

Fiscal Analysis

15A NCAC 07H.1305 SPECIFIC CONDITIONS

Prepared by

Tancred Miller, Coastal & Ocean Policy Manager
NC Division of Coastal Management
(252) 808-2808

September 10, 2013

Basic Information

Agency	DENR, Coastal Resources Commission, Division of Coastal Management
Rule Title	Specific Conditions
Citation	15A NCAC 07H .1305
Proposed Action	The Coastal Resources Commission proposes to amend its rule that establishes a general permit for the construction of non-commercial boat ramps along estuarine and public trust shorelines.
Agency Contact	Tancred Miller Tancred.Miller@ncdenr.gov (252) 808-2808, ext. 224
Authority	G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124
Impact Summary	State government: Yes Local government: No Substantial impact: No Federal government: No Private Sector: Yes
Necessity	This action is being proposed to streamline, simplify and reduce costs to the public for permitting of non-commercial boat ramps under the Coastal Resources Commission's (CRC) general permit (GP). The Division of Coastal Management (DCM) has observed that it has become common practice to construct a launch access dock and protective groins in conjunction with a new boat ramp, and the CRC has determined that it is unnecessary to require three separate GP applications and three application fees for what is essentially a single project.

Summary

The CRC currently authorizes non-commercial boat ramps with no associated structures through GP in Section 7H .1300. The GP requires a \$200 application fee. However, when a property owner proposes to install a boat ramp, an increasingly common request is for a short, launch access dock adjacent the new boat ramp, and/or groins abutting one or both sides of the ramp to reduce scouring action along the newly installed ramp. Under current rules three different GPs are required, one for each component of the project (7H.1200 for the launch access dock, 7H.1300 for the boat ramp, and 7H.1400 for the groins). With application fees of \$200 for each GP, it currently costs applicants \$600 for what is essentially a single project. Since the additional structures are currently allowed under other GPs, there would not be any additional environmental impacts that are not already allowed. Allowing a launch access dock and protective groins as associated structures under the boat ramp GP would simplify permitting for the applicant and reduce their costs.

The total average annual cost savings to permit applicants as a result of the proposed amendments (see Appendix for proposed changes) would be approximately \$4,600. The anticipated effective date of these changes is May 1, 2014.

Introduction and Purpose

The CRC seeks to amend its administrative rule that authorizes the construction of non-commercial boat ramps along estuarine and public trust shorelines by allowing the construction of an associated access dock and protective groins under the same GP. The proposed change will simplify permitting for applicants, lower their permitting costs, and will not result in any additional environmental impacts. DCM staff proposed this change to the CRC following an internal review aimed at simplifying permitting for applicants.

Description of the Proposed Rule

The CRC's boat ramps GP, under Section 7H .1300, first took effect in March 1984. This Section includes rules that pertain to Purpose, Approval Procedures, a Permit Fee, as well as General and Specific Conditions related to boat ramp construction. Amendments are being proposed to the Section title as well as text changes to the Specific Conditions rule. The following is a description of the proposed changes.

Section 7H .1300 - General Permit to Maintain, Repair and Construct Boat Ramps Along Estuarine and Public Trust Shorelines and Into Estuarine and Public Trust Waters

This is the Section title. The CRC proposes to delete the words "Maintain, Repair and" since this Section does not specifically address these activities. The CRC's rules on maintenance and repair appear in Subchapter 7K.

15A NCAC 7H .1305 Specific Conditions

This rule establishes specific criteria that applicants must follow in any development activity authorized pursuant to this rule.

