

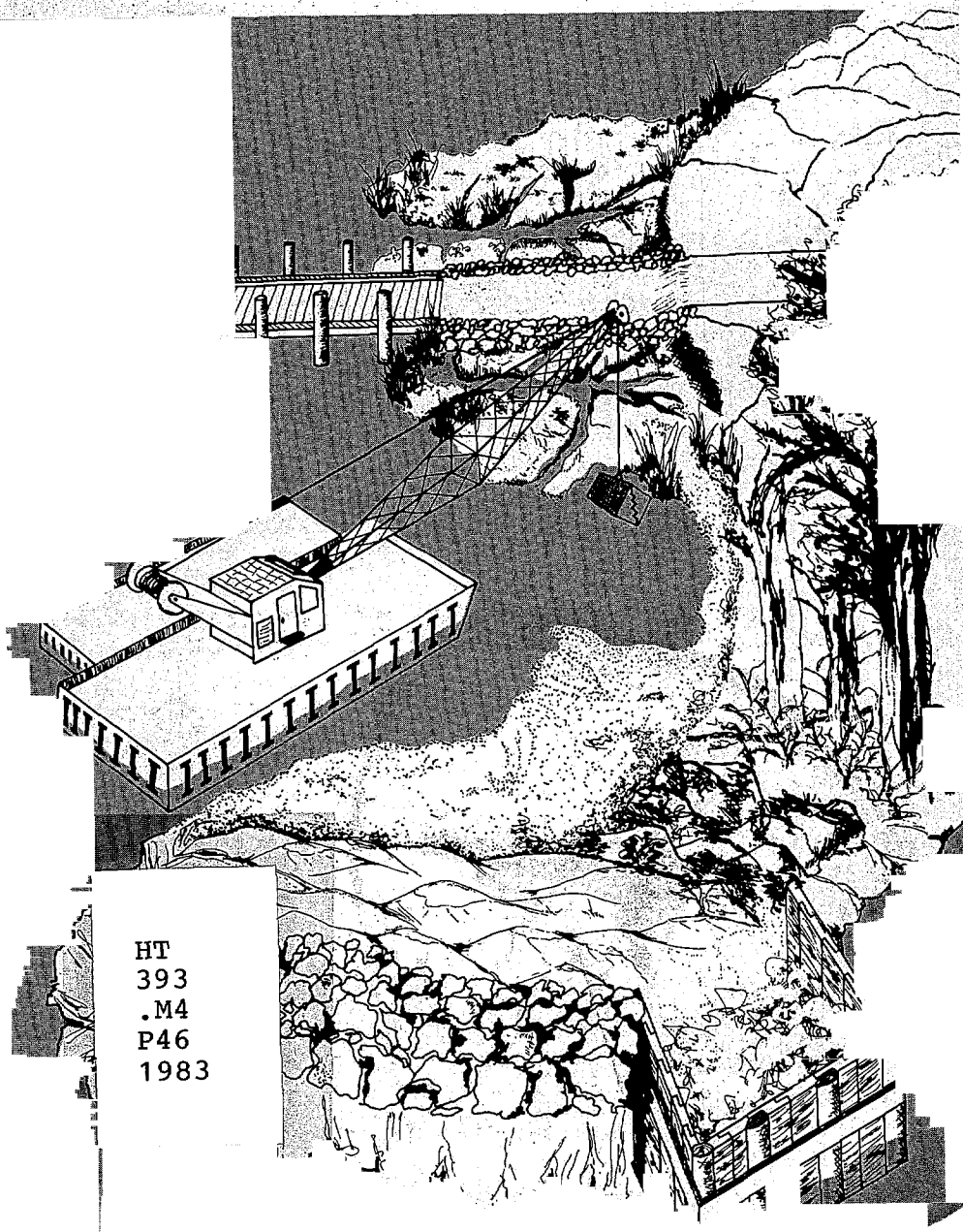
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Permit Advisory Service

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Regulatory agencies take their jobs seriously, for good reasons. Coastal resources, such as salt marsh, recreational beaches, water quality, and shellfish, have always played a vital role in the history and economy of Massachusetts. The regulatory agencies have the tough, seemingly unfriendly job of protecting these resources for the benefit of everyone from unwise development by anyone.

