SUBCHAPTER 7I - SECRETARY'S GRANT CRITERIA AND PROCEDURES FOR LOCAL IMPLEMENTATION AND ENFORCEMENT PROGRAMS UNDER THE COASTAL AREA MANAGEMENT ACT

SECTION .0100 - PURPOSE

15A NCAC 07I .0101 AUTHORITY

These rules are promulgated pursuant to G.S. 113A-112 and G.S. 113A-124 by the Secretary of the Department of Environment, Health, and Natural Resources in his capacity as executive head of the North Carolina agency designated by the Governor to administer federal funds granted by the National Oceanic and Atmospheric Administration under the Federal Coastal Zone Management Act.

History Note: Authority G.S. 113A-112; 113A-124;
Eff. December 10, 1977;
Amended Eff. May 1, 1990.

15A NCAC 07I .0102 POLICY

The purpose of these criteria is to establish the means and procedures by which local governments may request and receive the funds necessary to implement locally developed Coastal Area Management Act implementation and enforcement programs. These provisions are designed to ensure that no local government will have to forego the assumption of permit-letting authority because of inadequate local finances or to severely burden its local budget in order to undertake a Coastal Area Management Act local implementation and enforcement program. These provisions are designed to ensure that localities will be treated uniformly yet equitably with the goal that two localities in similar situations will be similarly treated.

History Note: Authority G.S. 113A-112; 113A-124;
Eff. December 10, 1977;
Amended Eff. August 1, 1978.

SECTION .0200 - POLICY AND STANDARDS

15A NCAC 07I .0201 VALUE OF COASTAL RESOURCES

The Department of Natural Resources and Community Development and the Coastal Resources Commission recognize the increased financial burden imposed by Coastal Area Management Act implementation efforts, realize that the protection of coastal lands and waters is beneficial to state and national interests, and believe that the cost of coastal management should be shared by all levels of government.

History Note: Authority G.S. 113A-112; 113A-124;
Eff. December 10, 1977;
ARRC Objection Lodged March 15, 1990.

15A NCAC 07I .0202 MULTI-UNIT PROGRAMS

Implementation and enforcement programs sponsored by more than one local government (multi-unit programs) are encouraged where such consolidations are likely to operate more efficiently and effectively. Such consolidated programs allow the employment of a person or persons who can spend a substantial percentage of time in Coastal Area Management Act permit-letting activities and thereby afford an opportunity to build expertise, operate more efficiently, and foster the economic administration of the program.

History Note: Authority G.S. 113A-112; 113A-124;

Eff. December 10, 1977.

15A NCAC 07I .0203 ELIGIBILITY: FUNDING LEVEL

History Note: *Authority G.S. 113A-112; 113A-124;*
Eff. December 10, 1977;
Repealed Eff. August 1, 1978.

15A NCAC 07I .0204 LOCAL ORDINANCE REQUIRED

Each local government applying for an implementation and enforcement grant shall have adopted local ordinance(s) necessary to give effect to the local implementation and enforcement plan that has been approved by the Commission for its jurisdiction.

History Note: *Authority G.S. 113A-112; 113A-124;*
Eff. December 10, 1977.

15A NCAC 07I .0205 ACCOUNTABILITY

In general, local governments that are subgrantees of federal and state funds administered by the Department of Environment, Health, and Natural Resources will be subject to accounting techniques and procedures similar to those applicable to the Department of Environment, Health, and Natural Resources as grantee of federal funds administered by the National Oceanic and Atmospheric Administration. More specifically, the requirements of General Statutes and standards generally applicable to local governments, Federal Management Circulars 74-4 and 74-7, and National Oceanic and Atmospheric Administration administrative grants standards will be observed. These standards and regulations are the same as those applicable to Coastal Area Management Act land use planning grants.

History Note: *Authority G.S. 113A-112; 113A-124;*
Eff. December 10, 1977;
Amended Eff. May 1, 1990; May 20, 1980.

