



NORTH CAROLINA
Environmental Quality

ROY COOPER

Governor

ELIZABETH S. BISER

Secretary

BRAXTON DAVIS

Director

CRC-23-11

April 17, 2023

MEMORANDUM

TO: Coastal Resources Commission
FROM: Jonathan Howell
SUBJECT: Amendments to 15A NCAC 07J .0204 (6)(A) and (6)(B), 15A NCAC 07J 0404(f), 15A NCAC 07J .0405(e), 15A NCAC 07J .0406(e) and 15A NCAC 07H .1103, .1203, .1303, .1403, .1503, .1903, .2003, .2103, .2203, .2403, .2503 - Proposed Permit Fee Increases

Since 1989, the Commission has had legislative authority under General Statute Section 113A-119.1 of the Coastal Area Management Act (CAMA) to establish fees for various permit actions at a cost of up to \$400 per permit. Since this authority was granted in 1989, the Commission has adopted fee increases in 2000 and 2006, making the last permit fee increase over 16 years ago. As outlined below, Staff are proposing fee increases for most CAMA permit actions, including increases for all general permits. Many other divisions within DEQ are also proposing permit fee increases this year as a measure to maintain their level of service in the face of inflationary operating costs.

The division makes approximately 3,000 permit decisions per year, which include new permits, modifications, transfers and renewals. As the coastal population continues to grow, more properties are developed or re-developed at an ever-increasing density. Projects proposed in densely developed or marginal areas require increased staff time to review applications as well as increased interactions with adjacent property owners. Currently, the Commission is moving forward with rulemaking to extend the timeframe for active general permits as well as a new provision allowing projects to be completed where substantial development has begun. This increase in the allowable development time, while beneficial to the regulated community, will result in a decrease in permit receipts at a time the division is experiencing inflationary costs in its operations and increased permitting demands. A \$200 permit fee in March 2006, adjusted for inflation (based on the Bureau for Labor Statistics, Consumer Price Index), would be \$302.14 in March 2023. In addition, state appropriations for the Division of Coastal Management in 2007 totaled \$2.06M and supported 25 appropriated staff positions. In Fiscal Year 22-23, total state appropriations for DCM were \$1.46M and supported 14 positions. DCM has been encouraged to explore fee increases to offset this overall decrease in state appropriations.



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In 2022, staff conducted a survey of local governments with delegated Minor Permitting programs on the issue of permit fees. Responses were mixed, with some local governments in favor and some opposed to an increase. Given the degree of inflation over the past few years, Staff are currently revisiting the issue via communication with Local Permitting Officers and will be prepared to provide responses at the upcoming Commission meeting. In any case, given that DCM directly issues approximately 350 Minor Permits annually (rather than through a delegated local program), Staff are proposing to increase fees (at a minimum) for DCM-issued Minor Permits.

With these proposed fee increases, the division believes it can maintain its current level of service and meet increased demands on its operating budget. I look forward to discussing this with you at your upcoming meeting in Manteo.

Proposed Permit Fee Increases

Rule #	Permit Type	Current Fee	Proposed Fee
7H.1103	GP at or above NHW/NWL	200	400
	GP below NHW/NWL	400	400
7H.1203	GP Docks, Piers, Boatlifts, Boathouses	200	400
7H.1303	GP Boat Ramps	200	400
7H.1403	GP Wooden or Riprap Groins	200	400
7H.1503	GP Excavation (maintenance) up to 100 cy	200	400
	GP Excavation (maintenance) 101-1000 cy	400	400
7H.1903	GP Temporary Structures	200	400
7H.2003	GP Reconfiguration	200	400
7H.2103	GP for Sheetpile Sill for Shoreline Protection	200	400
7H.2203	GP Freestanding Moorings	200	400
7H.2403	GP for Riprap Revetments for Wetland Protection	200	400
7H.2503	GP Emergency (waived by rule, for recordkeeping)	200	400
7H.2703	GP for Marsh Sills	200	400
7J.0204 (6)(A)	Major Permit Fee (private, non-commercial)	250	400
7J.0204 (6)(B)	Minor Permit Fee (DCM Issued)	100	200
7J.0404(f)	Major Permit Renewal	100	200
7J.0405(e)	Minor Modification to Major Permit	100	200
	Major Modification to Major Permit	250	400
7J.0406(e)	Major Permit Transfer	100	400
	Minor and General Permit Transfers	100	200



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, ~~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 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; 113-229;
Eff. March 1, 1984;
Amended Eff. October 5, 2009; September 1, 2006; August 1, 2000; March 1, 1991;
Readopted Eff. April 1, 2022.

