



NORTH CAROLINA
Environmental Quality

ROY COOPER
Governor

MICHAEL S. REGAN
Secretary

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Director

CRC-19-13

March 29, 2019

MEMORANDUM

To: Coastal Resources Commission

From: Gregg Bodnar

Subject: Proposed Amendments to 15A NCAC 07H and 15A NCAC 15J for the purpose of the DEQ Permit Transformation Initiative

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 begun working with DEQ Division of Environmental Assistance and Customer Service and the Department of Information Technology to transition CAMA permitting into an electronic web-based process. This "E-Permitting" initiative will have numerous and wide-ranging benefits to both DCM and the public.

Once fully implemented, the public will be able to apply, track, and manage applications through the Division's website. It is anticipated that "E-Permitting" will decrease confusion and errors in filling out an application, decrease the time from application submittal to being "accepted as complete," and decrease the overall timeline for permit processing. The web-based application will follow a format similar to common tax filing software that will ask a series of dynamic questions, rather than the applicant filling out a static form.

The Division will benefit through reductions in paper, ink and postage associated with the distribution of paper applications and permits to partner agencies, the elimination of physical permit files that are vulnerable to fire, loss and other damage, an updated database and organizational system, and faster response to applicants during the application review for completeness.

A review of your rules has been completed to identify specific rules that will require modification to allow for the web-based permit transformation. Below is a breakdown of the specific rules by category.



Specifically, the amendments are necessary to allow for payment by electronic funds transfer (Credit Card, E-Check, etc.). These amendments are minor and administrative in nature and staff recommends approval for public hearing.

I look forward to discussing DCM's efforts toward "E-Permitting" at our upcoming meeting.

- 7H .1103 Bulkheads and Rip Rap Revetments
- 7H .1203 Piers and Docking Facilities
- 7H .1303 Boat Ramps
- 7H .1403 Groins
- 7H .1503 Excavation
- 7H .1603 Utility Lines
- 7H .1703 Emergency Dredge and Fill
- 7H .1803 Beach Bulldozing
- 7H .1903 Temporary Structures
- 7H .2003 Minor Modifications and Repair to Existing Pier/Mooring
- 7H .2103 Sheetpile Sill
- 7H .2203 Freestanding Mooring
- 7H .2303 Bridges and Culverts
- 7H .2403 Rip Rap Revetment for Wetland Protection
- 7H .2603 Mitigation Banks
- 7H .2703 Living Shorelines

Definitions

- 7J .0102 General Definitions

Procedural

- 7J .0203 Preparation of Workplats
- 7J .0204 Processing the Application
- 7J .0404 Development Period Extension
- 7J .0405 Permit Modification
- 7J .0406 Permit Issuance and Transfer
- 7J .0407 Project Maintenance: Major Development/Dredge and Fill

1 **15A NCAC 07H .1103 PERMIT FEE**

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

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7 *History Note: Authority G.S. 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113-119.1; 113A-124;*

8 *Eff. March 1, 1984;*

9 *Amended Eff. October 5, 2009; September 1, 2006; August 1, 2000; March 1, 1991;*

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1 **15A NCAC 07H .1203 PERMIT FEE**

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

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5 *History Note: Authority G.S. 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113-119.1; 113A-124;*

6 *Eff. March 1, 1984;*

7 *Amended Eff. September 1, 2006; August 1, 2000; March 1, 1991.*

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1 **15A NCAC 07H .1303 PERMIT FEE**

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

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5 *History Note: Authority G.S. 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113A-119.1; 113A-124;*
6 *Eff. March 1, 1984;*

7 *Amended Eff. September 1, 2006; August 1, 2000; March 1, 1991.*

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1 **15A NCAC 07H .1403 PERMIT FEE**

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

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

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1 **15A NCAC 07H .1503 APPLICATION FEE**

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

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6 *History Note: Authority G.S. 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113A-119.1; 113A-124;*

7 *Eff. July 1, 1984;*

8 *Amended Eff. September 1, 2006; August 1, 2000; March 1, 1991.*

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1 **15A NCAC 07H .1603 PERMIT FEE**

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

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

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1 **15A NCAC 07H .1703 PERMIT FEE**

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

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6 *History Note: Authority G.S. 113-229(c); 113A-107(a),(b); 113A-113(b); 113A-118.1; 113A-119;*

7 *Eff. November 1, 1985;*

8 *Amended Eff. September 1, 2006; August 1, 2002; March 1, 1991; October 1, 1993.*

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1 **15A NCAC 07H .1803 PERMIT FEE**