15A NCAC 07I .0206 FUTURE FUNDING

The award of a grant by the Department of Environment, Health, and Natural Resources is in no way a commitment to award such grants in subsequent years or to enter into grant amendments in the case of grant award.

History Note: *Authority G.S. 113A-112; 113A-124;*
Eff. December 10, 1977;
Amended Eff. May 1, 1990.

SECTION .0300 - APPLICATION PROCEDURES

15A NCAC 07I .0301 APPLICATION FORM

History Note: *Authority G.S. 113A-112; 113A-124;*
Eff. December 10, 1977;
Repealed Eff. August 1, 1978.

15A NCAC 07I .0302 APPLICATION PROCESS

(a) An application form is not required for local governments having entered into previous agreements with the Department for reimbursement under this Rule. Local governments without previous agreements shall contact the Division of Coastal Management at 400 Commerce Avenue, Morehead City, NC 28557.

(b) The geographic jurisdiction shall be the same as identified in the local Implementation and Enforcement Program. Where two or more local governments are combined for grant administration, a written statement to this effect shall be submitted to the Division of Coastal Management and signed by local officials.

(c) Based on the availability of state or federal funds, agreements shall be renewed on an annual basis. The grant year runs from July 1 through June 30, and local governments may receive amendments to their contracts after the end of each grant year updating the previous agreements.

History Note: Authority G.S. 113A-112; 113A-124;
Eff. December 10, 1977;
Amended Eff. June 1, 2005; October 1, 1988; October 1, 1982; May 20, 1980.

15A NCAC 07I .0303 RESERVED
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History Note: Authority G.S. 113A-112; 113A-124;
Eff. December 10, 1977;
Amended Eff. October 1, 1982; August 1, 1978;
Repealed Eff. August 1, 1988.

15A NCAC 07I .0305 GRANT ADMINISTRATION

(a) Reimbursement will be made quarterly upon submittal of composite records after the last day of the last month of the relevant quarter. Composite records will include each applicant's name, the date of the application, the date of public notice, the relevant AEC type, the permit decision, the decision date and any vouchers for training expenses, special projects or other documents as required by the contract between the locality and the Department of Environment, Health, and Natural Resources.

(b) Grant Contract. Prior to the disbursement of funds, the locality and the Department will become parties to a contract.

History Note: Authority G.S. 113A-112; 113A-124;
Eff. August 1, 1978;
Amended Eff. May 1, 1990; November 1, 1984; October 1, 1982; May 20, 1980.

15A NCAC 07I .0306 GRANT CONDITIONS

(a) All contracts shall provide notice of any conditions which affect the quarterly grant payments.

(b) At a minimum, the following conditions will apply:

(1) Per permit reimbursements will only be made after certification is received by the secretary (from the local permit officer) that all CAMA standards have been observed when the permitted activity is completed;

(2) Final quarterly payment for a given fiscal year will be withheld pending receipt by the secretary of an annual permit summary, said summary to consist of a description of all permits processed in the locality by the applicant's name, address, date of application, AEC type, permit decision, and decision date;

(3) Quarterly verification from the relevant field office/CAMA field consultant specified in the contract that the following permit information has been received for each permit processed in the quarter:

(A) one copy of the permit application mailed to the appropriate field consultant or field office of the Division of Coastal Management within five working days of acceptance by the local government,
(B) one copy of the legal notice associated with the application,
(C) one copy of the final decision and any associated permit conditions;

(4) Approval of any special project necessitates compliance with conditions deemed necessary by the secretary to ensure compliance with the standards and policies of this Subchapter.

(c) No quarterly payment will be made until all applicable grant conditions are met. Local governments not meeting the timetable specified in Subparagraph (b)(3) of this Rule will not be reimbursed for the permits in question.

History Note: *Authority G.S. 113A-124;*
Eff. May 20, 1980;
Amended Eff. May 1, 1990; June 12, 1981.

SECTION .0400 - GENERALLY APPLICABLE STANDARDS

15A NCAC 07I .0401 PROGRAM COSTS

(a) Costs associated with the management of a local Implementation and Enforcement Program will be recovered on a per permit basis established by the Secretary unless specified elsewhere in this Rule.