When you want to build something on your coastal property, a confusing confrontation with a half dozen forms having unfamiliar names like Water Quality Certificate, Notice of Intent, and Environmental Notification Form is the last thing that you need. With the feelings of confusion and confrontation caused by such an unfamiliar process, it is no wonder that the forms that move the process along get filled out incorrectly, if at all.

It is safe to say that improperly filed forms make life difficult for everyone. Regulatory agencies have to fulfill their obligation by investigating the project proposal carefully to make sure that valued Commonwealth resources are properly protected. The applicant can then be faced with refiling or re-design problems. A simple process becomes a seemingly endless cycle of confusion.

The Permit Advisory Service at CZM can put an end to this confusion. We offer a free package of all the forms that you will need for your coastal development and informative brochures that explain the regulations and their importance. This pamphlet describes the most commonly encountered regulations and how they relate to several types of shoreline developments. If you are new to the regulatory process or have a particularly complex project, a PAS staff member is available to discuss the details with you in person. If necessary, we can arrange meetings with other state and federal agencies.

COASTAL REGULATIONS

There are four main sets of regulations that affect development on the Massachusetts coast: Coastal Wetlands, Waterways, Water Pollution Control, and Army Corps of Engineers regulations. The first three sets of regulations are administered by local or state agencies, but all of the regulations specify standards for conducting coastal activities. In addition to these standard setting regulations, the Massachusetts Environmental Policy (MEPA Unit) has special procedural regulations that are designed to help state agencies reach better decisions about complex projects. The Massachusetts Coastal Zone Management Program has procedural regulations for complex projects that obligate federal agencies to make decisions that are consistent with state policies. The following paragraphs highlight the four standard setting regulations; but the best way to find out how they apply to your project is to call the PAS.

engineering practices. Waterways Regulations ensure that such practices are followed.

The Waterways Regulations are administered by the Division of Land and Water Use in DEQE. Fees are required for certain activities.

Water Pollution Control Regulations

The main purpose of the Water Pollution Control Regulations is to ensure that dredging, dredge material disposal and filling do not affect water quality. The WPC Regulations establish administrative and test procedures that allow contaminants in dredge material to be compared using standardized categories of dredge or fill material based on physical and chemical characteristics. The regulations also specify suitable dredging methods and disposal sites for these categories of dredge material. For example, sidecasting hydraulically dredged, clean, silty material is not an approved procedure. However, the same procedure is usually allowable for clean sandy material in an open ocean, high energy, sandy site.

The Water Pollution Control Regulations are administered by the Division of Water Pollution Control within DEQE.

U.S. Army Corps of Engineers

Several of the regulatory programs administered by the New England Division of the U.S. Army Corps of Engineers parallel regulatory programs administered by state agencies. Corps permits authorized under Section 10 of the Rivers and Harbors Act of 1899 are primarily for piers, bulkheads, and similar structures and for dredging without filling. Section 10 permits are similar in many ways to state Waterways permits. Corps permits authorized under Section 404 of the Water Pollution Control Act are primarily for fill activities in wetlands and waterways. The emphasis of Section 404 on Wetlands values is parallel to the state Wetlands Act and its coastal Wetlands Regulations.

PIERS, DOCKS AND FLOATS

Although piers, docks and floats are the most frequent shoreline developments, they usually can be built with very little impact on sensitive coastal resources. As a rule, piers and docks are built on wooden pilings above sensitive coastal resource areas. When properly designed and constructed this type of piling supported structure allows light to pass through it, preventing deterioration in wetlands and water quality.

Due to their minimal effects on the environment, the Wetlands, Waterways and Corps permits that are needed for piers, docks and floats are usually fairly easy to obtain.