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

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

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1 **15A NCAC 07H .1903 PERMIT FEE**

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

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

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1 **15A NCAC 07H .2003 PERMIT FEE**

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

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5 *History Note: Authority G.S. 113A-107; 113A-118.1; 113A-119.1;*

6 *Eff. October 1, 1993;*

7 *Amended Eff. September 1, 2006; August 1, 2000.*

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1 **15A NCAC 07H .2103 PERMIT FEE**

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

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5 *History Note: Authority G.S. 113A-107; 113A-118.1; 113A-119.1;*

6 *Eff. June 1, 1994;*

7 *Amended Eff. September 1, 2006; August 1, 2000.*

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1 **15A NCAC 07H .2203 PERMIT FEE**

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

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5 *History Note: Authority G.S. 113A-107; 113A-118.1; 113A-119; 113A-119.1;*

6 *Eff. February 1, 1996;*

7 *Amended Eff. September 1, 2006; August 1, 2000.*

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1 **15A NCAC 07H .2303 PERMIT FEE**

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

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6 *History Note: Authority G.S. 113A-107; 113A-118.1; 113A-119; 113A-119.1; 113A-124;*

7 *Eff. June 1, 1996;*

8 *Amended Eff. May 1, 2010; September 1, 2006; August 1, 2000.*

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1 **15A NCAC 07H .2403 PERMIT FEE**

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

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5 *History Note: Authority G.S. 113A-107; 113A-118.1; 113A-119.1;*

6 *Eff. August 1, 2000;*

7 *Amended Eff. September 1, 2006.*

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1 **15A NCAC 07H .2603 PERMIT FEE**

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

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5 *History Note: Authority G.S. 113A-107; 113A-118.1; 113A-119.1;*

6 *Eff. October 1, 2004;*

7 *Amended Eff. September 1, 2006.*

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1 **15A NCAC 07H .2703 PERMIT FEE**

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

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5 *History Note: Authority G.S. 113A-107; 113A-118.1; 113A-119.1;*

6 *Temporary Adoption Eff. June 15, 2004;*

7 *Eff. April 1, 2005;*

8 *Amended Eff. September 1, 2006.*

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1 **15A NCAC 07J .0102 GENERAL DEFINITIONS**

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

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

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31 *History Note: Authority G.S. 113-229; 113A-116; 113A-117; 113A-118;*
32 *Eff. March 15, 1978;*
33 *Amended Eff. June 1, 2006; April 1, 1997; May 1, 1990; November 1, 1984.*
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1 **15A NCAC 07J .0203 PREPARATION OF WORK PLATS**

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

9 (b) Details of Work Plats

10 (1) Topview or Planview Plats. Such drawings must show existing and proposed features such as dune
11 systems, shorelines, creeks, marshlands, docks, piers, bulkheads, excavated areas, fill areas, type
12 and location of sewage treatment facilities and effluent outlets. Existing water depths must be
13 indicated using mean low water as base or zero. These can be shown either as contours or spot
14 elevation. Care should be used in indicating which features are existing and which are proposed.
15 Property boundaries, as they appear on the deed, and the names of adjacent property owners must
16 be shown on the detailed plat. The work plat must clearly show any areas to be excavated and exact
17 locality for disposal of the excavated material. When fill material is to be placed behind a bulkhead
18 or dike, the plan must be sufficiently detailed to show the exact location of such bulkheads or dikes,
19 and the adequacy of the bulkhead or dike to confine the material. Drawings must indicate
20 approximate mean low and mean high water lines and the presence of marsh in the area of proposed
21 work. In areas where the difference in daily low and high tides is less than six inches, only an
22 average water level must be indicated.

23 (2) Cross-Section Drawing. A cross-sectional diagram showing depth and elevation of proposed work
24 relative to existing ground level -- mean low and mean high water line must be included in the plan.
25 The mean low water must be the reference for water depths and land elevations (i.e., mean low water
26 should be depicted as "Elevation 0.0 MLW"). First floor elevations relative to mean sea level must
27 be shown for any proposed buildings.

28 (3) Location Map. A map of small scale showing the location of the proposed work is also required.
29 The location map must provide adequate information to locate the project site.

30 (4) Title of Drawing. Each drawing must have a simple title block to identify the project or work, and
31 shall include name of applicant, date the plat was prepared, and scale of the plat. The date of any
32 revisions must be clearly noted. The applicant must also include the name of the person who drew
33 the plat.

