

North Carolina Department of Environment and Natural Resources

Division of Coastal Management

Michael F. Easley, Governor

Charles S. Jones, Director

William G. Ross Jr., Secretary

May 1, 2007

MEMORANDUM I&S-07-10

TO: Implementation and Standards Committee

FROM: Bonnie Bendell

SUBJECT: Estuarine Shoreline Stabilization General Permit Draft Rule Changes

At the November 2006 CRC meeting, staff presented the I&S committee with concepts for changes to the estuarine shoreline stabilization rules. At the May meeting, in order to implement the CHPP's recommendations to address vertical structures and shoreline stabilization, staff is proposing changes to the estuarine shoreline stabilization General Permits. The proposed rules address vertical structures and shoreline stabilization by:

- Reducing the distance waterward in which bulkheads encroach into public trust areas.
- Moving structure locations further landward of marsh vegetation to allow for marsh migration and to minimize construction impacts.
- Promoting the benefits of rock structures.

Below are the proposed General Permit rules and their major content changes. All the General Permits include changes that correct vague or ambiguous language in accordance with NC Administrative Procedures Act (APA) guidelines and updates language for consistency with other estuarine shoreline stabilization rules.

15A NCAC 07H .1100 – General Permit for Construction of Bulkheads and the Placement of Riprap for Shoreline Protection in Estuarine and Public Trust Waters and Ocean Hazard Areas

Content Changes:

- On non-wetland shorelines,
 - O Decrease bulkhead alignment allowance **from** an average of 2 feet with a maximum of 5 feet waterward of normal high water (NHW) or normal water level (NWL),
 - to the structure alignment being permitted at the location of NHW or NWL.
 - ALTERNATIVE OPTION Push bulkheads onto the high ground –
 to the structure alignment being permitted at a location an average of 5 feet landward of the NHW/NWL.
 - When replacing a bulkhead, decrease bulkhead alignment allowance from an average of 2 feet with a maximum of 5 feet waterward of NHW/NWL to a maximum distance of 2 feet waterward of NHW/NWL except when accommodating irregular shaped shorelines.

1638 Mail Service Center, Raleigh, North Carolina 27699-1638

Phone: 919-733-2293 \ FAX: 919-733-1495 \ Internet: www.nccoastalmanagement.net

- Increase the riprap alignment allowance from a maximum of 5 feet waterward of NHW/NWL to 10 feet waterward of NHW/NWL to allow for flatter and more stable slopes. This will also promote the benefits of using rock and a sloped structure over a vertical wall.
- On manmade upland canals, basins, and ditches, decrease bulkhead and riprap alignment **from** an average of 5 feet with a maximum of 10 feet waterward of NHW/NWL **to** an average of 2 feet with a maximum of 5 feet waterward of NHW/NWL except when necessary to align with and to tie into adjacent property owner's stabilization structures (for Like Structures Only)
- On wetland shorelines, decrease the bulkhead alignment allowance **from** at the landward edge of coastal wetland vegetation **to** 5 feet landward of the coastal vegetation. This should allow for marsh migration and to reduce construction impacts to the wetlands.
- Decrease the steepness of riprap **from** 2 feet horizontal per 1 foot vertical **to** 3 feet horizontal per 1 foot vertical. This will allow for more stable structures.

15A NCAC 07H .1400 – General Permit for The Construction of Wooden Groins in Estuarine and Public Trust Waters and Ocean Hazard Areas

Content Changes:

• Change **from** allowing only two groins per 100 linear feet of shoreline **to** a design based spacing, which requires the spacing to be 2 times the design length of the groin. This keeps with the original intent of the rule, which is the typical design spacing for a 25-foot groin is 50 feet. This change would also allow more than two groins per 100 feet of shoreline if the applicant designed the groins to be shorter. Design spacing will also be allowed less than 2 times the design length if the function is to prevent sedimentation or accretion in particular areas such as boat basins, channels, boat lifts, or boat ramps.

