

ROY COOPER

Governor

ELIZABETH S. BISER

Secretary

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Director



NORTH CAROLINA
Environmental Quality

CRC-22-18

September 6, 2022

MEMORANDUM

TO: Coastal Resources Commission
FROM: Gregg Bodnar
SUBJECT: Fiscal Analysis– Electronic Payment Option Associate with E-Permits

Division of Coastal Management (DCM) staff have been working with the DEQ, the Division of Environmental Assistance and Customer Service and the Department of Information Technology to transition Coastal Area Management Act (CAMA) permitting into an electronic web-based process. Once fully implemented, the public will be able to apply, track, and manage applications through the Division's website. In addition, the Division is updating its payment options to include credit card and electronic check. A transaction fee will be charged per credit card transaction, however the existing payment option (physical check), that does not incur an additional transaction fee, will still be accepted as well as the electronic check (eCheck) which also does not require a transaction fee.

Your rules currently specify that permit applications fees be paid by check or money order, and amendments to allow electronic payments were previously approved by the Commission in March of 2019. With the pending launch of the E-Permitting system, Staff has now prepared the fiscal analysis

The general public will benefit through the convenience of electronic payment options. The only cost of the proposed rule changes is to the private citizen (applicant) who opts to use electronic payment and pay the associated credit card transaction fee. The credit card payment is one payment option, and the applicant will continue to have other options for payment that do not require the additional fee (eCheck or physical check). The Division expects that a majority of applicants will choose to use the electronic payment option. The total transaction fees for the estimated maximum number of permit applications (3,230 major + general permits per year) are estimated to be no more \$40,000 per year. Presumably, applicants who choose to use a credit card will have determined that the benefit of convenience offsets the additional cost.

Benefits to the additional payment option include 1) modernized payment options, 2) increased customer service, and 3) reduced staff time processing physical checks. Division staff time and paper resources should also be saved by the allowance to use electronic notification during the application process.



The Department and the Office of State Budget and Management have approved the fiscal analysis. Staff are recommending approval of the fiscal analysis to accompany the rule amendments for public hearing.

I look forward to any questions you may have on these amendments and the fiscal analysis at our upcoming meeting in Wilmington.

Fiscal Analysis

Department of Environmental Equality's Initiative to Implement Electronic Permitting by the Division of Coastal Management

15A NCAC 07H .1103 15A NCAC 07H .1203 15A NCAC 07H .1303
15A NCAC 07H .1403 15A NCAC 07H .1503 15A NCAC 07H .1603
15A NCAC 07H .1703 15A NCAC 07H .1803 15A NCAC 07H .1903
15A NCAC 07H .2003 15A NCAC 07H .2103 15A NCAC 07H .2203
15A NCAC 07H .2303 15A NCAC 07H .2403 15A NCAC 07H .2603
15A NCAC 07H .2703 15A NCAC 07J .0102 15A NCAC 07J .0203
15A NCAC 07J .0204 15A NCAC 07J .0404 15A NCAC 07J .0405
15A NCAC 07J .0406 15A NCAC 07J .0407

Prepared by
Gregg Bodnar

NC Division of Coastal Management
252-808-2808

August 25, 2022

Summary

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| Agency | DEQ, Division of Coastal Management (DCM) Coastal Resources Commission (CRC) |
| Title of the Proposed Rules | 15A NCAC 07H .1103 Permit Fee 15A NCAC 07H .1203 Permit Fee 15A NCAC 07H .1303 Permit Fee 15A NCAC 07H .1403 Permit Fee 15A NCAC 07H .1503 Application Fee 15A NCAC 07H .1603 Permit Fee 15A NCAC 07H .1703 Permit Fee 15A NCAC 07H .1803 Permit Fee 15A NCAC 07H .1903 Permit Fee 15A NCAC 07H .2003 Permit Fee 15A NCAC 07H .2103 Permit Fee 15A NCAC 07H .2203 Permit Fee 15A NCAC 07H .2303 Permit Fee 15A NCAC 07H .2403 Permit Fee 15A NCAC 07H .2603 Permit Fee 15A NCAC 07H .2703 Permit Fee 15A NCAC 07J .0102 General Definitions 15A NCAC 07J .0203 Preparation of Work plats 15A NCAC 07J .0204 Processing the Application 15A NCAC 07J .0404 Development Period Extension 15A NCAC 07J .0405 Permit Modification 15A NCAC 07J .0406 Permit Issuance and Transfer 15A NCAC 07J .0407 Project Maintenance: Major Development/Dredge and Fill |

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|-----------------------------------|--|
| Description of the Proposed Rules | 07H .1103, 07H .1203, 07H .1303, 07H .1403, 07H .1503, 07H .1603, 07H .1703, 07H .1803, 07H .1903, 07H .2003, 07H .2103, 07H .2203, 07H .2303, 07H .2403, 07H .2603, 07H .2703 identify the types of payments the Department can accept. In addition, when appropriate, the outdated Departmental name is shorted to “Department”. 07J .0102 contains the CRC’s general definitions for subchapter 07J Procedures for Processing and Enforcement of Major and Minor Development Permits, Variance Requests, Appeals from Permit Decisions, Declaratory Rulings, and Static Line Exemptions. 07J .0203 details the preparation of work plats. 07J .0404 details the fee associated with permit renewals. 07J .0405 details procedures associated with permit modifications. 07J .0406 details the fee associated with permit transfers. 07J .0407 details procedures to request and perform maintenance dredging. The proposed amendments are intended to allow the Division of Coastal Management the ability to implement a web-based CAMA application submittal and to manage and archive all development activities through a DEQ managed cloud-based portal. |
| Agency Contact | Gregg Bodnar Assistant Major Permits Coordinator Gregg.Bodnar@ncdenr.gov (252) 808-2808 ext. 215 |
| Authority | G.S. 113A-107, 113A-118, 113A.118.1, 113A-118.2, 113A-119, 113A-119.1, 113A-120, 113A-229 |
| Necessity | The Coastal Resources Commission proposes these amendments for the purpose of clarifying existing rules to allow for a web-based CAMA application submittal. |
| Impact Summary | State government: Yes Local government: No Substantial impact: No Private Citizens: Yes |

