



*October 5, 2020*

# *DCM Permitting Overview*

*Braxton Davis*

*NC Division of Coastal Management*





## *Areas of Environmental Concern (AEC)*

### **Estuarine and Ocean System**

- Public trust areas, estuarine waters, coastal wetlands, and coastal (non-ocean) shorelines

### **Ocean Hazard Areas**

- Ocean Erodible Area, Inlet Hazard Areas  
Unvegetated Beach Area



# *What is “Development”?*

## **§ 113A-102. Legislative findings and goals.**

(5)a. "Development" means any activity in a duly designated area of environmental concern (except as provided in paragraph b of this subdivision) involving, requiring, or consisting of the construction or enlargement of a structure; excavation; dredging; filling; dumping; removal of clay, silt, sand, gravel or minerals; bulkheading, driving of pilings; clearing or alteration of land as an adjunct of construction; alteration or removal of sand dunes; alteration of the shore, bank, or bottom of the Atlantic Ocean or any sound, bay, river, creek, stream, lake, or canal; or placement of a floating structure in an area of environmental concern identified in G.S. 113A-113(b)(2) or (b)(5).





# *Findings That Must Be Made*

NCAC 15A 07H.0208(a)

- No significant adverse impact to coastal wetlands, SAV habitat, shellfish beds, spawning/nursery areas
- Will not violate water quality standards
- No adverse impact to archeological or historic resources
- No increased siltation/No stagnant water bodies
- Timed to avoid impacts on life cycles
- Will not jeopardize use of the waters for navigation and other public trust rights



# *Oceanfront Development*



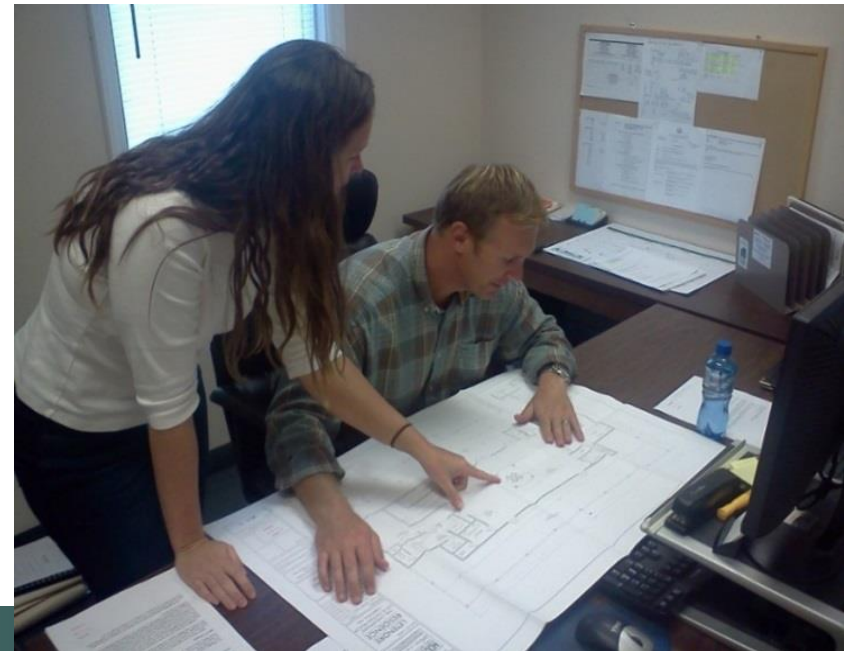
# *Key oceanfront rules*

NCAC 15A 07H.0300 et seq.

- Beach nourishment projects
  - sand compatibility, timing, borrow sites, beneficial use, interagency coordination
- Permanent and temporary erosion control structures
- Structural accessways
- Dune protection / restoration
- Public trust protections
- Erosion-rate-based construction setbacks
- Storm recovery / emergency permitting
- Commission oversight of long-term beach plans

# *CAMA Permits & Authorizations*

- **Minor permits** issued mostly by local governments consistent w/CRC-established standards
  - ~ Decks, beach houses, walkovers, other SFR structures
- **General permits** issued by DCM staff and streamlined for routine projects
  - ~ Docks, bulkheads, boat ramps
- **Major permits** reviewed by 9 state & 4 federal agencies
  - ~ Beach/inlet projects, marinas...
- **Federal Consistency** reviews





# *Federal Consistency*



## • **Federal Agency Activities**

- Navy exercises, beach and navigation projects, improvements to military bases, National Park/Seashore projects, USFWS?