(b) The per permit reimbursement rate has been set in consideration of local costs, such as salaries, office supplies, copying, mailing and telephone use, and funds made available to the Division of Coastal Management. These rates are set as follows:

(1) All county permit-letting authorities are eligible to receive seventy-five dollars ($75.00) for each processed permit.

(2) All municipal permit-letting authorities are eligible to receive fifty-five dollars ($55.00) for each processed permit.

(3) For multi-unit programs involving a county and a municipality, the higher county rate applies, however, programs involving two or more municipalities will use the municipal rate.

(4) Mandatory follow-up inspections are required when the permitted activity is completed, and such inspections will be documented on a form specified by the Secretary; the follow-up inspection fee received by all local governments is set at forty dollars ($40.00).

(c) Funds for field and office equipment have been made available for the first four years of the permit program. Due to funding limitation, no further funds will be allocated for the purpose.

(d) Training costs for Local Permit Officers (LPOs) at the Department of Environment, Health, and Natural Resources annual training session are limited to a maximum of one hundred fifty dollars ($150.00)/LPO upon submittal of proper receipts. No funds will be provided for attendance at CRC meetings.

History Note: *Authority G.S. 113A-112; 113A-124;*
Eff. December 10, 1977;
Amended Eff. May 1, 1990; October 1, 1982; May 20, 1980; August 1, 1978.

15A NCAC 07I .0402 INELIGIBLE ACTIVITIES

(a) Costs not associated with CAMA permit letting are not eligible for reimbursement.

(b) The following costs are presumed not to be eligible:

(1) the costs of local appeal,

(2) attorneys fees,

(3) bookkeeping or accountant costs,

(4) fines and penalties.

History Note: *Authority G.S. 113A-112; 113A-124;*

Eff. December 10, 1977;
Amended Eff. August 1, 1978.

15A NCAC 07I .0403 COMPUTATIONS

History Note: *Authority G.S. 113A-112; 113A-124;*
Eff. December 10, 1977;
Repealed Eff. August 1, 1978.

15A NCAC 07I .0404 DESIGNATED LOCAL OFFICIAL

History Note: *Authority G.S. 113A-112; 113A-124;*
Eff. December 10, 1977;
Amended Eff. August 1, 1978;
Repealed Eff. November 1, 1984.

15A NCAC 07I .0405 PERMIT PROJECTIONS

History Note: *Authority G.S. 113A-112; 113A-124;*
Eff. December 10, 1977;
Amended Eff. August 1, 1978;
Repealed Eff. October 1, 1982.

15A NCAC 07I .0406 APPLICATION FEES

The application fees collected by the locality shall be used only to defray the administrative costs associated with processing a CAMA application. Deficits resulting from administrative costs exceeding amounts received from application fees shall be recovered from per permit reimbursements. The current application fee is now twenty-five dollars ($25.00).

History Note: *Authority G.S. 113A-112; 113A-119; 113A-124;*
Eff. December 10, 1977;
Amended Eff. October 1, 1982; May 20, 1980; August 1, 1978.

15A NCAC 07I .0407 GRANT CONSISTENCY

The application shall be consistent with the local implementation and enforcement plan adopted by the locality and approved by the Coastal Resources Commission.

History Note: *Authority G.S. 113A-112; 113A-124;*
Eff. December 10, 1977.

15A NCAC 07I .0408 GRANT ADMINISTRATION

History Note: *Authority G.S. 113A-112; 113A-124;*
Eff. December 10, 1977;

Amended Eff. October 1, 1982; May 20, 1980; August 1, 1978;
Repealed Eff. November 1, 1984.

