CRC-22-19

September 2, 2022

**MEMORANDUM**

**TO:** Coastal Resources Commission

**FROM:** Jonathan Howell

**SUBJECT:** Amendments to 15A NCAC 07H .1102(c), 1202(c), 1302(c), 1402(c), 1502(d), 2002(d), 2102(c), 2202(c), 2402(c), 2702(d) - General Permit Time Period Extension

During your February 2020 meeting public comment period, a marine contractor provided a comment requesting the Commission consider extending General Permit expiration dates due to the time required to request permit renewals and the fees associated with the renewals. Based on this request, the Commission directed staff to explore the option of extending the amount of time a General Permit can remain active.

Staff contacted local governments to determine the time local building permits are active and discovered that most permits from local municipalities have an expiration date of 180 days from permit issuance. At your June 2022 meeting, staff recommended increasing the timeframe from 120 days to 180 days for ten general permits. The Commission discussed the possibility of extending the general permit timeframe to one year based on concerns that an additional 60 days would not be a sufficient extension to address ongoing labor and supply shortages. Staff expressed concerns with lengthening the GP timeframe to one year due to the volume of GPs that would be active at any given time and staff’s ability to monitor permitted development. The Commission requested staff draft additional rule language allowing a project to be extended beyond the six-month timeframe where work had begun.

Staff is proposing to allow seven general permits to be active for 180 days, with an additional six-month extension (with no additional permit fee) provided that substantial project development has occurred. This would allow permittees a total of one year to complete projects. This provision is similar to the provision in NCAC 7J .0404, which extends the major and minor permit expiration date if substantial development has occurred and is continuing. Beach bulldozing and the emergency general permit would continue to expire after 30 days due to the type of emergency work these permits authorize. Staff is also proposing to amend General Permit 15A NCAC 7H .2500 to allow the Secretary to re-activate the Emergency General Permit for an additional year. This extension would address similar issues with supply chain shortages and contractor availability that often occur following storms.

I look forward to continuing the discussion of the attached proposed amendments at our upcoming meeting in Wilmington.

**SECTION .1100 - GENERAL PERMIT FOR CONSTRUCTION OF BULKHEADS AND RIPRAP REVETMENTS FOR SHORELINE PROTECTION IN ESTUARINE AND PUBLIC TRUST WATER AND OCEAN HAZARD AREAS**

**15A NCAC 07H .1102 APPROVAL PROCEDURES**

(a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management and request approval for development. The applicant shall provide information on site location, dimensions of the project area, and the applicant's name and address.

(b) The applicant shall provide:

(1) confirmation that a written statement has been obtained signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or

(2) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. The notice shall instruct adjacent property owners to provide written comments on the proposed development to the Division of Coastal Management within 10 days of receipt of the notice, and indicate that no response shall be interpreted as no objection. The Division of Coastal Management shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If the Division of Coastal Management determines that the project exceeds the guidelines established by the General Permit Process, DCM shall notify the applicant that an application for a major development permit shall be required.

(c) No work shall begin until an on-site meeting is held with the applicant and a Division of Coastal Management representative so that the proposed alignment may be marked. Written authorization to proceed with the proposed development shall be issued if the Division representative finds that the application meets all the requirements of this Subchapter. Construction of the bulkhead or riprap revetment shall be completed within ~~120~~ 180 days of permit issuance  ~~authorization~~ Where substantial development has occurred as defined in 15A NCAC 07J .0404(b) and is continuing on the permitted project, the permitting authority shall grant a six-month extension to complete the development. If no development has begun, the authorization shall expire.

History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124; Eff. March 1, 1984; Amended Eff. July 1, 2009; October 1, 2007; September 1, 2006; January 1, 1990; December 1, 1987.

**SECTION .1200 - GENERAL PERMIT FOR CONSTRUCTION OF PIERS AND DOCKING FACILITIES: IN ESTUARINE AND PUBLIC TRUST WATERS AND OCEAN HAZARD AREAS**

**15A NCAC 07H .1202 APPROVAL PROCEDURES**

(a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management and request approval for development.

(b) The applicant shall provide:

(1) the site location, dimensions of the project area and name, and his or her address; and

(2) confirmation that a written statement has been obtained signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or

(3) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. The notice shall instruct adjacent property owners to provide any comments on the proposed development in writing for consideration by permitting officials to the Division of Coastal Management within 10 days of receipt of the notice and indicate that no response will be interpreted as no objection. Division staff shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If Division staff finds that the comments are worthy of more in-depth review, the Division shall notify the applicant that he or she must submit an application for a major development permit.

