

§ 113A-103. Definitions.

As used in this Article:

- (1) "Advisory Council" means the Coastal Resources Advisory Council created by G.S. 113A-105.
- (1a) "Boat" means a vessel or watercraft of any type or size specifically designed to be self-propelled, whether by engine, sail, oar, or paddle or other means, which is used to travel from place to place by water.
- (2) "Coastal area" means the counties that (in whole or in part) are adjacent to, adjoining, intersected by or bounded by the Atlantic Ocean (extending offshore to the limits of State jurisdiction, as may be identified by rule of the Commission for purposes of this Article, but in no event less than three geographical miles offshore) or any coastal sound. The Governor, in accordance with the standards set forth in this subdivision and in subdivision (3) of this section, shall designate the counties that constitute the "coastal area," as defined by this section, and his designation shall be final and conclusive. On or before May 1, 1974, the Governor shall file copies of a list of said coastal-area counties with the chairmen of the boards of commissioners of each county in the coastal area, with the mayors of each incorporated city within the coastal area (as so defined) having a population of 2,000 or more and of each incorporated city having a population of less than 2,000 whose corporate boundaries are contiguous with the Atlantic Ocean, and with the Secretary of State. By way of illustration, the counties designated as coastal-area counties under this subdivision as of July 1, 2012, are Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell, and Washington. The coastal-area counties and cities shall transmit nominations to the Governor of members of the Coastal Resources Commission as provided in G.S. 113A-104(d).
- (3) "Coastal sound" means Albemarle, Bogue, Core, Croatan, Currituck, Pamlico and Roanoke Sounds. For purposes of this Article, the inland limits of a sound on a tributary river shall be defined as the limits of seawater encroachment on said tributary river under normal conditions. "Normal conditions" shall be understood to include regularly occurring conditions of low stream flow and high tide, but shall not include unusual conditions such as those associated with hurricane and other storm tides. Unless otherwise determined by the Commission, the limits of seawater encroachment shall be considered to be the confluence of a sound's tributary river with the river or creek entering it nearest to the farthest inland movement of oceanic salt water under normal conditions. For purposes of this Article, the aforementioned points of confluence with tributary rivers shall include the following:
 - a. On the Chowan River, its confluence with the Meherrin River;
 - b. On the Roanoke River, its confluence with the northeast branch of the Cashie River;
 - c. On the Tar River, its confluence with Tranters Creek;
 - d. On the Neuse River, its confluence with Swift Creek;
 - e. On the Trent River, its confluence with Ready Branch.

Provided, however, that no county shall be considered to be within the coastal area which: (i) is adjacent to, adjoining or bounded by any of the above points of confluence and lies entirely west of said point of confluence;

or (ii) is not bounded by the Atlantic Ocean and lies entirely west of the westernmost of the above points of confluence.

- (4) "Commission" means the Coastal Resources Commission created by G.S. 113A-104.
- (4a) "Department" means the Department of Environmental Quality.
- (5) a. "Development" means any activity in a duly designated area of environmental concern (except as provided in paragraph b of this subdivision) involving, requiring, or consisting of the construction or enlargement of a structure; excavation; dredging; filling; dumping; removal of clay, silt, sand, gravel or minerals; bulkheading, driving of pilings; clearing or alteration of land as an adjunct of construction; alteration or removal of sand dunes; alteration of the shore, bank, or bottom of the Atlantic Ocean or any sound, bay, river, creek, stream, lake, or canal; or placement of a floating structure in an area of environmental concern identified in G.S. 113A-113(b)(2) or (b)(5).
- b. The following activities including the normal and incidental operations associated therewith shall not be deemed to be development under this section:
 - 1. Work by a highway or road agency for the maintenance of an existing road, if the work is carried out on land within the boundaries of the existing right-of-way, or for emergency repairs and safety enhancements of an existing road as described in an executive order issued under G.S. 166A-19.30(a)(5).
 - 2. Work by any railroad company or by any utility and other persons engaged in the distribution and transmission of petroleum products, water, telephone or telegraph messages, or electricity for the purpose of inspecting, repairing, maintaining, or upgrading any existing substations, sewers, mains, pipes, cables, utility tunnels, lines, towers, poles, tracks, and the like on any of its existing railroad or utility property or rights-of-way, or the extension of any of the above distribution-related facilities to serve development approved pursuant to G.S. 113A-121 or 113A-122;
 - 3. Work by any utility and other persons for the purpose of construction of facilities for the development, generation, and transmission of energy to the extent that such activities are regulated by other law or by present or future rules of the State Utilities Commission regulating the siting of such facilities (including environmental aspects of such siting), and work on facilities used directly in connection with the above facilities;
 - 4. The use of any land for the purposes of planting, growing, or harvesting plants, crops, trees, or other agricultural or forestry products, including normal private road construction, raising livestock or poultry, or for other agricultural purposes except where excavation or filling affecting estuarine waters (as defined in G.S. 113-229) or navigable waters is involved;
 - 5. Maintenance or repairs (excluding replacement) necessary to repair damage to structures caused by the elements or to