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

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

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

27 Following review of the permit application, including the aforementioned supporting data (Subparagraphs 1-5), a
28 permit may be issued conditioned upon compliance with the development parameters provided in the narrative
29 statement accompanying the application. Any subsequent violation of these narrative standards as incorporated
30 within the permit shall be a permit violation. No subsequent permit, permit modification, or other agency approval
31 shall be required for any subsequent work performed outside the Area of Environmental Concern as long as such
32 work is within the parameters described in the narrative statement presented with the permit, and included in the
33 permit conditions. Any subsequent change in the development which changes the parameters of the narrative,
34 statement shall be submitted to the staff, but no new permit or permit modification shall be required unless staff
35 finds that the changes would have reasonable expectation of adversely affecting an Area of Environmental Concern
36 or rendering the project inconsistent with Local Land Use Plans. Nothing in this Rule would prohibit an applicant
37 from proceeding with work outside an AEC that cannot reasonably be determined to have a direct adverse impact on
38 the AEC while a permit application for work in the AEC is pending provided that all other necessary local, state, and
39 federal permits have been obtained.

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41 *History Note: Authority G.S. 113A-119; 113A-124;*

42 *Eff. March 15, 1978;*

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Amended Eff. July 1, 1989.

1 **15A NCAC 07J .0204 PROCESSING THE APPLICATION**

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

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

- 6 (1) a current application ~~form~~ must be submitted;
- 7 (2) ~~all questions on the application form must be completed or the letters "N/A" must be placed in each~~
8 ~~section that does not apply;~~
- 9 (3) an accurate work plan as described in 15A NCAC 7J .0203 herein must be attached to all CAMA
10 major development and/or dredge and fill permit applications;
- 11 (4) a copy of a deed or other instrument under which the applicant claims title must accompany a
12 CAMA major development and/or dredge and fill permit application;
- 13 (5) notice to adjacent riparian landowners must be given as follows:
 - 14 (A) Certified return mail receipts (or copies thereof) indicating that adjacent riparian
15 landowners (as identified in the permit application) have been sent a copy of the application
16 for the proposed development must be included in a CAMA major development and/or
17 dredge and fill permit application. Said landowners have 30 days from the date of
18 notification in which to comment. Such comments will be considered by the Department
19 in reaching a final decision on the application.
 - 20 (B) For CAMA minor development permits, the applicant must give actual notice of his
21 intention to develop his property and apply for a CAMA minor development permit to all
22 adjacent riparian landowners. Actual notice can be given by sending a certified letter,
23 informing the adjoining property owner in person or by telephone, or by using any other
24 method which satisfies the Local Permit Officers that a good faith effort has been made to
25 provide the required notice;
- 26 (6) the application fee must be paid as set out in this Subparagraph:
 - 27 (A) Major development permit - Application fees shall be in the form of a electronic funds
28 transfer or check or money order payable to the Department. The application fee for
29 private, non-commercial development shall be two hundred fifty dollars (\$250.00). The
30 application fee for a public or commercial project shall be four hundred dollars (\$400.00).
 - 31 (B) Minor development permit - Application fees shall be in the form of a check or money
32 order payable to the permit-letting agency in the amount of one hundred dollars (\$100.00).
33 Monies so collected may be used only in the administration of the permit program;
- 34 (7) any other information the Department or local permit officer deems necessary for a review of the
35 application must be provided. Any application not in compliance with these requirements will be
36 returned to the applicant along with a ~~cover letter~~ notification explaining the deficiencies of the
37 application and will not be considered accepted until it is resubmitted and determined to be complete

1 and sufficient. If a local permit officer receives an application for a permit that the local permit
2 officer lacks authority to grant, the permit officer shall return the application with information as to
3 how the application may be properly considered; and

4 (8) ~~for development proposals subject to review under the North Carolina Environmental Policy Act~~
5 ~~(NCEPA), G.S. 113A-100 et. seq., the permit application will be complete only on submission of~~
6 ~~the appropriate environmental assessment document.~~

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

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

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

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

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29 *History Note: Authority G.S. 113-229; 113A-119; 113A-119.1; 113A-122(c); 113A-124;*
30 *Eff. March 15, 1978;*
31 *Amended Eff. November 1, 1991; March 1, 1991; July 1, 1990; July 1, 1989;*
32 *Temporary Amendment Eff. September 2, 1998;*
33 *Temporary Amendment Expired June 28, 1999;*
34 *Amended Eff. August 1, 2000.*
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1 **15A NCAC 07J .0404 DEVELOPMENT PERIOD EXTENSION**

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

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

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

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

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

30 (d) Notwithstanding Paragraphs (b) and (c) of this Rule, an extension request may be denied on making findings as
31 required in either G.S. 113A-120 or G.S. 113-229(e). Changes in circumstances or in development standards shall be
32 considered and applied to the maximum extent practical by the permitting authority in making a decision on an
33 extension request.