(c) No work shall begin until an on-site meeting is held with the applicant and a Division of Coastal Management representative to review the proposed development. A permit to proceed with the proposed development shall be issued if the Division representative finds that the application meets all the requirements of this Subchapter. Construction shall be completed within ~~120~~ 180 days of permit issuance. Where substantial development has occurred as defined in 15A NCAC 07J .0404(b) and is continuing on the permitted project, the permitting authority shall grant a six-month extension to complete the development. If no development has begun, the authorization shall expire.

(d) Any modification or addition to the permitted project shall require prior approval from the Division of Coastal Management.

History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124; Eff. March 1, 1984; Amended Eff. October 1, 2007; August 1, 1998; January 1, 1990; Readopted Eff. December 1, 2021.

**SECTION .1300 – GENERAL PERMIT TO CONSTRUCT BOAT RAMPS ALONG ESTUARINE AND PUBLIC TRUST SHORELINES AND INTO ESTUARINE AND PUBLIC TRUST WATERS**

**15A NCAC 07H .1302 APPROVAL PROCEDURES**

(a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management and request approval for development. The applicant shall provide information on site location, dimensions of the project area, and his name and address.

(b) The applicant shall provide:

(1) confirmation that a written statement has been obtained signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or

(2) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. The notice shall instruct adjacent property owners to provide written comments on the proposed development to the Division of Coastal Management within ten days of receipt of the notice, and, indicate that no response shall be interpreted as no objection. DCM staff shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If DCM staff determines that the project exceeds the guidelines established by the General Permit Process, DCM shall notify the applicant that he must submit an application for a major development permit.

(c) No work shall begin until an on-site meeting is held with the applicant and appropriate Division of Coastal Management representative so that the proposed boat ramp alignment may be appropriately marked. Written authorization to proceed with the proposed development may be issued during this visit. Construction of the boat ramp structure shall be completed within ~~120~~ 180 days of permit issuance. Where substantial development has occurred as defined in 15A NCAC 07J .0404(b) and is continuing on the permitted project, the permitting authority shall grant a six-month extension to complete the development. If no development has begun, the authorization shall expire.

History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124; Eff. March 1, 1984; Amended Eff. August 1, 2007; September 1, 2006; January 1, 1990.

**SECTION .1400 - GENERAL PERMIT FOR CONSTRUCTION OF GROINS IN ESTUARINE AND PUBLIC TRUST WATERS AND OCEAN HAZARD AREAS**

**15A NCAC 07H .1402 APPROVAL PROCEDURES**

(a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management and request approval for development. The applicant shall provide information on site location, dimensions of the project area, and the applicant’s name and address.

(b) The applicant shall provide:

(1) confirmation that a written statement has been obtained signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or

(2) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. The notice shall instruct adjacent property owners to provide written comments on the proposed development to the Division of Coastal Management within 10 days of receipt of the notice. The notice shall also indicate that no response shall be interpreted as no objection. The Division of Coastal Management shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If the Division of Coastal Management determines that the project exceeds the rules established by the General Permit process, the applicant shall be notified that an application for a major development permit shall be required.

(c) No work shall begin until an on-site meeting is held with the applicant and a Division of Coastal Management representative so that the proposed groin alignment can be marked. Written authorization to proceed with the proposed development shall be issued during this visit. Construction shall be completed within ~~120~~ 180 days of permit issuance. Where substantial development has occurred as defined in 15A NCAC 07J .0404(b) and is continuing on the permitted project, the permitting authority shall grant a six-month extension to complete the development. If no development has begun, the authorization shall expire.

(d) Any modification or addition to the authorized project shall require prior approval from the Division of Coastal Management.

History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124; Eff. March 1, 1984; Amended Eff. February 1, 2009; October 1, 2007; August 1, 2004; May 1, 1990; January 1, 1990.

**SECTION .1500 - GENERAL PERMIT FOR EXCAVATION WITHIN OR CONNECTING TO EXISTING CANALS, CHANNELS, BASINS, OR DITCHES IN ESTUARINE WATERS, PUBLIC TRUST WATERS, AND COASTAL SHORELINE AECS**

**15A NCAC 07H .1502 APPROVAL PROCEDURES**

(a) The applicant for a general permit for excavation within or connecting to existing canals, channels, basins, or ditches in estuarine waters, public trust waters and coastal shoreline areas of environmental concern shall contact the Division of Coastal Management and request approval for development. Applicants shall provide their name and address, the site location, and the dimensions of the project area.

