

GENERAL ASSEMBLY OF NORTH CAROLINA
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SENATE BILL DRS35439-MHa-123

Short Title: Coastal Regulatory Reform.

(Public)

Sponsors: Senators Lazzara and Sanderson (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE COASTAL AREA MANAGEMENT ACT APPLICATION PROCESSING RULE TO CLARIFY ADJACENT LANDOWNER NOTICE REQUIREMENTS, TO AMEND UPLAND BASIN DISSOLVED OXYGEN AND FINANCIAL ASSURANCE REQUIREMENTS, TO MAKE OTHER TECHNICAL CORRECTIONS TO THE UPLAND BASIN PERMITTING STATUTE, AND TO EXPAND THE PERMISSIBLE USES OF THE COASTAL STORM DAMAGE MITIGATION FUND AND PROVIDE FUNDING.

The General Assembly of North Carolina enacts:

MODIFY COASTAL AREA MANAGEMENT ACT APPLICATION PROCESSING RULE TO CLARIFY ADJACENT LANDOWNER NOTICE REQUIREMENTS

SECTION 1.(a) Definitions. – For purposes of this section and its implementation, "CAMA Application Processing Rule" means 15A NCAC 07J .0204 (Processing the Application).

SECTION 1.(b) CAMA Application Processing Rule. – Until the effective date of the revised permanent rule that the Coastal Resources Commission (Commission) is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the CAMA Application Processing Rule as provided in subsection (c) of this section.

SECTION 1.(c) Implementation. – For both CAMA major and minor development permit applications, the CAMA Application Processing Rule shall provide that documentation showing that notice was sent by certified mail to the adjacent riparian landowners at the tax address of record shall constitute sufficient notice to meet the requirements of the CAMA Application Processing Rule, and the failure of an adjacent riparian landowner to receive, claim, or respond to such notice shall not delay or prevent the processing of the permit application. Nothing in this subsection is intended to limit or prohibit an applicant for a minor development permit from using any method of notice permitted by applicable law or rule.

SECTION 1.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the CAMA Application Processing Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).



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1 **SECTION 1.(e)** Sunset. – This section expires when permanent rules adopted as
2 required by subsection (d) of this section become effective.

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4 **RESERVED**

5 **SECTION 2.** Reserved.

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7 **AMEND UPLAND BASIN DISSOLVED OXYGEN REQUIREMENTS**

8 **SECTION 3.(a)** G.S. 113A-129.11 is amended by adding a new subdivision to read:

9 "(2a) Project baseline area. – An area defined as 50 feet plus or minus 5 feet from
10 the location of the proposed entrance to the proposed upland basin marina."

11 **SECTION 3.(b)** G.S. 113A-129.12(b)(2) reads as rewritten:

12 "(2) The waters contained in the upland basin marina have a dissolved oxygen
13 content equal to or greater than the dissolved oxygen content of the water
14 located ~~50 feet plus or minus 5 feet from the entrance to the upland basin~~
15 ~~marina before development.~~ within the project baseline area prior to the
16 development. As part of the application, an applicant shall provide to the
17 Division of Water Resources and the Division of Coastal Management
18 site-specific sampling data documenting pre-project dissolved oxygen levels
19 of the water located ~~50 feet plus or minus 5 feet from each proposed entrance~~
20 ~~to the proposed upland basin marina.~~ in the project baseline area. Waters
21 located within the upland basin marina shall be classified the same as the
22 waters in the immediate vicinity of any entrance to the upland basin marina.
23 If the site-specific sampling data documents pre-project ambient dissolved
24 oxygen levels above 5.0 mg/L in the project baseline area, the applicant may
25 demonstrate compliance with dissolved oxygen standards through
26 site-specific modeling certified by a North Carolina licensed professional
27 engineer that the marina design provides sufficient flushing to maintain
28 dissolved oxygen levels equal to the greater of (i) the pre-project ambient
29 levels or (ii) the level sufficient to support aquatic habitat. If the applicant
30 provides this demonstration, the Department shall not require additional
31 mechanical aeration or other active interventions intended to increase or
32 maintain dissolved oxygen as a condition of permit issuance unless the
33 Department provides written findings to the applicant within 90 days of the
34 receipt of the demonstration identifying material errors in the applicant's
35 demonstration based on peer-reviewed methodology or site-specific
36 monitoring data."

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38 **AMEND UPLAND BASIN FINANCIAL ASSURANCE REQUIREMENTS**

39 **SECTION 4.** G.S. 113A-129.12(b)(3) reads as rewritten:

40 "(3) The project has a bond or set-aside funds for the long-term operation and
41 maintenance of any technology required to meet or exceed then-applicable
42 water quality standards. The applicant shall provide an estimate of annual
43 operation and maintenance costs, and the bond or set-aside funds shall be
44 equal to five years of the estimated annual operation and maintenance costs.
45 If the requirements of this subdivision are met by a bond, the bond shall
46 identify as the beneficiary of the State or the appropriate permitting agency.
47 If the requirements of this subdivision are met by set-aside funds, the applicant
48 shall establish a trust at a bank, savings and loan institution, credit union,
49 brokerage firm, or company registered under the Investment Company Act of
50 1940, 15 U.S.C. § 80a-1, et seq., and designate the State or the appropriate
51 permitting agency as the beneficiary. The Department may specify the form

in which the bond or set-aside funds are provided, as well as a procedure for transfer of the financial assurance if ownership of the upland basin marina changes."

UPLAND BASIN TECHNICAL CORRECTIONS

SECTION 5.(a) G.S. 113A-129.12(b)(1) reads as rewritten:

"(1) The upland basin marina is designed to accommodate ~~10 or more~~ more than 10 vessels, including individual homeowner boat slips, boat lifts, or dry stack storage."

SECTION 5.(b) G.S. 113A-129.12(e)(3) reads as rewritten:

"(3) The policy goals stated in ~~G.S. 113-102(b)~~ G.S. 113A-102(b)."

COASTAL STORM DAMAGE MITIGATION FUND ELIGIBLE EXPENSE REVISION

SECTION 6.(a) G.S. 143-215.73M reads as rewritten:

"§ 143-215.73M. Coastal Storm Damage Mitigation Fund.

(a) Fund Established. – The Coastal Storm Damage Mitigation Fund is established as a special revenue fund. The Fund consists of General Fund appropriations, gifts, grants, devises, monies contributed by a non-State entity for a particular beach nourishment or damage mitigation project or group of projects, and any other revenues specifically allocated to the Fund by an act of the General Assembly.

(b) Uses of the Fund. – Revenue credited to the Fund may only be used for ~~costs~~ any of the following:

(1) Costs associated with beach nourishment, artificial dunes, and other projects to mitigate or remediate coastal storm damage to the ocean beaches and dune systems of the State.

(2) Costs associated with the permitting, construction, or repair of a terminal groin permitted under G.S. 113A-115.1, provided that all of the following requirements are met:

a. The project is sponsored by a unit of local government.

b. The Secretary determines that the project would provide storm damage mitigation or resiliency benefits to public lands in the vicinity of the terminal groin.

For purposes of this subdivision, construction or repair costs do not include the costs of financial assurance or costs of implementation of any component of the applicable inlet management plan.

...."

SECTION 6.(b) There is appropriated the sum of eight hundred thousand dollars (\$800,000) in nonrecurring funds for the 2026-2027 fiscal year from the General Fund to the Department of Environmental Quality for the Coastal Storm Damage Mitigation Fund, established by G.S. 143-215.73M, to be used for purposes consistent with that statute.

EFFECTIVE DATE

SECTION 7. Except as otherwise provided, this act is effective when it becomes law.