Introduction and Purpose

In April 2017, the Department of Environmental Quality (DEQ) began an initiative to make the Department's permits more readily available to search and track online, and to update permitting processes to an electronic/web-based format. Division of Coastal Management (DCM) staff have been working with the DEQ, the Division of Environmental Assistance and Customer Service and the Department of Information Technology to transition the Coastal Area Management Act (CAMA) permitting into an electronic web-based process. Once fully implemented, the public will be able to apply, track, and manage applications through the Division's website. In addition, the Division is updating its payment options to include credit card and electronic check, significantly increasing customer service through ease of payment options. A transaction fee will be charged per credit card transaction and is detailed in following sections. The existing payment option (physical check), that does not incur an additional transaction fee, will still be accepted as well as the electronic check (eCheck) which does not require a transaction fee.

The general public will benefit through the convenience of electronic payment options. The Division will benefit through the reduction in consumables, physical storage of paper documents, and staff time savings through automation of routine tasks.

Description of Rule Update

Twenty-three rules have been identified requiring the addition of language or modification of language to allow for electronic permitting. Because of this, rule updates have been categorized based on what the update accomplishes.

Amendments are necessary to add the option for payment by electronic funds transfer (Credit Card, eCheck, etc.). In addition, the "payable to" section of physical checks was shortened to Department to simplify the number of times the full name of the Department was used.

15A NCAC 07H .1103 Permit Fee

15A NCAC 07H .1203 Permit Fee

15A NCAC 07H .1303 Permit Fee

15A NCAC 07H .1403 Permit Fee

15A NCAC 07H .1503 Application Fee

15A NCAC 07H .1603 Permit Fee

15A NCAC 07H .1703 Permit Fee

15A NCAC 07H .1803 Permit Fee

15A NCAC 07H .1903 Permit Fee

15A NCAC 07H .2003 Permit Fee

15A NCAC 07H .2103 Permit Fee

15A NCAC 07H .2203 Permit Fee

15A NCAC 07H .2303 Permit Fee

15A NCAC 07H .2403 Permit Fee

15A NCAC 07H .2603 Permit Fee

15A NCAC 07H .2703 Permit Fee

15A NCAC 07J .0204 Processing the Application

15A NCAC 07J .0404 Development Period Extension

15A NCAC 07J .0406 Permit Issuance and Transfer

15A NCAC 07J .0102 General Definitions required updating the Departmental name. This update also applies to the above rules identifying the update departmental name for the purposes of the “payable to” of physical checks. In addition, a new definition was required to further define what types of signatures were acceptable. The term “signed” is used throughout CRC rules and it was determined that defining the term “signed” was required which would include the acceptance of electronic signatures for the purpose of signing an electronically submitted application and other electronically submitted documents related to an application.

Amendments were also identified to update procedures associated with the development of an application and work plats and the processing of an application. 15A NCAC 07J .0203 was updated to the clarity of work plats for the purposes of reproduction, including scanning for uploading those work plats into an electronic system. In addition, language was included to require that scaled work plats must be reproducible on standardly available paper sizes and that the Division may require paper copies of oversized work plats.

15A NCAC 07J .0204 outlines the Division’s requirements in processing of an application and the applicants’ requirements in submitting an application. As an application is processed by the Division, letters are required to notify the applicant of certain milestones, such as acknowledging the receipt of an application, the acknowledging the date the application was accepted as complete, and notification of deficiencies in an application that was not accepted as complete. These letters acknowledging milestones or deficiencies have been amended to remove “letter” and replace with “notification” to allow the Division to utilize electronic forms of notification including email. In addition, language that was paper application specific requiring questions not applicable to the proposal be marked “N/A” were deleted. This is because the electronic web-based application will generate proposal specific questions based on the applicant’s answers. Finally, in this section language discussing the need for State Environmental Protection Act (SEPA) review requirement of major permits has been deleted. This is due to Session Law 2015-90 removing the requirement to produce an environmental assessment as part of the SEPA review.

15A NCAC 07J .0405 details procedures for permit modification. Language was amended to remove the need for a written request and the deletion of language allowing a minor modification

to be shown on an existing application. The electronic web-based application process will accommodate these paper-based application requirements.

15A NCAC 07J .0407 details requirements to request maintenance dredging under the state's dredge and fill law (General Statute 113-229). The Division's contact information was updated and simplified by updating the Department's name and deleting the Division's headquarters as the address. Applicants requesting maintenance dredging contact the local field representative of the nearest regional office, which is common practice.