15A NCAC 07H .1203 PERMIT FEE

The applicant shall pay a permit fee of **four** ~~two~~ hundred dollars ~~(\$400.00)~~ ~~(\$200.00)~~ by 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;
Readopted Eff. December 1, 2021.*

15A NCAC 07H .1303 PERMIT FEE

The applicant shall pay a permit fee of **four** ~~two~~ hundred dollars **(\$400.00)** ~~(\$200.00)~~ by check or money order payable to the Department of Environmental Quality.

*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;
Readopted Eff. October 1, 2022.*

15A NCAC 07H .1403 PERMIT FEE

The applicant shall pay a permit fee of **four** ~~two~~ hundred dollars **(\$400.00)** ~~(\$200.00)~~ by check or money order payable to the Department of Environmental Quality.

*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;
Readopted Eff. October 1, 2022.*

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~~ **up** to 1,000 cubic yards. Permit fees shall be paid by check or money order payable to the Department of Environmental Quality.

*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;
Readopted Eff. October 1, 2022.*

15A NCAC 07H .1903 PERMIT FEE

The applicant shall pay a permit fee of **four** ~~two~~ hundred dollars ~~(\$400.00)~~ ~~(\$200.00)~~ by 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;
Readopted Eff. July 1, 2022.*

15A NCAC 07H .2003 PERMIT FEE

The applicant shall pay a permit fee of **four** ~~two~~ hundred dollars **(\$400.00)** ~~(\$200.00)~~ by check or money order payable to the Department of Environmental Quality.

*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;
Readopted Eff. October 1, 2022.*

15A NCAC 07H .2103 PERMIT FEE

The applicant shall pay a permit fee of **four** ~~two~~ hundred dollars ~~(\$400.00).~~ ~~(\$200.00).~~ This fee shall be paid by check or money order made payable to the Department of Environmental Quality.

*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;
Readopted Eff. October 1, 2022.*

15A NCAC 07H .2203 PERMIT FEE

The applicant shall pay a permit fee of **four** ~~two~~ hundred dollars ~~(\$400.00).~~ ~~(\$200.00).~~ This fee shall be paid by check or money order made payable to the Department of Environmental Quality.

*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;
Readopted Eff. October 1, 2022.*

15A NCAC 07H .2403 PERMIT FEE

The applicant shall pay a permit fee of **four** ~~two~~ hundred dollars ~~(\$400.00).~~ ~~(\$200.00).~~ This fee shall be paid by check or money order made payable to the Department of Environmental Quality.

*History Note: Authority G.S. 113A-107; 113A-118.1; 113A-119.1;
Eff. August 1, 2000;
Amended Eff. September 1, 2006;
Readopted Eff. October 1, 2022.*

15A NCAC 07H .2503 PERMIT FEE

The standard permit fee of **four** ~~two~~ hundred dollars ~~(\$400.00)~~ ~~(\$200.00)~~ has been waived for this General Permit.

*History Note: Authority G.S. 113A-107; 113A-118.1;
Temporary Adoption Eff. October 2, 1999;
Temporary Adoption Expired on July 28, 2000;
Eff. April 1, 2001;
Amended Eff. September 1, 2006;
Readopted Eff. July 1, 2022.*

15A NCAC 07H .2703 PERMIT FEE

The applicant shall pay a permit fee of ~~four~~ **two** hundred dollars ~~(\$400.00).~~ ~~(\$200.00).~~ This fee shall be paid by check or money order made payable to the Department of Environmental Quality.

*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;
Readopted Eff. October 1, 2022.*

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 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;
- (3) 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;
- (4) 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;
- (5) 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;
- (6) 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 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); (\$100)~~ if issued by a local government participating in the local implementation and enforcement program, and four hundred dollars (\$200.00) if issued directly by the Division of Coastal Management. Monies so collected may be used only in the administration of the permit program;
- (7) 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 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
- (8) 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 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 permit holder 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 permit holder is eligible to apply for another minor permit authorizing beach bulldozing following expiration of the 30-day permit extension.

(b) All other CAMA permits may be extended where substantial development, either within or outside the AEC, has begun or is continuing. The permitting authority shall grant as many two-year extensions as necessary to complete the initial development, with the exception that multi-phased beach nourishment projects may be granted ten-year extensions to allow for continuing project implementation. Renewals for maintenance of previously approved dredging projects may be granted for periods not to exceed five years. For the purpose of this Rule, substantial development shall be deemed to have occurred on a project if the permit holder 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 elevated structures in Ocean Hazard Areas, substantial development begins with the placement of foundation pilings, and proof of the local building inspector's certification that the installed pilings have passed a floor and foundation inspection. For residential subdivisions, installation of subdivision roads consistent with an approved subdivision plat shall constitute substantial development.

