SECTION .1500 - GENERAL PERMIT FOR EXCAVATION WITHIN OR CONNECTING TO EXISTING CANALS: CHANNELS: BASINS: OR DITCHES IN ESTUARINE WATERS: PUBLIC TRUST WATERS: AND ESTUARINE SHORELINE AEC'S

15A NCAC 07H .1501 PURPOSE

This permit will allow excavation within existing canals, channels, basins and ditches in estuarine and public trust waters for the purpose of maintaining previous water depths and creating new boat basins from non-wetland areas that will be used for private, non-commercial activities. This general permit is being developed according to the procedures outlined in Subchapter 7J .1100, and will apply to the estuarine waters and public trust waters areas of environmental concern.

History Note: *Authority G.S. 113A-107(a),(b); 113A-113(b); 113A-118.1; 113-229(cl);*
Eff. July 1, 1984;
Amended Eff. December 1, 1987.

15A NCAC 07H .1502 APPROVAL PROCEDURES

(a) The applicant must contact the Division of Coastal Management and complete an application form requesting approval for development. Applicants shall provide their name and address, the site location and the dimensions of the project area.

(b) The applicant must provide:

(1) confirmation that a written statement has been obtained signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or

(2) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. Such notice should instruct adjacent property owners to provide any comments on the proposed development in writing for consideration by permitting officials to the Division of Coastal Management within ten days of receipt of the notice, and, indicate that no response will be interpreted as no objection. DCM staff will review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If DCM staff finds that the comments are worthy of more in-depth review, the applicant will be notified that he must submit an application for a major development permit.

(c) No work shall begin until an onsite meeting is held with the applicant and a Division of Coastal Management representative to inspect and mark the proposed area of excavation and spoil disposal. Written authorization to proceed with the proposed development can be issued during this site visit. All excavation must be completed within 90 days of the date of permit issuance, or the general authorization expires.

History Note: *Authority G.S. 113A-107(a),(b); 113A-113(b); 113A-118.1; 113-229(cl);*
Eff. July 1, 1984;
Amended Eff. January 1, 1990; December 1, 1987.

07H .1503 APPLICATION FEE

The applicant shall pay a permit fee of two hundred dollars ($200.00) for maintenance excavation of 100 cubic yards or less or four hundred dollars ($400.00) for maintenance excavation of 100 to 1,000 cubic yards. Permit fees shall be paid by check or money order payable to the Department.

History Note: *Authority G.S. 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113A-119.1; 113A-124;*
Eff. July 1, 1984;
Amended Eff. September 1, 2006; August 1, 2000; March 1, 1991.

15A NCAC 07H .1504 GENERAL CONDITIONS

(a) Individuals shall allow authorized representatives of the Department of Environment and Natural Resources to make periodic inspections at any time necessary to ensure that the activity being performed under authority of this general permit is in accordance with the terms and conditions prescribed herein.

(b) This general permit will not be applicable to proposed maintenance excavation when the Department determines that the proposed activity will adversely affect adjacent property.
(c) This permit will not be applicable to proposed construction where the Department has determined, based on an initial review of the application, that notice and review pursuant to G.S. 113A-119 is necessary because there are unresolved questions concerning the proposed activity's impact on adjoining properties or on water quality; air quality; coastal wetlands; cultural or historic sites; wildlife; fisheries resources; or public trust rights.
(d) New basins within or with connections to primary nursery areas are not allowed.
(e) No new basins will be allowed that result in closure of shellfish waters according to the closure policy of the Division of Environmental Health.
(f) This permit does not eliminate the need to obtain any other required state, local, or federal authorization, nor, to abide by regulations adopted by any federal or other state agency.
(g) Development carried out under this permit must be consistent with all local requirements, AEC rules, and local Land Use Plans current at the time of authorization.

History Note: *Authority G.S. 113A-107(a),(b); 113A-113(b); 113A-118.1; 113-229(cl);*
Eff. July 1, 1984;
Amended Eff. May 1, 1990; December 1, 1987;
RRC Objection due to ambiguity Eff. May 19, 1994;
Amended Eff. August 1, 1998; July 1, 1994.

15A NCAC 07H .1505 SPECIFIC CONDITIONS

Proposed maintenance excavation must meet each of the following specific conditions to be eligible for authorization by this general permit.

(1) New basins will be allowed only when they are located entirely in highground and join existing man-made canals or basins.
(2) New basins will be no larger than 50' in either length or width and no deeper than the waters they join.
(3) New basins must be for the private non-commercial use of the land owner.
(4) Maintenance excavation must involve the removal of no more than 1,000 cubic yards of material as part of a single and complete project.
(5) All excavated material must be placed entirely on high ground above the mean high tide or ordinary high water line, and above any marsh or other wetland.
(6) All spoil material must be stabilized or retained so as to prevent any excavated material from re-entering the surrounding waters, marsh or other wetlands.
(7) The proposed project must not involve the excavation of any marsh, submerged aquatic vegetation, or other wetlands.
(8) Maintenance excavation must not exceed the original dimensions of the canal, channel, basin or ditch and in no case be deeper than 6 feet below mean low water or ordinary low water, nor deeper than connecting channels.
(9) No excavation may occur during times designated by the N.C. Division of Coastal Management for protection of fish, shellfish or wildlife resources.
(10) No maintenance excavation may take place within prime shellfish areas as designated by the N.C. Division of Marine Fisheries.
(11) Proposed excavation must not promote or provide the opportunity for a change in existing land use at the time of project review.
(12) New basins and canals must maintain required setbacks between septic tank systems and surface waters.

History Note: *Authority G.S. 113A-107(a),(b); 113A-113(b); 113A-118.1; 113-229(cl);*
Eff. July 1, 1984;
Amended Eff. September 1, 1988; December 1, 1987.