15A NCAC 07H .2100 – General Permit for Construction of Marsh Enhancement Breakwaters for Shoreline Protection in Estuarine and Public Trust Waters and Ocean Hazard Areas

Content Change:

• Remove the statement that this General Permit only applies on shorelines that are eroding because proving or disproving erosion is unnecessary for this type of structure since it will be protecting a natural resource.

15A NCAC 07H .2400 – General Permit for Placement of Riprap for Wetland Protection in Estuarine and Public Trust Waters

Content Changes:

- Include slope steepness and flatness maximums the structure may have a slope no flatter than 3 feet horizontal per 1 foot vertical and no steeper than 1.5 feet horizontal per 1 foot vertical.
- Increase the maximum waterward distance **from** 5 feet **to** 6 feet to allow for the flattest slope to be built on a two-foot high escarpment.

SECTION .1100 - GENERAL PERMIT FOR CONSTRUCTION OF BULKHEADS AND THE PLACEMENT OF RIPRAP FOR SHORELINE PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS AND OCEAN HAZARD AREAS

15A NCAC 07H .1101 PURPOSE

A permit under this Section shall allow the construction of bulkheads and the placement of riprap for shoreline protection in the public trust waters and estuarine waters AECs according to authority provided in Subchapter 07J .1100 and according to the Rules in this Section. This permit shall not apply to shoreline protection along the oceanfront or to waters and shorelines adjacent to the Ocean Hazard AEC with the exception of those shorelines that feature characteristics of the Estuarine Shoreline AEC. Such features include the presence of wetland vegetation, lower wave energy and lower erosion rates than the adjoining Ocean Erodible Area.

History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124;

Eff. March 1, 1984;

Amended Eff. April 1, 2003.

15A NCAC 07H .1102 APPROVAL PROCEDURES

- (a) The applicant shall contact the Division of Coastal Management and complete an application form requesting approval for development. The applicant shall provide information on site location, dimensions of the project area, and his name and address.
- (b) The applicant shall 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 shall instruct adjacent property owners to provide written comments on the proposed development to the Division of Coastal Management within ten days of receipt of the notice, and, indicate that no response shall be interpreted as no objection. DCM staffthe Division of Coastal Management shall 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 staffthe Division of Coastal Management determines that the project exceeds the guidelines established by the General Permit Process, the applicant shall be notified that he must submit an application for a major development permit shall be required.
- (c) No work shall begin until an on-site meeting is held with the applicant and appropriate Division of Coastal Management representative so that the proposed bulkhead alignment can be appropriately marked. Written authorization to proceed with the proposed development may be issued during this visit. Construction of the bulkhead or riprap structure shall be completed within 90120 days of this visit or the general authorization shall expire and it shall be necessary to re-examine the alignment to determine if the general authorization can be reissued.

History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124;

Eff. March 1, 1984;

Amended Eff. September 1, 2006; January 1, 1990; December 1, 1987.

15A NCAC 07H .1103 PERMIT FEE

The applicant shall pay a permit fee of two hundred dollars (\$200.00) for riprap and bulkhead structures sited at or above normal high water or normal water level, or a permit fee of four hundred dollars (\$400.00) for bulkhead and riprap structures sited below normal high water or normal water level. Permit fees shall be paid by check or money order payable to the DepartmentDivision of Coastal Management.

History Note: Authority G.S. 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113-119.1; 113A-124;

Eff. March 1, 1984;

Amended Eff. September 1, 2006; August 1, 2000; March 1, 1991.

15A NCAC 07H .1104 GENERAL CONDITIONS

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- (a) This permit authorizes only the construction of bulkheads and the placement of riprap conforming to the standards herein.
- (b) Individuals shall allow authorized representatives of the Department Division of Coastal Management of Environment, Health, and Natural Resources to make periodic inspections at any time deemed necessary in order to be sure ensure that the activity being performed under authority of this general permit is in accordance with the terms and conditions prescribed herein.
- (c) There shall be no significant interference with navigation or use of the waters by the public by the existence of the bulkhead or the riprap authorized herein. Bulkheads and riprap authorized in this Rule shall not interfere with the established or traditional rights of navigation of the waters by the public.
- (d) This permit will-shall not be applicable to proposed construction where the Department Division of Coastal Management 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.
- (e) This permit does not eliminate the need to obtain any other required state, local, or federal authorization.
- (f) Development carried out under this permit must shall 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); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124; Eff. March 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 .1105 SPECIFIC CONDITIONS