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

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

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1 *History Note: Authority G.S. 113A-119; 113A-119.1; 113A-124(c)(8);*
2 *Eff. March 15, 1978;*
3 *Amended Eff. August 1, 2002; August 1, 2000; April 1, 1995; March 1, 1991; March 1, 1985;*
4 *November 1, 1984.*
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1 **15A NCAC 07J .0405 PERMIT MODIFICATION**

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

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

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

15 (1) for bulkheads:

- 16 (A) Bulkhead must be positioned so as not to extend more than an average distance of two feet
17 waterward of the mean high water contour; in no place shall the bulkhead be more than
18 five feet waterward of the mean high water contour; and
19 (B) All backfill must come from an upland source; and
20 (C) No marsh area may be excavated or filled; and
21 (D) Work must be undertaken because of the necessity to prevent significant loss of private
22 residential property due to erosion; and
23 (E) The bulkhead must be constructed prior to any backfilling activities; and
24 (F) The bulkhead must be constructed so as to prevent seepages of backfill materials through
25 the bulkhead; and
26 (G) The bulkhead may not be constructed in the Ocean Hazard AEC;

27 (2) for piers, docks and boathouses:

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

36 (3) for boatramps:

- 37 (A) The project, as modified, would not exceed 10 feet in width and 20 feet offshore; and

1 (B) The project shall continue to be used for private, residential purposes.

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

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

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

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

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19 *History Note: Authority G.S. 113A-119; 113A-119.1; 113A-124(c)(5); 113-229;*

20 *Eff. March 15, 1978;*

21 *Amended Eff. August 1, 2000; March 1, 1991; August 1, 1986; November 1, 1984.*

1 **15A NCAC 07J .0406 PERMIT ISSUANCE AND TRANSFER**

2 (a) Upon approval of an application and issuance of the permit, the permit shall be delivered to the applicant, or to
3 any person designated by the applicant to receive the permit, by first class mail or any appropriate means.

4 (b) Anyone holding a permit may not assign, transfer, sell, or otherwise dispose of a permit to a third party.

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

7 (1) a written request from the new owner or developer of the involved properties;

8 (2) a deed, a sale, lease, or option to the proposed new party showing the proposed new party as having
9 the sole legal right to develop the project;

10 (3) that the applicant transferee will use the permit for the purposes for which it was issued;

11 (4) no substantial change in conditions, circumstances, or facts affecting the project;

12 (5) no substantial change or modification of the project as proposed in the original application.

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

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

17
18 *History Note: Authority G.S. 113A-118(c); 113A-119(a); 113A-119.1;*

19 *Eff. March 15, 1978;*

20 *Amended Eff. August 1, 2000; March 1, 1991; March 1, 1990; October 15, 1981.*

1 **15A NCAC 07J .0407 PROJECT MAINTENANCE: MAJOR DEVELOPMENT/DREDGE AND FILL**

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

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

9 ~~Department of Environment and Natural Resources~~
10 ~~Division of Coastal Management~~
11 ~~400 Commerce Avenue~~
12 ~~Morehead City, NC 28557~~ with the Department of Environmental Quality, Division of Coastal Management

13 (c) Such requests shall include:

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

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

- 24 (1) Maintenance work under a major development permit shall be limited to activities which are within the
25 exemptions set forth by the Commission.
- 26 (2) Maintenance under a dredge and fill permit shall be limited to excavation and filling which is necessary
27 to maintain the project dimensions as found in the original permit.
- 28 (3) Maintenance work is subject to all the conditions included in the original permit.
- 29 (4) Spoil disposal shall be in the same locations as authorized in the original permit, provided that the person
30 requesting the authority to maintain a project may request a different spoil disposal site if he first serves
31 a copy of the maintenance request on all adjoining landowners.
- 32 (5) The maintenance work is subject to any conditions determined by the Department to be necessary to
33 protect the public interest with respect to the factors enumerated in G.S. 113A-120 or G.S. 113-229.

34 (e) The Department may suspend or revoke the right to maintain a project in whole or in part upon a finding:

- 35 (1) that the project area has been put to a different use from that indicated in the original permit application;
36 or
- 37 (2) that there has been a change of conditions in the area, newly found facts or newly reached opinions which
38 would justify denial of a permit; or
- 39 (3) that there has been a violation of any of the terms or conditions of the original permit.

40 (f) Grant or Denial of Maintenance Request

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- (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.*