Cost or Neutral Impacts

Private Citizen

The application portal to be used by permit applicants is similar to tax software/web sites, which is an extremely popular vehicle for tax preparation. While other options for payment are still available to the applicant that do not impose a transaction fee (eCheck and physical checks), a one-time charge of \$3.95 for VISA Debit or 2.65% for all other credit or debit types will be assessed per credit card transaction. This transaction fee is collected by the credit card vendor and is not collected by the Division. This method of collecting credit card fees is currently in use by several agencies, including the Division of Motor Vehicles, Wildlife Resources Commission and the Division of Marine Fisheries. Upon credit card authorization, a notice will appear detailing the transaction fee, the justification for the fee and that it is not collected by DEQ, and a breakdown of the two charges that will be reflected on a credit card bill. The applicant will be required to validate that they agree to these terms to complete a credit card payment. Although there are options available to the applicant that do not require the credit card transaction fee, the transaction fees are being considered costs associated with the proposed rule amendments as it is likely that most applicants will opt for credit card payments once allowed. Presumably, applicants who choose to use a credit card will have determined that the benefit of convenience offsets the additional cost. Typical yearly major permit actions average 170 per year with a maximum of 230 actions in any one year since 2000. Therefore, the credit card transaction fee yearly cost is not anticipated to exceed \$2,895.13, (230 * (\$475*.0265)). Typical general permit actions average 2,000 per year with a maximum of 3,000 actions in any one year since 2000. Therefore, the credit card transaction fee yearly cost is not anticipated to exceed \$37,762.50, (3000 * (\$475*.0265)). Total yearly cost for both major permits (230) and general permits (3,000) at the maximum permit fee allowable (\$475) at the highest transaction rate (2.65%) is not anticipated to exceed \$40,657.63. Below is a breakdown of transaction fees by application amount, fees range from \$100 (renewals and transfers) to \$475 (major modification requiring a split fee to the NC Division of Water Resources).

Chart 1: Transaction fee breakdown by application fee

| <u>Application Fee</u> | <u>\$3.95</u> | <u>2.65%</u> |
|------------------------|---------------|--------------|
| \$100 | \$103.95 | \$102.65 |
| \$200 | \$203.95 | \$205.30 |
| \$250 | \$253.95 | \$256.63 |
| \$400 | \$403.95 | \$410.60 |
| \$475 | \$478.95 | \$487.59 |

NC Department of Transportation (DOT)

DOT can continue to utilize a funds transfer option under this system that will not require a transaction fee. If DOT does opt to utilize a payment type that results in a transaction fee, Chart 1 would apply. It is likely that DOT will continue to utilize the funds transfer option with no transaction fee; as such, the proposed rule changes are likely to have no impact to DOT.

Local Government

The Division of Coastal Management utilizes local governments throughout the 20 CAMA counties to administer a minor permit program authorizing development that meets criteria set forth in the Coastal Resources Commission rules. Types of development include homes without wetland fill, beach access, and minor water dependent structures. Permit submission, review and permit determination is handled at the local government level. The minor permit program administered by local governments through the Division's Local Permit Officer (LPO) program will not be incorporated into the web-based application process at this time. Therefore, local governments are anticipated to have no impact from the proposed rule changes.

Division of Coastal Management

The Division of Coastal Management will not incur any cost associated with the electronic payment options offered through the web-based application system. The Department's Division of Information Technology identified the software program the electronic web-based application will be utilizing and will be supporting the software program throughout the Department. Costs associated with supporting the web-based application system will occur whether or not the proposed rule changes are adopted; as such, those costs will not be the result of the proposed rule changes.

Benefits

Private Citizen

The potential benefits to the public will be the flexibility of having another allowable form of payment and the convenience of electronic payment options associated with permit applications.

Division of Coastal Management

The allowance for electronic payment, electronic signature, and electronic notification by the Division is expected to reduce staff time on physical check processing and communicating with applicants and reduce waste of the paper-based system. The potential savings of staff time will be relatively minimal and was not quantified.

Cost/Benefit Summary

The only cost of the proposed rule changes are to the private citizen (applicant) who opts to use electronic payment and pay the associated credit card transaction fee. The credit card payment is one payment option, and the applicant will continue to have other options for payment that do not require the additional fee (eCheck or physical check). The Division expects that a majority of applicants will choose to use the electronic payment option. The total transaction fees for the estimated maximum number of permit applications (3,230 major + general permits per year) are estimated to be no more \$40,000 per year. Presumably, applicants who choose to use a credit card will have determined that the benefit of convenience offsets the additional cost.

Benefits to the additional payment option include 1) modernized payment options, 2) increased customer service, and 3) reduced staff time processing physical checks. Division staff time and paper resources should also be saved by the allowance to use electronic notification during the application process.

Appendix A

Draft Amendments to 15A NCAC 07

15A NCAC 07H .1103 PERMIT FEE

The applicant shall pay a permit fee of two hundred dollars (\$200.00) for riprap revetments sited at or above normal high water or normal water level, or a permit fee of four hundred dollars (\$400.00) for riprap revetments sited below normal high water or normal water level. The applicant shall pay a permit fee of four hundred dollars (\$400.00) for bulkheads. Permit fees shall be paid by electronic funds transfer or check or money order payable to the Department.

*History Note: Authority G.S. 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113-119.1; 113A-124;
Eff. March 1, 1984;
Amended Eff. October 5, 2009; September 1, 2006; August 1, 2000; March 1, 1991;*

15A NCAC 07H .1203 PERMIT FEE

The applicant shall pay a permit fee of two hundred dollars (\$200.00) by electronic funds transfer or check or money order payable to the Department.

*History Note: Authority G.S. 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113-119.1; 113A-124;
Eff. March 1, 1984;
Amended Eff. September 1, 2006; August 1, 2000; March 1, 1991.*

15A NCAC 07H .1303 PERMIT FEE

The applicant shall pay a permit fee of two hundred dollars (\$200.00) by electronic funds transfer or check or money order payable to the Department.

*History Note: Authority G.S. 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113A-119.1; 113A-124;
Eff. March 1, 1984;
Amended Eff. September 1, 2006; August 1, 2000; March 1, 1991.*

15A NCAC 07H .1403 PERMIT FEE

The applicant shall pay a permit fee of two hundred dollars (\$200.00) by electronic funds transfer or check or money order payable to the Department.

