 3 to May 13th, 2024, the proposed rule is unlikely to result in impacts to NC DOT because NC DOT has not historically requested the use of sand from within Jockey's Ridge AEC for maintenance or road construction projects outside the AEC.

Local Government:

As compared to the rules for Jockey's Ridge that had been in place since 1984, and notwithstanding the emergency rule that was in place from January 3 to May 13th, 2024, the proposed rule will not affect local governments. There will not be any change in permitting requirements or permit fees. Local Governments have not historically requested the use of sand from within Jockey's Ridge AEC; however, minimal staff time from the Town of Nags Head may be allocated in processing minor permits for applications to remove sand from within Jockey's Ridge AEC that are less than 1 acre in disturbance.

Division of Coastal Management:

As compared to the rules for Jockey's Ridge that had been in place since 1984, and notwithstanding the emergency rule that was in place from January 3 to May 13th, 2024, the DCM permit review process will not be changed, and the Division will not experience any change in permit receipts.

As compared to the absence of a rule designating Jockey's Ridge as an AEC, the amount of additional receipt funds received by DCM and additional time spent by DCM staff reviewing applications is expected to be small. Historically, DCM has only issued one Major permit (\$475) and one Minor Permit (\$100) since the adoption of Jockey's Ridge as an AEC.

Cost/Benefits Summary

The proposed rule reinstates use standards for the Jockey's Ridge AEC that have been in place since 1984 with the exception of a limited amount of time since October 2023 when they were returned to the agency. Jockey's Ridge has valuable geological, scenic, recreational, and biological values and provides visitors with the ability to experience its natural heritage. The continuation of the protection of Jockey's Ridge through these proposed rules will be a benefit to the State, Local Government and public by ensuring protection of Jockey's Ridge sand resources to the maximum extent practicable.

As compared to the rules for Jockey's Ridge that were put into place in 1984, there will be no fiscal impact to private entities, the NC DOT, local governments, or the federal government. Similarly, there will be no impact on DCM permit receipts or DCM staff opportunity costs. This is because the proposed rule designates Jockey's Ridge as an AEC as it was originally delineated in 1984 and with the same use standards. The proposed rule does have some technical changes for clarity and to align with current rule NC Administrative Procedures Act formatting requirements. Any benefits from the improved clarity will be negligible.

As compared to the absence of a rule designating Jockey's Ridge as an AEC, and notwithstanding the emergency rule that was in place from January 3 to May 13th, 2024, the proposed rule could result in costs to private entities and local government agencies in the form of permit fees and time spent preparing applications. There will likely be minimal impacts to DCM from a modest increase in permit receipts and staff time spent reviewing permit applications. There is not expected to be any impact to NC DOT environmental permitting or federal government agencies.

APPENDIX A

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

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

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

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

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

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