

# Regulation 30-2

## Applying for a Permit

### Disclaimer

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**Statutory Authority:**

S.C. Code Section 48-39-10 et seq.

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A. Preliminary Review: The Department encourages the submission of development plans for preliminary review. If a permit is necessary, the Department will make every effort to assist the applicant in expediting the administrative aspects of filing an application.

B. Permit Application: Except for those exemptions as specified in the 1977 Coastal Zone Management Act, as amended, any person wishing to alter a critical area must receive a permit from the Department. Section 48-39-140(B) directs that certain information be included in the permit application submitted to the Department. The following minimum information shall ordinarily be required before a permit application is considered complete:

- (1) Name and address of the applicant;
- (2) A plan or drawing showing the applicant's proposal and the manner or method by which the proposal shall be accomplished;
- (3) A plat or a copy of a plat of the area in which the proposed work will take place;
- (4) A certified copy of the deed, lease or other instrument under which the applicant claims title, possession or permission from the owner of the property to carry out the proposal;
- (5) A list of all adjoining landowners and their addresses or a sworn affidavit that with due diligence such information is not ascertainable. When considered appropriate by the Department, additional information may be required concerning affected landowners;
- (6) A brief description of the proposed alteration, its purpose and intended use, including a drawing of the type of structure, a description of the method of construction, and identification of materials and equipment to be used. In some instances, a registered survey may be required as part of the application package, particularly those involving docks in excess of 900 feet in length.
- (7) A copy of the newspaper public notice:
  - (a) Minor developments (see R.30-1(D)): In the case of applications for minor development permits, the applicant shall publish notice at least once in a newspaper of local circulation in the county of the proposed activity. The newspaper notice should be published within 15 days of the date of Public Notice (see R.30-2(C)). No permit shall be issued by the Department until at least 10 days following the date of newspaper publication. The following form shall be used for newspaper publication:

PUBLIC NOTICE

SC DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT

(Name of applicant) will apply (has applied) to SCDHEC-OCRM for a permit to (description of work) for (public/private) use, at/in (location and name of waterway). Comments will be received by (insert local OCRM office address) until (insert date, 10 days after date of this newspaper notice).

(b) Other activities: In the case of applications for other than minor development permits, the applicant shall publish notice at least once in both a newspaper of general statewide circulation (*The State, Post and Courier*, or *The Greenville News*) and a newspaper of local circulation in the county of the proposed activity. The newspaper notices should be published within 15 days of the date of Public Notice (see R.30-

2(C)). No permit shall be issued by the Department until at least 15 days following the date of the last published newspaper publication. The following form shall be used for newspaper publication:

## PUBLIC NOTICE

### SC DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT

(Name of applicant) will apply (has applied) to SCDHEC-OCRM for a permit to (description of work) for (public/private) use, at/in (location and name of waterway). Comments will be received by SCDHEC-OCRM, (insert Charleston OCRM office address) until (insert date, 15 days after date of this newspaper notice).

(8) When considered appropriate by the Department, additional information may be required. For major development activities this additional information may include but is not limited to a stormwater management plan, approved freshwater wetland delineation, and cultural resource and endangered species survey. The plat or copy of a plat submitted for those activities subject to the Beach Management Act (Sections 48-39-270 through 350) shall show the location of the baseline and setback line, applicable to the subject property. The lines shall be derived from information available from the Department. The lines shall be part of the plat and sealed by a South Carolina Registered Land Surveyor and may not be placed on the application by anyone other than a South Carolina Registered Land Surveyor or a member of the Department staff.

(9) The administrative fees for permit applications are included in R.61-30.G(13).

C. Notification: The Department shall within thirty days of receiving either a Joint Public Notice or SCDHEC-OCRM permit application, notify in writing interested agencies, all adjoining landowners, local government units in which the land is located and other interested persons. This notice shall indicate the nature and extent of the applicant's proposal.

D. Permit Processing: Permit processing shall commence immediately upon receipt of either a Joint Public Notice or a SCDHEC-OCRM permit application and shall proceed concurrently but separately from any Federal authorization.

E. Comments on Application: All interested federal and state agencies, all adjoining landowners, local government units and other interested persons to have thirty days after the receipt of Public Notice of permit application from the Department to file written comments pertaining to the application. Only those comments received within the thirty day period must be considered in the Department's decision on a permit application. Any persons wishing to receive notice of the initial decision on a permit application shall notify the Department within this comment period. Comments on permit applications for minor development activities, as defined in Section 48-39-10(N), must be received within fifteen days after receipt of Public Notice of permit application.

F. Public Information: The complete file on each permit application, including all comments received, will be made available, upon request, for inspection by any member of the general public during regular business hours at the principal office for SCDHEC-OCRM.

G. State Comment: Issuance or denial of the permit by the Department shall be the State comment on the corresponding federal permit application.

H. Water Quality Certificate: If a water quality certificate is not required by a Federal permitting agency under Section 401 of P.L. 92-500, the Department may evaluate whether there is a reasonable assurance the project will not contravene State Water Quality Standards. The Department will not issue a separate 401 water quality certification for an activity which requires a direct permit for alteration of the critical area of the coastal zone pursuant to applicable regulations governing issuance of permits for alteration of the critical area of the coastal zone. The Department will process permit applications pursuant to applicable regulations governing issuance of permits for alteration of the critical area of the coastal zone with coordination and input from appropriate staff regarding water quality impacts. The direct permit will serve as the 401 water quality certification for an associated Federal permit.

#### I. Applications Involving Adjoining Landowners Claiming Ownership of Critical Area

(1) All permit applicants must provide information in writing concerning the ownership of critical area in or over which a project is to be constructed.

(2) The alleged adjoining landowner of critical area must be notified pursuant to the provisions of Section 48-39-140(C) and R.30-2.

(3) If the alleged adjoining landowner of critical area files a written objection to the permit application within the period prescribed in Section 48-39-140 (15 days for minor and 30 days for major permits) based upon a claim of ownership and indicates an intention to file a court action pursuant to Section 48-39-220, the application will be deemed incomplete and further processing of the permit will not take place until a final judicial decision is rendered by a court of competent jurisdiction. However, written proof of filing a court action pursuant to Section 48-39-220 must be received by the Department within 30 days of the date of the expiration of the comment period. If no such written proof is timely received, the permit will be processed pursuant to law.

(4) If the final judicial decision determines that the critical area in question is owned by the adjoining critical area landowner and that the critical area landowner has a right to exclude others as part of the title, the permit will not be issued unless the applicant presents the Department with a copy of a deed, lease, or other instrument from the adjudicated critical area landowner that would allow construction of the proposed project, or written permission from such owner to carry out the proposal as provided for in Section 48-39-140(B)(4).

(5) Permit applicants who are vested with the power of eminent domain shall be exempt from the provisions of paragraphs (3) and (4) of R.30-2(I).