- prevent damage to imminently threatened structures by the creation of protective sand dunes.
6. The construction of any accessory building customarily incident to an existing structure if the work does not involve filling, excavation, or the alteration of any sand dune or beach;
 7. Completion of any development, not otherwise in violation of law, for which a valid building or zoning permit was issued prior to ratification of this Article and which development was initiated prior to the ratification of this Article;
 8. Completion of installation of any utilities or roads or related facilities not otherwise in violation of law, within a subdivision that was duly approved and recorded prior to the ratification of this Article and which installation was initiated prior to the ratification of this Article;
 9. Construction or installation of any development, not otherwise in violation of law, for which an application for a building or zoning permit was pending prior to the ratification of this Article and for which a loan commitment (evidenced by a notarized document signed by both parties) had been made prior to the ratification of this Article; provided, said building or zoning application is granted by July 1, 1974;
 10. It is the intention of the General Assembly that if the provisions of any of the foregoing subparagraphs 1 to 10 of this paragraph are held invalid as a grant of an exclusive or separate emolument or privilege or as a denial of the equal protection of the laws, within the meaning of Article I, Secs. 19 and 32 of the North Carolina Constitution, the remainder of this Article shall be given effect without the invalid provision or provisions.
- c. The Commission shall define by rule (and may revise from time to time) certain classes of minor maintenance and improvements which shall be exempted from the permit requirements of this Article, in addition to the exclusions set forth in paragraph b of this subdivision. In developing such rules the Commission shall consider, with regard to the class or classes of units to be exempted:
1. The size of the improved or scope of the maintenance work;
 2. The location of the improvement or work in proximity to dunes, waters, marshlands, areas of high seismic activity, areas of unstable soils or geologic formations, and areas enumerated in G.S. 113A-113(b)(3); and
 3. Whether or not dredging or filling is involved in the maintenance or improvement.
- (5a) "Floating structure" means any structure, not a boat, supported by a means of floatation, designed to be used without a permanent foundation, which is used or intended for human habitation or commerce. A structure shall be considered a floating structure when it is inhabited or used for commercial purposes for more than thirty days in any one location. A boat may be considered a floating structure when its means of propulsion has been removed or rendered inoperative.

- (6) "Key facilities" include the site location and the location of major improvement and major access features of key facilities, and mean:
 - a. Public facilities, as determined by the Commission, on nonfederal lands which tend to induce development and urbanization of more than local impact, including but not limited to:
 - 1. Any major airport designed to serve as a terminal for regularly scheduled air passenger service or one of State concern;
 - 2. Major interchanges between the interstate highway system and frontage-access streets or highways; major interchanges between other limited-access highways and frontage-access streets or highways;
 - 3. Major frontage-access streets and highways, both of State concern; and
 - 4. Major recreational lands and facilities;
 - b. Major facilities on nonfederal lands for the development, generation, and transmission of energy.
- (7) "Lead regional organizations" means the regional planning agencies created by and representative of the local governments of a multi-county region, and designated as lead regional organizations by the Governor.
- (8) "Local government" means the governing body of any county or city which contains within its boundaries any lands or waters subject to this Article.
- (9) "Person" means any individual, citizen, partnership, corporation, association, organization, business trust, estate, trust, public or municipal corporation, or agency of the State or local government unit, or any other legal entity however designated.
- (10) Repealed by Session Laws 1987, c. 827, s. 133.
- (11) "Secretary" means the Secretary of Environmental Quality, except where otherwise specified in this Article. (1973, c. 1284, s. 1; 1975, c. 452, s. 5; 1981, c. 913, s. 1; c. 932, s. 2.1; 1987, c. 827, s. 133; 1989, c. 727, s. 126; 1991 (Reg. Sess., 1992), c. 839, ss. 1, 4; 1995, c. 509, s. 58; 1997-443, s. 11A.119(a); 2012-202, s. 1; 2014-100, s. 14.7(l); 2015-241, s. 14.30(u), (v).)