SECTION .0500 - LOCAL IMPLEMENTATION AND ENFORCEMENT PLANS

15A NCAC 07I .0501 PURPOSE

The Coastal Area Management Act authorizes, but does not require, a city or county in the coastal area to act as a permit-letting agency for minor development permits in areas of environmental concern. These Rules establish the criteria for preparation of local implementation and enforcement plans by local governments. Before a local government can become a permit-letting agency, a plan consistent with these criteria must be submitted to the Coastal Resources Commission for approval. These criteria are provided to assist local government in:

(1) establishing procedures to be followed in developing local implementation and enforcement programs;
(2) establishing the scope and coverage of said programs;
(3) establishing minimum standards to be prescribed in said programs;
(4) establishing staffing requirements of permit-letting agencies;
(5) establishing permit-letting procedures;
(6) establishing priorities of regional and statewide concern;
(7) establishing that the program is consistent with the land use plan.

History Note: Authority G.S. 113A-117; 113A-124(c);
Eff. November 1, 1984;
Amended Eff. December 1, 1991.

15A NCAC 07I .0502 DEFINITIONS

(a) All definitions set out in G.S. 113A-100 through -128 apply herein.
(b) The following definitions apply whenever these words appear in this Section:

(1) City. The word "city" means any of the incorporated cities within the 20 coastal counties.
(2) County. The word "county" means any one of the 20 counties in the coastal area.
(3) Land Use Plan. The term "land use plan" refers to the plan prepared by local government for submission to the Coastal Resources Commission pursuant to Part 2 of the Coastal Area Management Act.
(4) Local Management Program. The term "local management program" means the local implementation and enforcement program of a coastal city or county that has expressed an intention (as described in G.S. 113A-117) to administer a permit program for minor development in areas of environmental concern located within such county or city.
(5) Local Permit Officer. The term "local permit officer" refers to the locally designated official who will administer and enforce the minor development permit program in areas of environmental concern and all part of the land-use plan which the local government may wish to enforce over the entire planning area.
(6) Management Plan (Plan). The term "management plan" refers to the written description of the management program which must be submitted to the Coastal Resources Commission.
(7) Secretary. The word "Secretary" refers to the Secretary of Environment, Health, and Natural Resources.

History Note: Authority G.S. 113A-116; 113A-117; 113A-124(c);
Eff. November 1, 1984;
Amended Eff. May 1, 1990.

15A NCAC 07I .0503 ADOPTION

Each local permit-letting agency submitting a letter of intent before July 1, 1976 must adopt a management plan before July 1, 1977. A local permit-letting agency submitting a letter of intent later than two years after July 1, 1974, must adopt a management plan within the time stated by the Commission upon receipt of a letter of intent.

History Note: *Authority G.S. 113A-116; 113A-117(b);*
Eff. November 1, 1984.

15A NCAC 07I .0504 RECORD OF HEARINGS AND COMMENTS

Each permit-letting agency must compile and maintain a complete record of the public hearing on its proposed management plan and comments received pursuant to G.S. 113A-117. The record of the public hearing, written comment, and any documentation filed with the local permit-letting agency as to the proposed management plan must:

(1) consist of a written account from the minutes or transcribed from an electronic recording, and all written documents;
(2) remain open for 15 days after the hearing;
(3) be available to the Commission upon request.

History Note: *Authority G.S. 113A-117(b); 113A-124(c)(5);*
Eff. November 1, 1984.

15A NCAC 07I .0505 CONTENT OF PLAN

(a) The plan for the local implementation and enforcement program shall include the following elements:

(1) the geographic extent of jurisdiction of the local management program;
(2) a description of the criteria to be used in choosing the permit officer;
(3) methods of permit processing and coordinating procedures;
(4) methods for identifying and taking into account projects and impacts of regional, state and national concern;
(5) a copy of all existing or proposed local ordinances relating to zoning and land use in areas of environmental concern or any other relevant subject in order that the Commission may determine:
    (A) whether there is sufficient authority to enforce the program described in the local management plan;
    (B) whether any local ordinances are inconsistent with the approved land use plan. No plan will be approved for any county or city if the Commission determines either that the local government unit lacks sufficient authority to enforce the program or that the local government unit has an ordinance or ordinances inconsistent with its land use plan.