- (a) This general permit is applicable only along shorelines void of wetland vegetation including marsh grass and wooded swamp, or where all construction is to be accomplished landward of such vegetation. (b) Bulkheads and riprap material shall be positioned as follows:
 - Bulkheads shall be positioned so as not to exceed more than an average distance of 2 feet waterward of the normal high water mark, or the normal water level contour, whichever is applicable. In no case shall the bulkhead be positioned more than 5 feet waterward of the normal high water or normal water level contour at any point along its alignment.
 - Riprap shall be positioned so as not to exceed a maximum of 5 feet waterward of the mean high water mark or normal water level contour at any point along its alignment. Where there is an existing bulkhead structure, riprap shall be allowed to extend a maximum of 10 feet offshore. This location standard shall take into consideration the height of the area to be protected (i.e. bulkhead height, water depth) and the alignment shall allow for a slope no flatter than 2 feet horizontal per 1 foot vertical and no steeper than 1½ feet horizontal per 1 foot vertical.
- (c) Along shorelines within upland basins, canals, and ditches, bulkheads or riprap material must be positioned so as not to exceed more than an average distance of 5 feet waterward of the normal high water mark or the normal water level contour, whichever is applicable. In no case shall the bulkhead or riprap be positioned more than 10 feet waterward of the normal high water or normal water level contour at any point along its alignment. For the purpose of these Rules, the Atlantic Intracoastal Waterway (AIWW) is considered a natural shoreline and development shall occur as described in 07H .1105(b).
- (a) Along shorelines void of wetland vegetation:
 - Bulkheads shall be positioned so as not to exceed normal high water or normal water level at any point along its alignment except when necessary to accommodate the straightening of an irregular shaped shoreline. ALTERNATIVE LANGUAGE: Bulkheads shall be positioned an average of 5 feet landward of the normal high water or normal water level.
 - Bulkheads shall be positioned a maximum distance of two (2) feet waterward of the current (2) bulkhead alignment when replacing an existing bulkhead except when necessary to accommodate the straightening of an irregular shaped shoreline. Bulkheads shall only be positioned more than 2

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- feet waterward of normal high water or normal water level to recoup lands lost within the past
- Riprap shall be positioned so as not to exceed a maximum distance of 10 feet waterward of the (3) normal high water or normal water level at any point along its alignment
- For shorelines within manmade upland basins, canals, and ditches, bulkheads or riprap shall be (4) positioned so as not to exceed an average distance of two (2) feet and maximum distance of five (5) feet waterward of normal high water or normal water level.
- (b) Along shorelines with wetland vegetation:
 - Bulkheads and riprap shall be positioned an average distance of five (5) feet landward of all (1) wetland vegetation.
 - Bulkheads shall be positioned in the existing footprint or landward when replacing an existing (2) bulkhead.
 - For shorelines within manmade upland basins, canals, and ditches, bulkheads or riprap shall be positioned so as all construction is to be accomplished landward of all wetland vegetation
- (c) Bulkheads shall be constructed of vinyl, or steel sheet pile, concrete, stone, timber, or other suitable materials approved by the Division of Coastal Management.
- (d) Construction design for riprap shall take into consideration the height of the area to be protected (i.e. bulkhead height, escarpment height, water depth) and the alignment shall allow for a slope no flatter than three (3) 2-feet horizontal per one (1) 1-foot vertical and no steeper than 1 ½ feet horizontal per one (1) 1-foot vertical.
- (i)(e) Riprap shall be constructed of stone in the form of granite, marl, riprap, broken concrete, or other suitable materials approved by the Division of Coastal Management. material shall consist of clean rock or masonry materials such as but not limited to granite or broken concrete. Materials such as tires, car bodies, scrap metal, paper products, tree limbs, wood debris, organic material or similar material, are not considered riprap-
- (h)(f) Riprap material Material used for riprap construction shall be free from loose dirt or any other pollutant other than non-harmful quantities quantities. Riprap material shall and be of sufficient size to prevent movement from the site by wave action or current action.currents.
- (d)(g) Construction authorized by this general permit shall be limited to a maximum shoreline length of 500 feet.
- (e)(h) All backfill material shall be obtained from an upland source pursuant to 15A NCAC 07H .0208.
- (f)(i) The bulkhead shall be constructed, or the riprap shall be in place prior to any backfilling activities.
- (g)(j) The bulkhead or riprap shall be structurally tight so as to prevent seepage of backfill materials through the structure.
- (i) Riprap material shall consist of clean rock or masonry materials such as but not limited to granite or broken concrete. Materials such as tires, car bodies, scrap metal, paper products, tree limbs, wood debris, organic material or similar material, are not considered riprap.
- (i) (k) The bulkhead shall be solid and constructed of treated wood, concrete slabs, metal sheet piles or other suitable materials approved by department personnel. No excavation is shall be permitted except for that which may be required for the construction of the bulkhead wall, and/or riprap, deadmen cables, etc. This permit does shall not authorize any excavation waterward of the approved alignment.
- (k) Bulkheads or riprap shall not extend beyond established alignments nor restrict the original width of the canal or basin.
- (1) If one contiguous acre or more of property is to be excavated or filled, an erosion and sedimentation control plan shall be filed with the Division of Land Resources, Land Quality Section, or appropriate local government having jurisdiction. This plan shall be approved prior to commencing the land-disturbing activity.
- (m) For the purpose of these Rules, the Atlantic Intracoastal Waterway (AIWW) is considered a natural shoreline and development shall occur as described in 07H .1105(a and b).

Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124; History Note: Eff. March 1. 1984: Amended Eff. April 1, 2005; December 1, 1991; January 1, 1989; December 1, 1987. Last Revised: 5/1/07 DCM Version 9
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SECTION .1400 - GENERAL PERMIT FOR CONSTRUCTION OF WOODEN-GROINS IN ESTUARINE AND PUBLIC TRUST WATERS AND OCEAN HAZARD AREAS

15A NCAC 07H .1401 PURPOSE

A permit under this section shall allow the construction of wooden and riprap groins in the estuarine and public trust waters AECs according to the authority provided in Subchapter 07J .1100 and according to the rules in this Section. This general permit shall not apply to the oceanfront shorelines or to waters and shorelines adjacent to the Ocean Hazard AEC with the exception of those shorelines that feature characteristics of the Estuarine Shoreline AEC. Such features include the presence of wetland vegetation, lower wave energy, and lower erosion rates than the adjacent Ocean Erodible Area.

History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124;

Eff. March 1, 1984;

Temporary Amendment Eff. December 1, 2002; Amended Eff. August 1, 2004; April 1, 2003.

15A NCAC 07H .1402 APPROVAL PROCEDURES

- (a) The applicant must-shall contact the Division of Coastal Management and complete an application form requesting approval for development. The applicant shall provide information on site location, dimensions of the project area, and his name and address. Such notice shall instruct adjacent property owners to provide written comments on the proposed development to the Division of Coastal Management within 10 days of receipt of the notice. The notice shall also indicate that no response shall be interpreted as no objection.
- (b) The applicant must shall 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 shall instruct adjacent property owners to provide written comments on the proposed development to the Division of Coastal Management within 10 days of receipt of the notice. The notice shall also indicate that no response shall be interpreted as no objection. DCM staffithe Division of Coastal Management shall 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.
- (c) Approval of individual projects shall be acknowledged in writing by the Division of Coastal Management and the applicant shall be provided a copy of this Section.
- (d) Construction must shall be completed within 90120 days of the approval of the permit or the permit expires.

History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124;

Eff. March 1, 1984;

Amended Eff. August 1, 2004; May 1, 1990; January 1, 1990.

15A NCAC 07H .1403 PERMIT FEE

The applicant shall pay a permit fee of two hundred dollars (\$200.00) by check or money order payable to the Department Division of Coastal Management.