- Part (a) is proposed for amendment to specify that the boat ramp may extend no further than 20 feet waterward of the normal high water level (in tidal areas) or normal water level (in non-tidal areas). The CRC prefers to use the term "normal" instead of "mean". Normal high water and normal water level can be readily determined through field observations by trained personnel. Mean high water and mean water level are determined through standardized protocols and cannot be readily identified through simple field observations. The use of normal high water and normal water level allow for faster permit delivery but do not change what activities may be permitted under the GP.
- Part (b) is also proposed for amendment to replace "mean" with "normal" for the same reasons as stated above.
- Part (c) is also proposed for amendment to replace "mean" with "normal", and to allow for the placement of subsurface fill material should the applicant wish to construct an associated riprap groin under this GP. The phrase "and subsequent use of the proposed ramp." is being deleted because it is unnecessary; use of a boat ramp would not result in excavation or fill of coastal wetland vegetation.
- Part (d) is new and proposes to authorize the construction of a six-foot wide launch access dock immediately adjacent to the boat ramp. Launch access docks are used as temporary slips to allow for safe and convenient loading and unloading of vessels. The launch access dock would be limited to the same length as the ramp and would not include any permanent mooring slips.
- Part (e) is new and proposes to authorize the construction of sheetpile or riprap groins along one or both sides of the boat ramp. The groins can be installed as a method of reducing water-induced scour at the base of the boat ramp, and would be limited to the same length as the ramp. Groins can also produce the added benefit of reducing waves and currents across the boat ramps, increasing the ease of use and safety.
- Part (f) is new and proposes a maximum height above water level for sheetpile or riprap groins.
- Part (g) is new and limits the base width of riprap groins. Base width is limited in order to minimize impacts on the subsurface habitat.
- Part (h) is new and specifies that groin material must be clean and large enough to withstand waves and currents from being displaced.
- Part (i) is new and prohibits the construction of "L" or "T" heads at the end of any groins that are built pursuant to this GP. Similar to the CRC's other rules governing groins these features are not allowed because they can adversely impact water quality by creating stagnant water.
- Part (j) is new and specifies the types of material that are appropriate for use in the construction of riprap groins.
- Part (k) is new and contains provisions for adjacent property setbacks and waivers of those setbacks.

Affected Parties

Any public or private party that seeks to construct a non-commercial boat ramp along with a launch access dock and/or one or more protective groins will be affected by this action. Applicants who wish to construct a boat ramp without one or more of these related structures will not be affected.

Pursuant to G.S. 150B-21.4(b) the agency reports that the proposed amendments may affect expenditures for local governments. DCM has records of a few local governments applying for GPs for boat ramp construction, but no records over the past five years of a local government applying to construct a boat ramp along with at least one of the other related structures. DCM cannot anticipate whether a local government may do so in the future.

DENR will experience a decrease in revenue as a result of consolidated permit applications, but the decrease is expected to be offset by the corresponding workload reduction.

Costs & Benefits

Costs

Division of Coastal Management

DCM will experience an annual reduction in revenue of approximately \$4,640 as a result of the reduced permit fees. This reduction will be offset by the reduced staff time needed to conduct site visits, and by the lower number of permits that will need to be processed. Other costs to DCM will be routine costs associated with periodic replenishment of printed materials and informing communities and contractors of the changes. DCM makes printed copies of its rules available to the public and provides copies of rule updates to contractors and local permit officers. This is a routine activity and the incremental costs associated with this action are negligible.

Private Citizens

DCM does not anticipate any increased costs to private property owners (including homeowners associations) as a result of the proposed rule amendments. On the contrary, private citizens will have the opportunity to reduce their permit-related costs by up to \$400 per application.

Private Industry

DCM does not anticipate any costs to private industry to result from this proposed rule change since the GP is limited to non-commercial boat ramps. DCM is not aware of any industry-provided boat ramps that are available to the public on a cost-free basis.

Benefits

Estimate of Cost Savings and Model Assumptions

DCM reviewed the permits that have been issued over the last five years for boat ramps with launch access docks, boat ramps with protective groins, and boat ramps with both ramps and groins.

Permits Issued	2008	2009	2010	2011	2012	TOTAL
Boat ramp and access dock, no groin(s) (2 permits issued/ project)	20	56	26	34	80	216
Boat ramp and groin(s), no access dock (2 permits issued/ project)	2	0	2	0	0	4
Boat ramp, access dock and groin(s) (3 permits issued/ project)	3	0	0	3	3	9
<i>TOTAL # OF STRUCTURES PERMITTED</i>	25	56	28	37	83	229

Applicants currently pay a permit application fee of \$200 for boat ramps, groins, and launch access docks each. With a total of 229 structures permitted (related to 113 different projects) over the last five years, applicants have paid a combined total of \$45,800 in permit application fees.

There were 220 permits issued for 110 projects that included two structures. The total application fees paid for those permits were \$44,000. Assuming that the number of permit requests in the following five years is close to the total in the last five years, if these projects are combined into one permit with a single \$200 application fee, only 110 permits would be required and applicants would save \$22,000 over a five-year period, or \$4,400 annually.

There were 9 permits total issued in the last five years for 3 projects that included three structures. The total application fees paid for those permits were \$1,800. Assuming the same number of permit requests in the following five years, allowing those projects to be combined into one permit with a single \$200 application fee, results in savings to the applicants of \$1,200 over a five-year period, or \$240 annually.