(b) The plan may also include the following elements for the remainder of the zoning jurisdiction of the county or city:

(1) a copy of all local ordinances relating to land use or any other subject relevant to land use;
(2) procedures for assuring consistency of governmental actions with the approved land use plan for the entire jurisdiction.

(c) The remaining rules within this Section provide criteria which shall act as guidelines for cities and counties in drafting the local management plan describing their local management program.

History Note: *Authority G.S. 113A-117; 113A-124(c);*
Eff. November 1, 1984.

15A NCAC 07I .0506 ALLOCATION OF AUTHORITY

(a) A county may establish permit-letting authority for any city or part thereof that lies within said county if such city does not submit a letter of intent to the Commission or states to the Commission its intent not to become a local permit-letting agency.

(b) A city management plan shall be limited to its corporate boundaries and to any extra-territorial zoning area over which it may have established control at the time it requested authority to act as a permit-letting agency or over which it later gains control.
(c) A county implementation and enforcement plan shall be limited to areas not covered by any city plans unless the county acts as the permit-letting agency for a city or cities. A county may begin such duties only after the county's implementation and enforcement plan has been amended to include such area.
(d) In any city in which neither the city nor the county elects to become the permit-letting agency, the secretary will have that duty.
(e) Only the Department of Environment, Health, and Natural Resources may issue a permit for a major development.

History Note: *Authority G.S. 113A-117(b); 113A-124(c)(5);*
Eff. November 1, 1984;
Amended Eff. May 1, 1990.

15A NCAC 07I .0507 LOCAL PERMIT OFFICER
(a) The local plan shall designate an existing official or create a new position for an official who shall receive, review and take all appropriate action as to applications for minor development permits. The locality shall inform the Department of all permit officers who will implement or enforce the local management plan.
(b) The plan shall specify the job requirements as mandated by these criteria.
(c) The permit officer shall attend the department's training course within one year of his appointment. The officer shall also attend those regular regional work sessions held by the Department to inform and coordinate the activities of the local permit officers in each region.
(d) In order to continue to process permits in a timely fashion and to avoid the issuance of passive grants, eligible permit-letting agencies shall immediately notify the Commission in writing when the local permit officer resigns or is for any reason unable to perform his or her duties.
(e) This notice shall indicate the method or methods by which the locality will continue to process permits in a thorough and timely fashion. Such methods can include, but are not limited to, the following:
(1) The appointment of a temporary local permit officer (LPO) until such time as a permanent replacement is selected.
(2) The appointment of one or more LPO(s).
(3) Evidence that an agreement exists between the locality and another appropriate agency for the assumption of the permit program.
(4) A formal request that the secretary assume the permit function for the locality.
(f) From date of receipt and acceptance of application and/or decision on an application, the local permit officer must within five workings days mail and/or submit copies of same to the appropriate field consultant or the nearest field office of the Division of Coastal Management.
(g) The permit officer shall, on a quarterly basis, summarize for the commission the receipt and disposition of all permit applications for the immediately preceding quarter.

History Note: *Authority G.S. 113A-121(b); 113A-117; 113A-124;*
Eff. November 1, 1984;
Amended Eff. May 1, 1990.

15A NCAC 07I .0508 CONSIDERATION OF APPLICATION BY PERMIT OFFICER
(a) The method of consideration of minor development permit requests by the permit officer must be uniform in application and must be set out in writing and available for public inspection. The permit officer shall use only forms approved by the Commission in its handling of any minor development permit application.
(b) The local management plan shall specify the procedures which will be followed in the handling and consideration of all applications for a minor development permit, including appropriate response to receipt of an application for a major development permit.

(c) The permit officer shall maintain a record of all applications, correspondence, public notices, responses from public notices, and a copy of his final disposition for all permit applications whether issued or denied.
(d) The permit officer, in his handling of all minor development permit applications, must use a numbering system which will be developed by the Commission in consultation with local government.
(e) It is the policy of the Coastal Resources Commission to allow local government the greatest flexibility in coordinating minor development permits with all other local permits and approvals. The Commission requires, however, that the plan eventually submitted state how this coordination will be accomplished.