*History Note: Authority G.S. 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113A-119.1; 113A-124;
Eff. March 1, 1984;
Amended Eff. September 1, 2006; August 1, 2000; March 1, 1991.*

15A NCAC 07H .1503 APPLICATION FEE

The applicant shall pay a permit fee of two hundred dollars (\$200.00) for maintenance excavation of 100 cubic yards or less or four hundred dollars (\$400.00) for maintenance excavation of 100 to 1,000 cubic yards. Permit fees shall be paid by electronic funds transfer or check or money order payable to the Department.

*History Note: Authority G.S. 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113A-119.1; 113A-124;
Eff. July 1, 1984;
Amended Eff. September 1, 2006; August 1, 2000; March 1, 1991.*

15A NCAC 07H .1603 PERMIT FEE

The applicant shall pay a permit fee of four hundred dollars (\$400.00) by electronic funds transfer or check or money order payable to the Department.

*History Note: Authority G.S. 113-229(c1); 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113A-119.1;
Eff. March 1, 1985;
Amended Eff. September 1, 2006; August 1, 2000; March 1, 1991.*

15A NCAC 07H .1703 PERMIT FEE

The agency shall not charge a fee for permitting work necessary to respond to emergency situations except in the case when a temporary erosion control structure is used. In those cases, the applicant shall pay a permit fee of four hundred dollars (\$400.00) by electronic funds transfer or check or money order made payable to the Department.

*History Note: Authority G.S. 113-229(c1); 113A-107(a),(b); 113A-113(b); 113A-118.1; 113A-119;
Eff. November 1, 1985;
Amended Eff. September 1, 2006; August 1, 2002; March 1, 1991; October 1, 1993.*

15A NCAC 07H .1803 PERMIT FEE

The applicant shall pay a permit fee of four hundred dollars (\$400.00) by electronic funds transfer or check or money order payable to the Department.

*History Note: Authority G.S. 113-229(c1); 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113A-119.1;
Eff. December 1, 1987;
Amended Eff. September 1, 2006; August 1, 2000; March 1, 1991.*

15A NCAC 07H .1903 PERMIT FEE

The applicant shall pay a permit fee of two hundred dollars (\$200.00) by electronic funds transfer or check or money order payable to the Department.

*History Note: Authority G.S. 113-229(c1); 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113A-119.1;
Eff. March 1, 1989;
Amended Eff. September 1, 2006; August 1, 2000; March 1, 1991.*

15A NCAC 07H .2003 PERMIT FEE

The applicant shall pay a permit fee of two hundred dollars (\$200.00) by electronic funds transfer or check or money order payable to the Department.

*History Note: Authority G.S. 113A-107; 113A-118.1; 113A-119.1;
Eff. October 1, 1993;
Amended Eff. September 1, 2006; August 1, 2000.*

15A NCAC 07H .2103 PERMIT FEE

The applicant shall pay a permit fee of two hundred dollars (\$200.00). This fee shall be paid by electronic funds transfer or check or money order made payable to the Department.

*History Note: Authority G.S. 113A-107; 113A-118.1; 113A-119.1;
Eff. June 1, 1994;
Amended Eff. September 1, 2006; August 1, 2000.*

15A NCAC 07H .2203 PERMIT FEE

The applicant shall pay a permit fee of two hundred dollars (\$200.00). This fee shall be paid by electronic funds transfer or check or money order made payable to the Department.

*History Note: Authority G.S. 113A-107; 113A-118.1; 113A-119; 113A-119.1;
Eff. February 1, 1996;
Amended Eff. September 1, 2006; August 1, 2000.*

15A NCAC 07H .2303 PERMIT FEE

The applicant shall pay a permit fee of four hundred dollars (\$400.00). This fee shall be paid by inter-departmental fund transfer, electronic funds transfer or check or money order made payable to the Department of ~~Environment and Natural Resources~~.

*History Note: Authority G.S. 113A-107; 113A-118.1; 113A-119; 113A-119.1; 113A-124;
Eff. June 1, 1996;
Amended Eff. May 1, 2010; September 1, 2006; August 1, 2000.*

15A NCAC 07H .2403 PERMIT FEE

The applicant shall pay a permit fee of two hundred dollars (\$200.00). This fee shall be paid by electronic funds transfer or check or money order made payable to the Department.

*History Note: Authority G.S. 113A-107; 113A-118.1; 113A-119.1;
Eff. August 1, 2000;
Amended Eff. September 1, 2006.*

15A NCAC 07H .2603 PERMIT FEE

The applicant shall pay a permit fee of four hundred dollars (\$400.00). This fee shall be paid by electronic funds transfer or check or money order made payable to the Department.

*History Note: Authority G.S. 113A-107; 113A-118.1; 113A-119.1;
Eff. October 1, 2004;
Amended Eff. September 1, 2006.*

15A NCAC 07H .2703 PERMIT FEE

The applicant shall pay a permit fee of two hundred dollars (\$200.00). This fee shall be paid by electronic funds transfer or check or money order made payable to the Department.