(b) The applicant must provide:

(1) A written statement signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or

(2) Certified mail return receipts (or copies thereof) indicating that the adjacent riparian property owners have been notified by certified mail of the proposed work. Such notice should instruct adjacent property owners to provide any comments on the proposed development in writing for consideration by permitting officials to the Division of Coastal Management within ten days of receipt of the notice and indicate that no response will be interpreted as no objection.

(c) DCM staff will review the permit request and comments and determine, based on the potential impacts of the proposed project, whether the proposed project complies with the requirements of this Section and can be approved by a General Permit. If DCM staff finds that the proposed project does not comply with the requirements of this Section, the applicant will be notified that they must submit an application for a major development permit in accordance with 15A NCAC 07J .0200.

(d) No work shall begin until an onsite meeting is held with the applicant and a Division of Coastal Management representative to inspect and mark the proposed area of excavation and spoil disposal. Written authorization to proceed with the proposed development may be issued during this site visit. All excavation shall be completed within ~~120~~ 180 days of permit issuance. Where substantial development has occurred as defined in 15A NCAC 07J .0404(b) and is continuing on the permitted project, the permitting authority shall grant a six-month extension to complete the development. If no development has begun, the authorization shall expire.

History Note: Authority G.S. 113A-107(a),(b); 113A-113(b); 113A-118.1; 113-229(cl); Eff. July 1, 1984; Amended Eff. July 1, 2015; January 1, 1990; December 1, 1987.

**SECTION .2000 - GENERAL PERMIT FOR AUTHORIZING MINOR MODIFICATIONS AND REPAIR TO EXISTING PIER/MOORING FACILITIES IN ESTUARINE AND PUBLIC TRUST WATERS AND OCEAN HAZARD AREAS**

**15A NCAC 07H .2002 APPROVAL PROCEDURES**

(a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management and request approval for development. The applicant shall provide information on site location, dimensions of the project area, and his/her name and address.

(b) The applicant shall provide:

(1) a dated plat(s) showing existing development and the proposed development; and

(2) confirmation that:

(A) a written statement has been obtained and signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or

(B) the adjacent property owners have been notified by certified mail of the proposed work. The notice shall instruct adjacent property owners to provide any comments on the proposed development in writing for consideration by permitting officials to the Division of Coastal Management within ten days of receipt of the notice, and, indicate that no response will be interpreted as no objection.

(c) DCM staff shall review all comments. If DCM determines that the comments are relevant to the potential impacts of the proposed project and the permitting issues raised by the comments are worthy of more detailed review, DCM shall notify the applicant that he/she must submit an application for a major development permit.

(d) Approval of individual projects shall be acknowledged in writing by the Division of Coastal Management and the applicant shall be provided a copy of this Section. Construction authorized by this permit shall be completed within ~~120~~ 180 days of permit issuance. Where substantial development has occurred as defined in 15A NCAC 07J .0404(b) and is continuing on the permitted project, the permitting authority shall grant a six-month extension to complete the development. If no development has begun, the authorization shall expire.

History Note: Authority G.S. 113A-107; 113A-118.1; Eff. January 1, 1994; Amended Eff. August 1, 2007.

**SECTION .2100 - GENERAL PERMIT FOR CONSTRUCTION OF SHEETPILE SILL FOR SHORELINE PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS AND OCEAN HAZARD AREAS**

**15A NCAC 07H .2102 APPROVAL PROCEDURES**

(a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management and request approval for development. The applicant shall provide information on site location, dimensions of the project area, and the applicant's name and address.

(b) The applicant shall provide:

(1) confirmation that a written statement has been obtained signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or

(2) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. The notice shall instruct adjacent property owners to provide written comments on the proposed development to the Division of Coastal Management within 10 days of receipt of the notice and indicate that no response shall be interpreted as no objection. The Division of Coastal Management shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If the Division of Coastal Management determines that the project exceeds the rules established by the General Permit Process, DCM shall notify the applicant that an application for a major development permit shall be required.

(c) No work shall begin until an on-site meeting is held with the applicant and a Division of Coastal Management representative so that the proposed sill alignment may be marked. Written authorization to proceed with the proposed development shall be issued if the Division representative finds that the application meets all the requirements of this Subchapter. Construction of the sill shall be completed within ~~120~~ 180 days of permit issuance. Where substantial development has occurred as defined in 15A NCAC 07J .0404(b) and is continuing on the permitted project, the permitting authority shall grant a six-month extension to complete the development. If no development has begun, the authorization shall expire.

History Note: Authority G.S. 113A-107; 113A-118.1; Eff. June 1, 1994; Amended Eff. February 1, 2009; October 1, 2007; September 1, 2006; August 1, 2000.