## • **Federal Licenses or Permits**

- USACE permits, BOEM permits

## • **Federal Assistance**

- Federal Highway Administration, Housing and Urban Development Grants
- Federal Emergency Management Agency (FEMA) grants
  - Expedited reviews based on “exigent circumstances”
  - Programmatic approvals, new conditions under consideration to avoid elevating structures in close proximity to public trust beaches

# *Enforceable Policies*



*State policies that have been approved and incorporated into federally-approved coastal program:*

- NC Coastal Area Management Act (CAMA)
- NC Dredge and Fill Law
- CRC rules that are legally binding under state law and that have been reviewed and approved by NOAA

# *Federal Consistency Determinations*



- DCM evaluates to determine if “complete”
- Circulate to appropriate stage agencies for comment
- Public notice or public hearing (as warranted)
- Review of proposed activity for conformance with enforceable policies
- Found consistent, consistent with conditions, or objection
- In the event of objection, ongoing coordination or begin mediation/appeal process through NOAA



# *Recent Federal Consistency Determinations*



*Average 50 submissions/year (approximately 95% found consistent)*

- State Port's Dredged Material Management Plan (USACE)
  - ~ E.g. required a supplemental consistency review if, at the end of 8 years, Corps has not conducted at least 2 sand placement projects on Bogue Banks
- Proposed wind energy lease and site assessment activates for Kitty Hawk Wind Energy Area (BOEM)
  - ~ required coordination with DCM and DMF prior to approval of any site assessment plans in order to avoid, minimize, and mitigate impacts or conflicts
- Proposed Geological and Geophysical (seismic) surveys in federal waters off North Carolina's Coast (BOEM)
  - ~ require pre-survey meeting with DCM and DMF to avoid, minimize, and mitigate any possible impacts or conflicts with resources

## *15 CFR 930.66 Supplemental Consistency*



- DCM requested “supplemental consistency determinations” from each of the four companies that had received conditional concurrences in 2015 to conduct seismic testing in federal waters off of North Carolina
- Our formal legal request was based on new information – recently published scientific studies on the impacts of seismic testing on fish behaviors, zooplankton (including fish larvae), shellfish, and crustaceans among other concerns – that the proposed surveys will affect NC’s marine resources “substantially different than originally described.” (15 CFR 930.66)

# *Major Development Permit Process*

- Pre-Application
- Permit Determination
- Field Work
- Agency Review
- Permit Decision
- Work-Variance-  
Appeal





## *Benefits of CAMA Major Permit Process*

- **Application for a CAMA/D&F Permit also serves as application for the following:**

Water Quality Certification (DWR)

Neuse and Tar/Pamlico Buffer Authorizations (DWR)

Federal Wetlands Permit (USACE)

Section 10 (Navigation) Permit (USACE)

State Stormwater Permit (DEMLR)\*

State Submerged Lands Easement (DOA)\*

Sedimentation/Erosion Control Permit (DEMLR)\*

# *Inter- / Intra-Agency Coordination*



<b>Federal Agencies</b>	<b>State Agencies</b>
U.S. Army Corps of Engineers	Division of Water Resources
U.S. Fish and Wildlife Service	Division of Marine Fisheries
Environmental Protection Agency	Department of Transportation
National Marine Fisheries Service	Division of Energy, Mineral & Land Resources
	Wildlife Resources Commission
	Department of Natural and Cultural Resources
	Division of Public Health
	State Property Office
<b>+ Local Government</b>	Community Assistance (Rural Development)

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# *Benefits of CAMA Major Permit Process*

- Joint processing agreement with USACE (GP 291) eliminates need for an applicant to apply for a USACE Individual Permit.
- Joint fee for CAMA Major and DWR General Certification, generally at a savings to the applicant.
- DCM staff provide guidance on how to avoid or resolve permitting issues, and interact with numerous resource agencies on applicant's behalf.



# *Benefits of CAMA Major Permit Process*



- Application review process involves coordination with local governments to ensure that project meets local zoning requirements.
- Most CAMA General Permits do not require written application or approval from other federal and state agencies.

An aerial photograph of a coastal area. In the foreground, a long, multi-span bridge stretches across the water. A small boat is moving through the water, leaving a white wake. In the background, a sandy beach and a lighthouse are visible under a cloudy sky.

## • **Benefits**

- Collaboration
- Cross Training
- Rule Development

## • **Success Stories**

- Bogue Inlet Master Plan
- Programmatic Permitting
- Programmatic Biological Opinion

# *Bogue Banks Master Beach Nourishment Plan*



- **Regional approach to beach management**
  - Carteret County Beach Commission
  - Executed agreement between all local governments
  - A single permit covers all the beaches
- **Committed to regular monitoring to determine long-term sand needs**
  - Annual surveys since 1999
  - Able to calculate historic sand losses from background erosion and storm events and factor in anticipated future losses from SLR
  - Extensive upfront evaluation of potential sand sources
- **Able to streamline future event requests**



# *DEQ Permitting Transformation Project*



## **Current State**

- Static, paper forms
- Processing fees paid through check
- Critical review of paper application via mail
- Storage of paper permit files within offices
- Ageing database

## **Future State**

- Online dynamic application similar to tax software
- Payment online
- Critical review of electronic application via Sharepoint style interface
- Cloud Storage
- Dashboard and database supported through Microsoft Dynamics

## **Advantages**

- Fully customizable staff project dashboard
- Automated templates and milestone notifications
- Electronic file is organized and secure
- Frees staff time
- Decreased processing times
- Increase customer access and transparency

# *North Carolina Division of Coastal Management*

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