*History Note: Authority G.S. 113A-107; 113A-118.1; 113A-119.1;
Temporary Adoption Eff. June 15, 2004;
Eff. April 1, 2005;
Amended Eff. September 1, 2006.*

15A NCAC 07J .0102 GENERAL DEFINITIONS

The following definitions apply whenever these words are used in this Subchapter:

- (1) "Areas of Environmental Concern" (AECs) means geographic areas within the coastal area which the Coastal Resources Commission chooses to designate for special environmental and land use regulations. The types of areas which may be designated as AECs are described in G.S. 113A-113. Areas which have already been designated are defined in 15A NCAC 7H, "State Guidelines for Areas of Environmental Concern."
- (2) "Department" (~~DENR~~) (DEQ) means the North Carolina Department of ~~Environment and Natural Resources~~ Environmental Quality.
- (3) "Excavation Project" means any moving, digging, or exposing of bottom materials, marshland substrate or root or rhizome matter in the estuarine waters, tidelands, marshlands and state-owned lakes, regardless of the equipment or method used.
- (4) "Filling Project" means the placing of any materials in estuarine waters, tidelands, marshlands and state-owned lakes so as to raise the elevation of the area upon which the material is placed. Structure placement does not constitute a filling or excavation project. The placement of shell material specifically for the purpose of oyster culture also shall not be considered a filling project.
- (5) "Local Management Program" means the local implementation and enforcement program of a coastal city or county that has undertaken to administer a permit program for minor development in areas of environmental concern located within such city or county.
- (6) "Local Permit Officer" refers to the locally designated official who will administer and enforce the minor development permit program in areas of environmental concern and all parts of the land use plan which the local government may wish to enforce over the entire planning area.
- (7) "Division" means the Division of Coastal Management.
- (8) "Permit" refers to CAMA major development permits, CAMA minor development permits and dredge and fill permits unless the context clearly indicates otherwise.
- (9) "Secretary" refers to the Secretary of ~~Environment and Natural Resources~~ Environmental Quality.
- (10) "Signed" shall include the acceptance of electronic signatures for the purpose of signing an electronically submitted application and other electronically submitted documents related to the application.

*History Note: Authority G.S. 113-229; 113A-116; 113A-117; 113A-118;
Eff. March 15, 1978;
Amended Eff. June 1, 2006; April 1, 1997; May 1, 1990; November 1, 1984.*

15A NCAC 07J .0203 PREPARATION OF WORK PLATS

(a) General. Project plans or work plats must include a top or planview, a cross-sectional view, and a location map. All plats must have the standard north arrow. North should be at the top of the plat. The prints must be neat and sufficiently clear to permit photographic reproduction and scanning for the purposes of uploading. Originals are preferred as copies are often found to be unacceptable. The applicant should use as few sheets as necessary to show clearly what is proposed. Work plats must be accurately drawn to scale. A scale of 1" = 200' or less is normally required in order that project detail can be easily understood. Scale shall be reproducible on standardly available paper sizes. Paper copies of oversized workplans may be required at the direction of the Division.

(b) Details of Work Plats

- (1) Topview or Planview Plats. Such drawings must show existing and proposed features such as dune systems, shorelines, creeks, marshlands, docks, piers, bulkheads, excavated areas, fill areas, type and location of sewage treatment facilities and effluent outlets. Existing water depths must be indicated using mean low water as base or zero. These can be shown either as contours or spot elevation. Care should be used in indicating which features are existing and which are proposed. Property boundaries, as they appear on the deed, and the names of adjacent property owners must be shown on the detailed plat. The work plat must clearly show any areas to be excavated and exact locality for disposal of the excavated material. When fill material is to be placed behind a bulkhead or dike, the plan must be sufficiently detailed to show the exact location of such bulkheads or dikes, and the adequacy of the bulkhead or dike to confine the material. Drawings must indicate approximate mean low and mean high water lines and the presence of marsh in the area of proposed work. In areas where the difference in daily low and high tides is less than six inches, only an average water level must be indicated.
- (2) Cross-Section Drawing. A cross-sectional diagram showing depth and elevation of proposed work relative to existing ground level -- mean low and mean high water line must be included in the plan. The mean low water must be the reference for water depths and land elevations (i.e., mean low water should be depicted as "Elevation 0.0 MLW"). First floor elevations relative to mean sea level must be shown for any proposed buildings.
- (3) Location Map. A map of small scale showing the location of the proposed work is also required. The location map must provide adequate information to locate the project site.
- (4) Title of Drawing. Each drawing must have a simple title block to identify the project or work, and shall include name of applicant, date the plat was prepared, and scale of the plat. The date of any revisions must be clearly noted. The applicant must also include the name of the person who drew the plat.

(c) Applications are often made for permits to authorize projects that have a portion of the development outside Areas of Environmental Concern. Some information concerning plans for development outside AECs is necessary to determine compatibility with the local Land Use Plan and to be reasonably sure that such development will not

adversely impact AECs. Therefore, any application for a CAMA or Dredge and Fill permit shall include, at a minimum, the following information:

- (1) detailed information on any development located in or directly impacting an AEC;
- (2) a plat showing the entire tract of land to be developed and possible access or roadway locations;
- (3) maps or statements concerning the location of wetlands within the project area to the extent that a wetlands examination has been made by a private consultant or government agency. Each developer of a project is urged, for his own protection and planning, to procure such information prior to submission for a CAMA permit;
- (4) a narrative description of the proposed development that shall include, at a minimum, the following information:
 - (A) the character of the development (i.e. residential, commercial, recreational, etc.);
 - (B) the maximum number of residential living units that will be permitted;
 - (C) the maximum acreage that will be utilized for non-residential purposes;
 - (D) a statement as to whether wastewater treatment is to be by municipal system, septic tank, or other on-site treatment system. A general description of any on-site treatment system shall be included;
 - (E) a statement that access, as required by all land use regulations, is available through the site to the Area of Environmental Concern without crossing any Section 404 wetland or, if such a crossing is required, a statement that said crossing is properly authorized. If the site contains significant wetlands, such statement may be required from a qualified private consultant or government agency, based on an examination of the property by such private consultant or government agency. The CAMA permit when issued may be conditioned upon the procurement of any required wetlands permit, if the need for such is disclosed by such statement;
- (5) any maps or plans that have been prepared to meet other regulatory requirements such as stormwater management and sedimentation and erosion control.

