



North Carolina Increases Penalties for CAMA Violations

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Those who seek to develop along North Carolina's coast without first obtaining the necessary permits can expect increased penalties to be assessed against them for their actions. Effective February 1, 2008, the Coastal Resources Commission (the "Commission") amended its regulations so that violations of North Carolina's Coastal Area Management Act ("CAMA") carry stiffer civil penalties. The new penalties vary based on whether the violation involves Major Development versus Minor Development and whether the project was eligible for a permit. The changes represent the first increase in penalties since 1983.

For cases involving Major Development (development that requires another federal or state permit, that involves drilling or excavation to obtain natural resources, that involves construction of buildings greater than 60,000 square feet in size, or that involves the disturbance of more than 20 acres of land), the new penalties are as follows:

- Where a permit for the development was available from the Commission, but the developer failed to apply for it, the penalty is two times the relevant CAMA permit application fee, plus investigative costs.
- Where the Commission could not have issued a permit for the development at all, the violator will be assessed the relevant permit application fee and investigative costs, as well as a penalty of up to \$10,000 (up from a maximum of \$2,500).
- If the Commission determines that the violation was willful or intentional, the penalty amount is doubled, and it must be at least \$2,000. However, the total penalty may not exceed \$10,000 for each violation.

For cases involving Minor Development (all other types of development), the new penalties are as follows:

- In cases where the developer could have obtained a permit from the Commission, but failed to apply for one, the penalty is twice the relevant permit application fee plus the Commission's investigative costs.
- In cases where the Commission could not have issued a permit for the project, the penalty is equal to the applicable permit application fee, the Commission's investigative costs, and an additional amount, not to exceed \$1,000.
- If the Commission determines that a minor development violation was willful or intentional, the penalty amount is doubled, but the total penalty still may not exceed \$1,000 for each violation.

Finally, for cases in which a developer fails to cease illegal activities and/or fails to restore a damaged area, the Commission may treat the violation as continuing and may assess an additional penalty for each day the violation continues.

Persons who are engaged in development along the North Carolina Coast should take care that their activities are properly permitted and should comply with the terms of any permits issued. Failure to do so has just gotten more expensive.

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