In total over the following five years, applicants would save an estimated \$4,640 annually.

Division of Coastal Management and other state agencies

Permit application fees are paid directly to DCM and are used to cover costs of running the Division. The reduction in permits issued will translate into a direct loss in revenue to DCM.

Other state agencies would only experience a fiscal impact in the form of a reduction in permit application fees if they wanted to undertake these types of projects. Over the past five years both the NC Wildlife Resources Commission and the NC Division of Marine Fisheries have undertaken projects that would have benefitted from the reduced permit application fees.

North Carolina Department of Transportation

Pursuant to G.S. 150B-21.4(a1), the agency reports that the proposed amendments will not affect environmental permitting for the NC Department of Transportation (NCDOT) except for the potential of lower permit application fees if NCDOT undertakes these types of projects. The proposed amendments do not change any development standards, it merely combines three separate authorizations into one general permit.

Federal Government

The proposed amendments will not affect environmental permitting for the federal government except for the potential of lower permit application fees if the federal government undertakes these types of projects.

State Government General Fund

The proposed amendments are not expected to affect the General Fund. Permit application fees are not paid into the General Fund and the loss in revenue to DCM will not require a corresponding increase in State appropriations to DCM.

Local Governments

The proposed amendments will not affect environmental permitting for local governments except for the potential of lower permit application fees if local governments undertake these types of projects.

Alternatives Considered

The proposed action does not result in a substantial economic impact as defined under G.S. 150B-21.4(b1), therefore DCM is not required to consider alternatives to the proposed action.

APPENDIX

15A NCAC 07H .1300 is proposed for amendment as follows:

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

15A NCAC 07H .1305 is proposed for amendment as follows:

15A NCAC 07H .1305 SPECIFIC CONDITIONS

(a) Boat ramps shall be no wider than 15 feet and ~~must not extend farther than 20 feet below the mean high water level contour in tidal areas, or the normal water level contour in nontidal areas.~~ shall not extend more than 20 feet waterward of the normal high water level or normal water level.

(b) Excavation and ground disturbing activities above and below the ~~mean-normal~~ high water level or normal water level will be limited to that absolutely necessary to establish adequate ramp slope and provide a ramp no greater in size than specified by this general permit.

(c) Placement of fill materials below the ~~mean-normal~~ high water level, or normal water level contour, will be limited to the ramp structure ~~itself, and any associated riprap groins.~~ Boat ramps may be constructed of concrete, wood, steel, clean riprap, marl, or any other acceptable materials as approved by department personnel. No coastal wetland vegetation shall be excavated or filled at any time during ~~construction and subsequent use of the proposed ramp.~~ construction.

(d) This permit allows for up to a six-foot wide launch access dock (fixed or floating) immediately adjacent to a new or existing boat ramp. The length shall be limited to the length of the boat ramp (with a maximum length of 20 feet waterward of the normal high water level or normal water level). No permanent slips are authorized by this permit.

(e) Groins shall be allowed as a structural component on one or both sides of a new or existing boat ramp to reduce scouring. The groins shall be limited to the length of the boat ramp (with a maximum length of 20 feet waterward of the normal high water level or normal water level).

(f) The height of sheetpile groins shall not exceed one foot above normal high water level or normal water level and the height of riprap groins shall not exceed two feet above normal high water level or normal water level.

(g) Riprap groins shall not exceed a base width of 5 feet.

(h) Material used for groin construction shall be free from loose dirt or any other pollutant. Riprap material must be of sufficient size to prevent its movement from the approved alignment by wave action or currents.

(i) "L" and "T" sections shall not be allowed at the end of groins.

(j) Groins shall be constructed of granite, marl, concrete without exposed rebar, timber, vinyl sheet pile, steel sheet pile or other suitable equivalent materials approved by the Division of Coastal Management.

(k) Boat ramps and their associated structures authorized under this permit shall not interfere with the access to any riparian property and shall have a minimum setback of 15 feet between any part of the boat ramp or associated structures and the adjacent property owners' areas of riparian access. The minimum setbacks provided in the rule may be waived by the written agreement of the adjacent riparian owner(s), or when two adjoining riparian owners are co-applicants. Should the adjacent property be sold before construction of the boat ramp or associated structures commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and submit it to the Division of Coastal Management prior to initiating any development of the boat ramp or associated structures authorized under this permit.

*History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124;
Eff. March 1, 1984-1984;
Amended Eff. May 1, 2014.*