Following review of the permit application, including the aforementioned supporting data (Subparagraphs 1-5), a permit may be issued conditioned upon compliance with the development parameters provided in the narrative statement accompanying the application. Any subsequent violation of these narrative standards as incorporated within the permit shall be a permit violation. No subsequent permit, permit modification, or other agency approval shall be required for any subsequent work performed outside the Area of Environmental Concern as long as such work is within the parameters described in the narrative statement presented with the permit, and included in the permit conditions. Any subsequent change in the development which changes the parameters of the narrative, statement shall be submitted to the staff, but no new permit or permit modification shall be required unless staff finds that the changes would have reasonable expectation of adversely affecting an Area of Environmental Concern or rendering the project inconsistent with Local Land Use Plans. Nothing in this Rule would prohibit an applicant from proceeding with work outside an

AEC that cannot reasonably be determined to have a direct adverse impact on the AEC while a permit application for work in the AEC is pending provided that all other necessary local, state, and federal permits have been obtained.

*History Note: Authority G.S. 113A-119; 113A-124;
Eff. March 15, 1978;
Amended Eff. July 1, 1989.*

15A NCAC 07J .0204 PROCESSING THE APPLICATION

(a) On receipt of a CAMA major development and/or dredge and fill permit application by the Department, a ~~letter~~ notification shall be sent to the applicant acknowledging receipt.

(b) Application processing shall begin when an application is accepted as complete. Before an application will be accepted as complete, the following requirements must be met;

- (1) a current application ~~form~~ must be submitted;
- ~~(2) all questions on the application form must be completed or the letters "N/A" must be placed in each section that does not apply;~~
- (2) an accurate work plan as described in 15A NCAC 7J .0203 herein must be attached to all CAMA major development and/or dredge and fill permit applications;
- (3) a copy of a deed or other instrument under which the applicant claims title must accompany a CAMA major development and/or dredge and fill permit application;
- (4) notice to adjacent riparian landowners must be given as follows:
 - (A) Certified return mail receipts (or copies thereof) indicating that adjacent riparian landowners (as identified in the permit application) have been sent a copy of the application for the proposed development must be included in a CAMA major development and/or dredge and fill permit application. Said landowners have 30 days from the date of notification in which to comment. Such comments will be considered by the Department in reaching a final decision on the application.
 - (B) For CAMA minor development permits, the applicant must give actual notice of his intention to develop his property and apply for a CAMA minor development permit to all adjacent riparian landowners. Actual notice can be given by sending a certified letter, informing the adjoining property owner in person or by telephone, or by using any other method which satisfies the Local Permit Officers that a good faith effort has been made to provide the required notice;
- (5) the application fee must be paid as set out in this Subparagraph:
 - (A) Major development permit - Application fees shall be in the form of a electronic funds transfer or check or money order payable to the Department. The application fee for private, non-commercial development shall be two hundred fifty dollars (\$250.00). The application fee for a public or commercial project shall be four hundred dollars (\$400.00).

- (B) Minor development permit - Application fees shall be in the form of a check or money order payable to the permit-letting agency in the amount of one hundred dollars (\$100.00). Monies so collected may be used only in the administration of the permit program;
- (6) any other information the Department or local permit officer deems necessary for a review of the application must be provided. Any application not in compliance with these requirements will be returned to the applicant along with a ~~cover letter~~ notification explaining the deficiencies of the application and will not be considered accepted until it is resubmitted and determined to be complete and sufficient. If a local permit officer receives an application for a permit that the local permit officer lacks authority to grant, the permit officer shall return the application with information as to how the application may be properly considered; and
- (7) ~~for development proposals subject to review under the North Carolina Environmental Policy Act (NCEPA), G.S. 113A-100 et. seq., the permit application will be complete only on submission of the appropriate environmental assessment document.~~

(c) Upon acceptance of a major development and/or dredge and fill permit as complete, the Department shall send a letter notification to the applicant setting forth the data on which acceptance was made.

(d) If the application is found to be incomplete or inaccurate after processing has begun or if additional information from the applicant is necessary to adequately assess the project, the processing shall be terminated pending receipt of the necessary changes or necessary information from the applicant. During the pendency of any termination of processing, the permit processing period shall not run. If the changes or additional information significantly alters the project proposal, the application shall be considered new and the permit processing period will begin to run from that date.

(e) Any violation occurring at a proposed project site for which an application is being reviewed shall be processed according to the procedures in 15A NCAC 7J .0408 - 0410. If the violation substantially altered the proposed project site, and restoration is deemed necessary, the applicant shall be notified that processing of the application will be suspended pending compliance with the notice of required restoration. Satisfactory restoration of any unauthorized development that has substantially altered a project site is deemed necessary to allow a complete review of the application and an accurate assessment of the project's potential impacts. The applicant shall be notified that permit processing has resumed, and that a new processing deadline has been established once the required restoration has been deemed satisfactory by the Division of Coastal Management or Local Permit Officer.

(f) If during the public comment period a question is raised as to public rights of access across the subject property, the Division of Coastal Management shall examine the access issue prior to making a permit decision. Any individual or governmental entity initiating action to judicially recognize a public right of access must obtain a court order to suspend processing of the permit application. Should the parties to legal action resolve the issue, permit processing shall continue.

History Note: Authority G.S. 113-229; 113A-119; 113A-119.1; 113A-122(c); 113A-124;

Eff. March 15, 1978;

Amended Eff. November 1, 1991; March 1, 1991; July 1, 1990; July 1, 1989;

Temporary Amendment Eff. September 2, 1998;

Temporary Amendment Expired June 28, 1999;

Amended Eff. August 1, 2000.

