

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

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

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

Department of Environmental Quality
Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557

(c) Such requests shall include:

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

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

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

(e) The Division of Coastal Management may suspend or revoke the right to maintain a project in whole or in part upon a finding:

- (1) that the project area has been put to a different use from that indicated in the original permit application;
- (2) that there has been a change in the impacts associated with the permitted development affecting coastal resources listed in G.S. 113A-113 or G.S. 113A-120(a) that would justify denial of a permit; or
- (3) that there has been a violation of any of the terms or conditions of the original permit.

(f) Grant or Denial of Maintenance Request

- (1) Upon receipt of a complete maintenance request the Division of Coastal Management shall determine if there are grounds for revocation or suspension of the applicant's right to maintain based on the criteria in Paragraph (e) of this Rule. If there are grounds for revocation or suspension the applicant shall be notified of the suspension or revocation by certified mail, return receipt requested setting forth the findings on which the revocation or suspension is based.
- (2) If the Division of Coastal Management determines that the right to maintain should not be revoked or based on the criteria in Paragraph (e) of this Rule, a letter shall be issued which shall authorize the applicant to perform maintenance work. The letter 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 Division of Coastal Management 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 the Division of Coastal Management 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); 113A-124(c)(8);
Eff. March 15, 1978;
Amended Eff. June 1, 2005; December 1, 1991; May 1, 1990; March 1, 1985; November 1, 1984;
Readopted Eff. August 1, 2021.*