(c) To request an extension pursuant to Paragraphs (a) and (b) of this Rule, the permit holder shall submit a signed and dated request containing the following:

- (1) a statement of the completed and remaining work;
- (2) 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;
- (3) notice of any change in ownership of the property to be developed and a request for transfer of the permit; and
- (4) a statement that the project is in compliance with all conditions of the current permit.

(d) For extension requests where substantial development has not occurred in accordance with Paragraph (b) of this Rule, the Division of Coastal Management may circulate the request to the commenting State resource agencies along with a copy of the original permit application. Commenting State resource agencies will be given 30 days in which to comment on the extension request. Upon the expiration of the commenting period the Division of Coastal Management will notify the permit holder of its actions on the extension request.

(e) Notwithstanding Paragraphs (b) and (d) 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 by the Division of Coastal Management in making a decision on an extension request.

(f) The applicant for a major development extension request shall submit, with the request, a check or money order payable to the Department in the sum of **four one** hundred dollars (\$400.00) ~~(\$100.00).~~

*History Note: Authority G.S. 113A-119; 113A-119.1; 113A-120; 113A-124(c)(8); 113-229(e);
Eff. March 15, 1978;
Amended Eff. August 1, 2002; August 1, 2000; April 1, 1995; March 1, 1991; March 1, 1985;
November 1, 1984;
Readopted Eff. August 1, 2021;
Amended Eff. August 1, 2022.*

15A NCAC 07J .0405 PERMIT MODIFICATION

(a) A permit holder may modify their permitted major development and/or dredge and fill project only after approval by the Division of Coastal Management. In order to modify a permitted project the permit holder shall make a written request to the Division of Coastal Management showing the proposed modifications. Minor modifications may be shown on the existing approved application and plat. Modification requests which, in the opinion of the Division of Coastal Management are major shall 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 that are imposed or made at the request of the U.S. Army Corps of Engineers or other federal agencies shall be approved by the Division of Coastal Management under provisions of this Rule dealing with permit modification procedures.

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

- (1) for bulkheads:
 - (A) bulkhead shall be positioned so as not to extend more than an average distance of two feet waterward of the mean high water and in no place shall the bulkhead be more than five feet waterward of the mean high water contour;
 - (B) all backfill must come from an upland source;
 - (C) no marsh area may be excavated or filled;
 - (D) work must be undertaken because of the necessity to prevent loss of private residential property due to erosion;
 - (E) the bulkhead must be constructed prior to any backfilling activities;
 - (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 shall not be within 150 feet of the edge of a federally-maintained channel;
 - (B) the structure, as modified, must be 200 feet or less in total length offshore;
 - (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;
 - (D) the project as modified, must not exceed six feet in width;
 - (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, shall 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;
- (2) a signed, written statement is obtained from all adjacent riparian property owners indicating they have no objections to the proposed modifications;
- (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 this Paragraph shall necessitate the submission of a new permit application.

(e) The applicant for a major permit modification shall submit with the request a check or money order payable to the Department in the sum of **two one hundred fifty** dollars (\$250.00) ~~(\$100.00)~~ for a minor modification and **four two hundred fifty** dollars ~~(\$400.00)~~ ~~(\$250.00)~~ for a major modification.

*History Note: Authority G.S. 113A-119; 113A-119.1; 113-229;
Eff. March 15, 1978;
Amended Eff. August 1, 2000; March 1, 1991; August 1, 1986; November 1, 1984;
Readopted Eff. August 1, 2021.*

15A NCAC 07J .0406 PERMIT ISSUANCE AND TRANSFER

- (a) Upon the approval of an application and the 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 hand, first class mail or any means.
- (b) Anyone holding a permit shall not assign, transfer, sell, or otherwise dispose of a permit to a third party, unless approval is granted by the Director of the Division of Coastal Management pursuant to Paragraph (c) of this Rule.
- (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 change in conditions, circumstances, or facts affecting the project;
 - (5) no 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 07J .0600.
- (e) The applicant for a permit transfer shall submit with the request a check or money order payable to the Department in the sum of ~~four one~~ hundred dollars ~~(\$400.00)~~ for a Major Permit transfer and two hundred dollars ~~(\$200.00)~~ for Minor Permit and General Permit transfers. ~~(\$100.00).~~

History Note: Authority G.S. 113A-118(c); 113A-119(a); 113A-119.1; 113A-124(c)(8);
Eff. March 15, 1978;
Amended Eff. August 1, 2000; March 1, 1991; March 1, 1990; October 15, 1981;
Readopted Eff. June 1, 2021.