15A NCAC 07J .0404 DEVELOPMENT PERIOD EXTENSION

(a) For CAMA minor permits authorizing beach bulldozing, the applicant is entitled to request a one-time 30 day permit extension. No additional extensions shall be granted after the 30 day extension has expired. Notwithstanding this Paragraph, the applicant is eligible to apply for another minor permit authorizing beach bulldozing following expiration of the 30 days permit extension.

(b) Where no development has been initiated during the development period, the permitting authority shall extend the authorized development period for no more than two years upon receipt of a signed and dated request from the applicant containing the following:

- (1) a statement of the intention of the applicant to complete the work within a reasonable time;
- (2) a statement of the reasons why the project will not be completed before the expiration of the current permit;
- (3) a statement that there has been no change of plans since the issuance of the original permit other than changes that would have the effect of reducing the scope of the project, or, previously approved permit modifications;
- (4) notice of any change in ownership of the property to be developed and a request for transfer of the permit if appropriate; and
- (5) a statement that the project is in compliance with all conditions of the current permit.

Where substantial development, either within or outside the AEC, has begun and is continuing on a permitted project, the permitting authority shall grant as many two year extensions as necessary to complete the initial development. For the purpose of this Rule, substantial development shall be deemed to have occurred on a project if the permittee can show that development has progressed beyond basic site preparation, such as land clearing and grading, and construction has begun and is continuing on the primary structure or structures authorized under the permit. For purposes of residential subdivision, installation of subdivision roads consistent with an approved subdivision plat shall constitute substantial development. Renewals for maintenance and repairs of previously approved projects may be granted for periods not to exceed 10 years.

(c) When an extension request has not met the criteria of Paragraph (b) of this Rule, the Department may circulate the request to the commenting state agencies along with a copy of the original permit application. Commenting agencies will be given three weeks in which to comment on the extension request. Upon the expiration of the commenting period the Department will notify the applicant promptly of its actions on the extension request.

(d) Notwithstanding Paragraphs (b) and (c) of this Rule, an extension request may be denied on making findings as required in either G.S. 113A-120 or G.S. 113-229(e). Changes in circumstances or in development standards shall be

considered and applied to the maximum extent practical by the permitting authority in making a decision on an extension request.

(e) The applicant for a major development extension request must submit, with the ~~request application~~, a an electronic funds transfer or check or money order payable to the Department in the sum of one hundred dollars (\$100.00).

(f) Modifications to extended permits may be considered pursuant to 15A NCAC 07J .0405.

History Note: Authority G.S. 113A-119; 113A-119.1; 113A-124(c)(8);

Eff. March 15, 1978;

Amended Eff. August 1, 2002; August 1, 2000; April 1, 1995; March 1, 1991; March 1, 1985;

November 1, 1984.

15A NCAC 07J .0405 PERMIT MODIFICATION

(a) An applicant may modify his permitted major development and/or dredge and fill project only after approval by the Department. In order to modify a permitted project the applicant must ~~make a written request~~ complete an application to the Department showing in detail the proposed modifications. Minor modifications may be shown on the existing approved ~~application and~~ plat. Modification requests which, in the opinion of the Department, are major will require a new application. Modification requests are subject to the same processing procedure applicable to original permit applications. A permit need not be circulated to all agencies commenting on the original application if the Commission determines that the modification is so minor that circulation would serve no purpose.

(b) Modifications to a permitted project which are imposed or made at the request of the U.S. Army Corps of Engineers or other federal agencies must be approved by the Department under provisions of Paragraph (a) of this Rule dealing with permit modification procedures.

(c) Modifications of projects for the benefit of private waterfront property owners which meet the following criteria shall be considered minor modifications and shall not require a new permit application, but must be approved under the provisions of Paragraph (a) of this Rule:

(1) for bulkheads:

(A) Bulkhead must be positioned so as not to extend more than an average distance of two feet waterward of the mean high water contour; in no place shall the bulkhead be more than five feet waterward of the mean high water contour; and

(B) All backfill must come from an upland source; and

(C) No marsh area may be excavated or filled; and

(D) Work must be undertaken because of the necessity to prevent significant loss of private residential property due to erosion; and

(E) The bulkhead must be constructed prior to any backfilling activities; and

(F) The bulkhead must be constructed so as to prevent seepages of backfill materials through the bulkhead; and

(G) The bulkhead may not be constructed in the Ocean Hazard AEC;

(2) for piers, docks and boathouses:

- (A) The modification or addition may not be within 150 feet of the edge of a federally-maintained channel; and
 - (B) The structure, as modified, must be 200 feet or less in total length offshore; and
 - (C) The structure, as modified, must not extend past the four feet mean low water contour line (four feet depth at mean low water) of the waterbody; and
 - (D) The project as modified, must not exceed six feet in width; and
 - (E) The modification or addition must not include an enclosed structure; and
 - (F) The project shall continue to be used for private, residential purposes;
- (3) for boatramps:
- (A) The project, as modified, would not exceed 10 feet in width and 20 feet offshore; and
 - (B) The project shall continue to be used for private, residential purposes.

(d) An applicant may modify his permitted minor development project only after approval by the local permit-letting authority. In order to modify a permitted project the applicant must make a written request to the local minor permit-letting authority showing in detail the proposed modifications. The request shall be reviewed in consultation with the appropriate Division of Coastal Management field consultant and granted if all of the following provisions are met:

- (1) The size of the project is expanded less than 20 percent of the size of the originally permitted project; and
- (2) A signed, written statement is obtained from all adjacent riparian property owners indicating they have no objections to the proposed modifications; and
- (3) The proposed modifications are consistent with all local, state, and federal standards and local Land Use Plans in effect at the time of the modification requests; and
- (4) The type or nature of development is not changed.