**SECTION .2200 – GENERAL PERMIT FOR CONSTRUCTION OF FREESTANDING MOORINGS AND BIRD NESTING POLES IN ESTUARINE WATERS AND PUBLIC TRUST AREAS AND OCEAN HAZARD AREAS**

**15A NCAC 07H .2202 APPROVAL PROCEDURES**

(a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management and request approval for development pursuant to Paragraph (b) of this Rule.

(b) The applicant shall provide:

(1) information on site location, dimensions of the project area, and applicant name and address;

(2) a dated plat(s) showing existing and proposed development; and

(3) evidence that:

(A) a written statement has been obtained and signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or

(B) the adjacent riparian property owners have been notified by certified mail of the proposed work. The notice shall instruct adjacent property owners to provide any comments on the proposed development in writing for consideration by permitting officials to the Division of Coastal Management within 10 calendar days of receipt of the notice, and indicate that no response shall be interpreted as no objection. Division of Coastal Management staff shall review all comments. If the Division of Coastal Management determines that:

(i) the comments are relevant to the potential impacts of the proposed project; and

(ii) the Division of Coastal Management shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project may be approved by a General Permit. If the Division of Coastal Management determines that the project exceeds the guidelines established by the General Permit process provided in 15A NCAC 07J .1100, the Division shall notify the applicant that an application for a major development permit shall be required.

(c) Approval of individual projects shall be acknowledged in writing by the Division of Coastal Management and the applicant shall be provided a copy the rules of this Section. Construction authorized by this permit shall be completed within ~~120~~ 180 days of permit issuance. Where substantial development has occurred as defined in 15A NCAC 07J .0404(b) and is continuing on the permitted project, the permitting authority shall grant a six-month extension to complete the development. If no development has begun, the authorization shall expire.

History Note: Authority G.S. 113A-107; 113A-118.1; Eff. February 1, 1996; Amended Eff. January 1, 2018; August 1, 2007.

**SECTION .2400 - GENERAL PERMIT FOR PLACEMENT OF RIPRAP REVETMENTS FOR WETLAND PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS**

**15A NCAC 07H .2402 APPROVAL PROCEDURES**

(a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management and request approval for development. The applicant shall provide information on site location, dimensions of the project area, and the applicant's name and address.

(b) The applicant shall provide:

(1) confirmation that a written statement has been obtained signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or

(2) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. The notice shall instruct adjacent property owners to provide any comments on the proposed development in writing for consideration by permitting officials to the Division of Coastal Management within 10 days of receipt of the notice, and indicate that no response shall be interpreted as no objection. The Division of Coastal Management shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by the General Permit process. If not, the applicant shall be notified that an application for a major development permit shall be required.

(c) No work shall begin until an on-site meeting is held with the applicant and a Division of Coastal Management representative so that the structure location can be marked. Written authorization to proceed with the proposed development shall be issued during this visit. Construction of the structure shall be completed within ~~120~~ 180 days of permit issuance. Where substantial development has occurred as defined in 15A NCAC 07J .0404(b) and is continuing on the permitted project, the permitting authority shall grant a six-month extension to complete the development. If no development has begun, the authorization shall expire.

History Note: Authority G.S. 113A-107; 113A-118.1; Eff. August 1, 2000; Amended Eff. February 1, 2009; October 1, 2007.

**SECTION .2700 – GENERAL PERMIT FOR THE CONSTRUCTION OF MARSH SILLS**

**15A NCAC 07H .2702 APPROVAL PROCEDURES**

(a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management and request approval for development. The applicant shall provide information on site location, dimensions of the project area, and applicant name and address.

(b) The applicant shall provide:

(1) confirmation that a written statement has been obtained signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or

(2) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. The notice shall instruct adjacent property owners to provide any comments on the proposed development in writing for consideration by permitting officials to the Division of Coastal Management within 10 days of receipt of the notice, and, indicate that no response will be interpreted as no objection.

(c) DCM staff shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. (d) No work shall begin until an on-site meeting is held with the applicant and a Division of Coastal Management representative to review the proposed development. Written authorization to proceed with the proposed development shall be issued if the Division representative finds that the application meets all the requirements of this Subchapter. Construction shall be completed within ~~120~~ 180 days of permit issuance. .Where substantial development has occurred, as defined in 15A NCAC 07J .0404(b), and is continuing on the permitted project, the permitting authority shall grant a six-month extension to complete the development. If no development has begun, the authorization shall expire.

History Note: Authority G.S. 113A-107; 113A-118.1; Temporary Adoption Eff. June 15, 2004; Eff. April 1, 2005; Amended Eff. October 1, 2007.