History Note: *Authority G.S. 113A-124(c)(5);*
Eff. November 1, 1984.

15A NCAC 07I .0509 NOTICE OF CIVIL ACTION
The Secretary of the Department of Environment, Health, and Natural Resources and the Coastal Resources Commission shall be notified of any civil action undertaken by or against the local permit officer under the Coastal Area Management Act.

History Note: *Authority G.S. 113A-117; 113A-126(b);*
Eff. November 1, 1984;
Amended Eff. May 1, 1990.

15A NCAC 07I .0510 COMMISSION REVIEW AND ACCEPTANCE OF THE LOCAL PLAN
The local management plan adopted by any local permit-letting agency must be submitted to the Commission for review. The Commission will evaluate the proposed local management plan as required in G.S. 113A-117(c) and will assess the plan in terms of the local land use plan, the CAMA Land Use Planning Guidelines described in 15A NCAC 7B .0100, the Coastal Area Management Act and these rules.

History Note: *Authority G.S. 113A-117(c); 113A-124;*
Eff. November 1, 1984;
Amended Eff. October 1, 1988.

15A NCAC 07I .0511 COMMITMENT TO ADOPT LOCAL MANAGEMENT PLAN AS ORDINANCE
The local governing body shall enter into a commitment to accept the local management plan as part of the city or county code of ordinances within a three-month period.

History Note: *Authority G.S. 113A-117(c); 113A-124(c)(5);*
Eff. November 1, 1984.

SECTION .0600 - AMENDMENT OF LOCAL MANAGEMENT PLAN

15A NCAC 07I .0601 NOTICE AND PUBLIC HEARING REQUIREMENT
Amendment of the local management plan shall follow the notice and public hearing requirements set forth in the Coastal Area Management Act and these Rules pertaining to the adoption of the original program.

History Note: *Authority G.S. 113A-117(b);*
Eff. November 1, 1984;
Amended Eff. December 1, 1991.

15A NCAC 07I .0602 COASTAL RESOURCES COMMISSION APPROVAL
An amendment of a local plan shall be submitted to the Coastal Resources Commission for approval in the same manner in which the original management plan is submitted.

History Note: Authority G.S. 113A-124(c)(5);
Eff. November 1, 1984.

SECTION .0700 - FAILURE TO ENFORCE AND ADMINISTER PLAN

15A NCAC 07I .0701 SANCTION FOR VIOLATIONS BY THE LOCAL PERMIT-LETTING AGENCY
(a) When the local permit-letting agency fails to administer or enforce the local management plan submitted to the Commission and approved by it, the Commission shall:

(1) notify the local permit-letting agency in writing that it is in violation of the provisions of its local management plan and specify the grounds for such charges of violations;
(2) inform the local permit-letting agency of specific deficiencies in administration and enforcement;
(3) inform the local permit-letting authority of its opportunity to request a hearing before the Commission at which time it may make any presentation or present any arguments relevant to the issue raised in the Commission letter to the local agency. The Commission may at its sole discretion hear from any other affected person at the hearing.

(b) If the conditions are not remedied or corrected within 90 days after receipt of commission notification of such violation, the Commission shall assume the duties of the local permit-letting agency until the local permit-letting agency indicates to the Commission in writing its willingness and/or ability to perform in conformance with its approved local management plan. Any changes in circumstances affecting the agency's willingness and/or ability to properly administer the local management plan also shall be substantiated in writing to the Commission.

History Note: Authority G.S. 113A-117(d); 113A-124;
Eff. November 1, 1984.

15A NCAC 07I .0702 WHEN AN ACTION EXCEEDS THE LOCAL AUTHORITY
When the local permit-letting agency exceeds the scope and extent of its authority, which is limited to consideration of applications proposing minor development as defined in the Coastal Area Management Act, that action shall be null, void and of no effect. The determinations of the commission shall be binding on the local permit-letting agency as to questions of such jurisdiction.

History Note: Authority G.S. 113A-118(e); 113A-120(c); 113A-124(c)(5);
Eff. November 1, 1984.