Failure to meet these provisions shall necessitate the submission of a new permit application.

(e) The applicant for a major permit modification must submit with the request ~~a~~ an electronic funds transfer or check or money order payable to the Department in the sum of one hundred dollars (\$100.00) for a minor modification and two hundred fifty dollars (\$250.00) for a major modification.

*History Note: Authority G.S. 113A-119; 113A-119.1; 113A-124(c)(5); 113-229;
Eff. March 15, 1978;
Amended Eff. August 1, 2000; March 1, 1991; August 1, 1986; November 1, 1984.*

15A NCAC 07J .0406 PERMIT ISSUANCE AND TRANSFER

- (a) Upon approval of an application and issuance of the permit, the permit shall be delivered to the applicant, or to any person designated by the applicant to receive the permit, by first class mail or any appropriate means.
- (b) Anyone holding a permit may not assign, transfer, sell, or otherwise dispose of a permit to a third party.

(c) A permit may be transferred to a new party at the discretion of the Director of the Division of Coastal Management upon finding each of the following:

- (1) a written request from the new owner or developer of the involved properties;
- (2) a deed, a sale, lease, or option to the proposed new party showing the proposed new party as having the sole legal right to develop the project;
- (3) that the applicant transferee will use the permit for the purposes for which it was issued;
- (4) no substantial change in conditions, circumstances, or facts affecting the project;
- (5) no substantial change or modification of the project as proposed in the original application.

(d) A person aggrieved by a decision of the Director as to the transfer of a permit may request a declaratory ruling by the Coastal Resources Commission as per 15A NCAC 7J .0600, et. seq.

(e) The applicant for a permit transfer must submit with the request ~~a~~ an electronic funds transfer or check or money order payable to the Department in the sum of one hundred dollars (\$100.00).

*History Note: Authority G.S. 113A-118(c); 113A-119(a); 113A-119.1;
Eff. March 15, 1978;
Amended Eff. August 1, 2000; March 1, 1991; March 1, 1990; October 15, 1981.*

15A NCAC 07J .0407 PROJECT MAINTENANCE: MAJOR DEVELOPMENT/DREDGE AND FILL

(a) No project previously requiring a major development or dredge and fill permit shall be maintained after the expiration of the authorized development period without approval from the Department. Permits may contain provisions which allow the applicant to maintain the project after its completion. Persons wishing to maintain a project beyond the development period and whose permit contains no maintenance provision shall apply for a maintenance permit. This Rule does not apply to maintenance required by rule or by permit condition.

(b) Maintenance Request. Persons desiring to initiate maintenance work on a project pursuant to the maintenance provisions of an existing permit shall file a request at least two weeks prior to the initiation of maintenance work ~~with~~

~~Department of Environment and Natural Resources
Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557~~ with the Department of Environmental Quality, Division of Coastal Management

(c) Such requests shall include:

- (1) the name and address of the permittee;
- (2) the number of the original permit;
- (3) a description of proposed changes;
- (4) in the case of a dredge and fill maintenance request, a statement that no dimensional changes are proposed;
- (5) a copy of the original permit plat with cross-hatching indicating the area to be maintained, any area to be used as spoil, and the estimated amount of material to be removed; and
- (6) the date of map revision and the applicant's signature shown anew on the original plat.

(d) Conditions for Maintenance. All work undertaken pursuant to the maintenance provisions of a permit shall comply with the following conditions:

- (1) Maintenance work under a major development permit shall be limited to activities which are within the exemptions set forth by the Commission.
 - (2) Maintenance under a dredge and fill permit shall be limited to excavation and filling which is necessary to maintain the project dimensions as found in the original permit.
 - (3) Maintenance work is subject to all the conditions included in the original permit.
 - (4) Spoil disposal shall be in the same locations as authorized in the original permit, provided that the person requesting the authority to maintain a project may request a different spoil disposal site if he first serves a copy of the maintenance request on all adjoining landowners.
 - (5) The maintenance work is subject to any conditions determined by the Department to be necessary to protect the public interest with respect to the factors enumerated in G.S. 113A-120 or G.S. 113-229.
- (e) The Department may suspend or revoke the right to maintain a project in whole or in part upon a finding:
- (1) that the project area has been put to a different use from that indicated in the original permit application; or
 - (2) that there has been a change of conditions in the area, newly found facts or newly reached opinions which would justify denial of a permit; or
 - (3) that there has been a violation of any of the terms or conditions of the original permit.
- (f) Grant or Denial of Maintenance Request
- (1) Upon receipt of a complete maintenance request the Department shall determine if there are grounds for revocation or suspension of the applicant's right to maintain. If there are grounds for revocation or suspension the applicant shall be notified of the suspension or revocation by registered letter setting forth the findings on which the revocation or suspension is based.
 - (2) If the Department determines that the right to maintain should not be revoked or suspended, ~~a letter~~ notification shall be issued which shall authorize the applicant to perform maintenance work. The ~~letter~~ notification shall set forth the terms and conditions under which the maintenance work is authorized.
 - (3) If the maintenance request discloses changes in the dimensions of the original project, the Department shall notify the applicant that a permit modification or renewal shall be required pursuant to the procedure set out in 15A NCAC 07J .0404 and .0405.
 - (4) Appeal of department action under this Section shall be in accordance with 15A NCAC 07J .0302.

*History Note: Authority G.S. 113A-103(5)c; 113A-120(b);
Eff. March 15, 1978;
Amended Eff. June 1, 2005; December 1, 1991; May 1, 1990; March 1, 1985; November 1, 1984.*