EROSION CONTROL STRUCTURES

Bulkheads, seawalls and revetments are built parallel to the shoreline and up against a beach or bank in order to prevent waves and currents from eroding sediment away from the site. Groins are stone, concrete, or timber structures built perpendicular to the shoreline to catch and retain sediment moving along the shore from eroded site. Even when erosion control structures seem vital to protect property, they can have serious economic and environmental consequences.

In most coastal areas, sediment eroded from one location can protect another location if it is deposited there. This process of erosion and deposition is as important a natural feature of our coast as resources like fish, shellfish and salt marsh. It has been observed over and over that the process of erosion and sedimentation is virtually impossible to control and efforts to stop erosion in one spot often increase it in another. As a result, very strict provisions in state Waterways and Wetlands Regulations require very careful examination of all proposals for erosion control structures to determine whether they would increase erosion at another site. Corps of Engineers Sections 10 and 404 permits are also often required.

DREDGING

Dredging is often the most necessary and the most damaging type of coastal development. In many areas, maritime commerce and recreation would not be possible without dredging. Unfortunately the careless disposal of waste materials has resulted in serious problems for dredging and dredge material disposal. Waste disposal practices have allowed dangerous chemical contaminants such as PCBs, DDT and chromium to accumulate in the sediments. Dredging causes the release of the contaminants into the water. Disposing of the dredge material simply transfers the contamination. Furthermore, dredging often damages important coastal resources, such as salt marsh, shellfish flats, and anadromous fish habitat.

The problems associated with dredging have caused it to become the most heavily regulated and controversial coastal development activity. State, local and federal agencies may require a variety of chemical, physical, and biological tests on dredged material before issuing permits to dredge in areas suspected of contamination. The complexity of the permit process for dredging makes it especially advisable that you contact the PAS for further information.

The PAS
the quickest path to streamlining

Coastal Wetlands Regulations

The Coastal Wetlands Regulations were promulgated to implement the 1972 state Wetlands Act. The Act recognized seven public interests in wetlands protection: protection of land containing shellfish, protection of fisheries, prevention of pollution, storm damage prevention, flood control, groundwater supply, and public or private water supply.

The regulations describe how eleven coastal resource areas (land under the ocean, designated port area, coastal beaches, coastal banks, coastal dunes, rocky intertidal shores, barrier beaches, salt marshes, land under salt ponds, land containing shellfish, anadromous/catadromous fish runs) relate to the seven public interests and specify performance standards for activities in each of these resource areas.

For most of the resource areas, the performance standard is a very strict "no adverse affect" which means that no more than a negligible change in the resource area or its characteristics is acceptable. For the other resource areas more impact is allowed through a performance standard of "minimize adverse affect."

The Coastal Wetlands Regulations are administered on a day to day basis by local Conservation Commissions with appeals being handled by the state Department of Environmental Quality Engineering (DEQE).

Waterways Regulations

Although the Waterways Regulations incorporate most of the environmental protection measures in the Coastal Wetlands Regulations, there are several significant differences.

Dredging, the placement of fill or the erection of structures, such as piers, bulkheads and pilings, seaward of the high water mark require licenses issued by the Division of Waterways.

In addition to the environmental protection measures provided in the Coastal Wetlands Regulations and other relevant laws, the Waterways Regulations provide for the protection of the rights of the public in the waters of the Commonwealth. For construction located on the Commonwealth Tidelands (the area seaward of the low water mark which is owned by the State), it must be found that the project has public benefit which outweighs public detriment, considering such aspects as environmental, social, economic, legal, aesthetic, safety and navigation.

Fill or structures located on the tidal flats (the area privately owned between the high and low water marks) may be licensed only after it has been determined that the project will not interfere with or abridge any of the reserved rights of the public, abutters, or the Commonwealth, of fishing, boating and navigation in the private tidelands.

The Division requires the payment of fees for both tidewater displaced and Commonwealth Tidelands occupied by the licensed structure.

Shorefront structures, such as seawalls, piers and groins, can be designed for safety and non-interference with erosion and sedimentation by following established coastal

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