



ROY COOPER
Governor

MICHAEL S. REGAN
Secretary

BRAXTON C. DAVIS
Director

CRC-17-30

October 12, 2017

MEMORANDUM

TO: Coastal Resources Commission
FROM: Mike Lopazanski
SUBJECT: Delegation of Land Use Plan Certification Authority to DCM

You will recall that over the past two years, the Commission has adopted changes to the Land Use Planning Program to provide increased flexibility for land use plan content and format, reduce unnecessary regulatory burdens on local governments, and improve the quality and value of the plans. These changes have also sought to institute shorter timelines for state review and approval of plan updates and amendments by delegating certification authority to the Secretary of the Department of Environmental Quality. The approval of land use plans is largely procedural with DCM Staff reviewing plans and amendments for compliance with the CRC's 15A NCAC 7B State Guidelines for Land Use Planning.

The Department requested an amendment to the NC Coastal Area Management Act (CAMA), delegating authority for the approval of CAMA Land Use Plans to the Department of Environmental Quality and subsequently to the Division of Coastal Management (DCM).

S.L. 2017-209 (H56) Amend Environmental Laws, grants that authority through N.C.G.S. 113A-124(c)(9), where the Commission is authorized "[t]o delegate the power to approve land-use plans in accordance with G.S. 113A-110(f) to any qualified employee of the Department." Mary Lucasse will review the attached draft delegation of authority for your consideration at the upcoming meeting in Atlantic Beach. Staff recommends approval of the delegation of authority.

DRAFT

Via Email and US Mail:

Braxton Davis, Director
Division of Coastal Management
400 Commerce Ave.
Morehead City, NC 28557-3421

Re: Delegation of authority to review and approve Land Use Plans

Dear Executive Director Davis,

The purpose of this letter is to inform you of the decision made by the North Carolina Coastal Resources Commission (Commission) at its November 7-8, 2017 meeting to delegate to the Director (Director) of the North Carolina Division of Coastal Management (DCM), Department of Environmental Quality (DEQ), its authority to approve Land Use Plans pursuant to N.C.G.S. § 113A-110(f). Pursuant to N.C.G.S. 113A-124(c)(9), the Commission is authorized “[t]o delegate the power to approve land-use plans in accordance with G.S. 113A-110(f) to any qualified employee of the Department.” S.L. 2017-209. This delegation is effective immediately.

This delegation includes the following conditions:

- If upon review, the Director determines that the Land Use Plan or proposed revision or amendments to a Land Use Plan (Submission) conflicts with state or federal law or the State’s Coastal Management Program, the Submission shall not be approved. Instead, the Director shall notify the applicant in writing of specific changes which must be made in order for the Submission to be approved;
- If the Director or applicant determines that a Submission merits additional scrutiny, it shall be forwarded to the full Commission for its review and a decision on the merits;
- Any decision rendered pursuant to this delegation shall be based on the criteria in the Commission’s Land Use Plan guidelines set forth in 15A NCAC 07B and shall certify that there are no conflicts with either state or federal law or the State’s Coastal Management Program;
- The Director shall issue a written decision for each Submission titled final agency decision. The final agency decision shall include sufficient detail to identify the Land Use Plan at issue and/or the scope of any approved revisions or amendments;
- The Director shall notify the Commission at its next regularly scheduled meeting of any Submissions received and the decision made regarding each Submission.

If you have any questions regarding this delegation, please contact Commission Counsel, Mary L. Lucasse at mlucasse@ncdoj.gov or (919) 716-6962. Thank you.

Sincerely,

Renee Cahoon, Chair
Coastal Resources Commission

cc: Michael Regan, Secretary NC Department of Environmental Quality
Mary L. Lucasse, Esq. Counsel to the Commission