History Note: Authority G.S. 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113A-119.1; 113A-124;

Eff. March 1, 1984;

Amended Eff. September 1, 2006; August 1, 2000; March 1, 1991.

15A NCAC 07H .1404 GENERAL CONDITIONS

- (a) Structures authorized by a general permit in this Section shall be <u>timber, wooden-sheetpile</u>, or riprap groins conforming to the standards in this Rule.
- (b) Individuals shall allow authorized representatives of the Department of Environment and Natural Resources Division of Coastal Management to make periodic inspections at any time deemed necessary in order to be sureensure that the activity being performed under authority of this general permit is in accordance with the terms and conditions prescribed herein.

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(c) The placement of wooden or riprap groins authorized in this Rule shall not interfere with the established or traditional rights of navigation of the waters by the public.

(d) This permit shall not be applicable to proposed construction where the Department Division of Coastal Management 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.

(e) This permit does shall not eliminate the need to obtain any other required state, local, or federal authorization.

(f) Development carried out under this permit must shall 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); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124;

Eff. March 1, 1984;

Amended Eff. May 1, 1990;

RRC Objection due to ambiguity Eff. May 16, 1994;

Amended Eff. August 1, 1998; July 1, 1994; Temporary Amendment Eff. December 1, 2002;

Amended Eff. August 1, 2004.

15A NCAC 07H .1405 SPECIFIC CONDITIONS

- (a) Groins shall be perpendicular to the shoreline and shall not extend more than 25 feet waterward of the normal high water or normal water level.
- (b) Riprap groins shall not exceed a base width of ten (10) feet.
- (c) Groins shall be set back at least 15 feet from the adjoining property lines. This setback may be waived by written agreement of the adjacent riparian owner(s) or when two adjoining riparian owners are co-applicants. Should the adjacent property be sold before construction of the groin commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and submit it to the permitting agency Division of Coastal Management prior to initiating any development of the groin.
- (d) The height of wooden groins shall not exceed 1 foot above normal high water or the normal water level and the height of riprap groins shall not exceed two (2) feet above normal high water or the normal water level.
- (e) Riprap groins shall be constructed of materials Stone material used for groin construction shall be free from loose dirt or any other pollutant and It must be of sufficient size to prevent its movement from the site by wave action or current action.currents.
- (f) The riprap material must consist of clean rock or masonry materials such as, but not limited to, marl, granite granite, or broken concrete.
- (g) No more than two structures shall be allowed per 100 feet of shoreline unless the applicant can provide evidence that more structures are needed for shoreline stabilization. Structure spacing shall be two (2) times the groin design length except around channels, docking facilities, boat lifts, or boat ramps and when positioned to prevent sedimentation or accretion in a particular area.
- (h) "L" and "T" sections shall not be allowed at the end of groins.
- (i) Riprap groins shall be constructed of stone in the form of granite, marl, riprap, broken concrete, or other suitable materials approved by the Division of Coastal Management.
- (j) Non-riprap groins shall be constructed of vinyl, or steel sheet pile, concrete, stone, timber, or other suitable materials approved by the Division of Coastal Management.

Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124; History Note:

Eff. March 1, 1984;

Temporary Amendment Eff. December 1, 2002;

Amended Eff. August 1, 2004.

SECTION .2100 - GENERAL PERMIT FOR CONSTRUCTION OF MARSH ENHANCEMENT BREAKWATERS FOR SHORELINE PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS AND OCEAN HAZARD AREAS

15A NCAC 07H .2101 PURPOSE

A general permit pursuant to this Section shall allow the construction of offshore parallel breakwaters, made constructed from wood, plastic lumber, or metal timber, vinyl, or steel sheet piling sheetpiles for shoreline protection in conjunction with existing or created coastal wetlands. This permit shall only be applicable where a shoreline is experiencing erosion in public trust areas and estuarine waters according to authority provided in 15A NCAC 07J .1100 and according to the procedures and conditions outlined in this subchapter. This permit shall not apply to oceanfront shorelines or to waters and shorelines adjacent to the Ocean Hazard AEC with the exception of those shorelines that feature characteristics of Estuarine Shorelines. Such features include the presence of wetland vegetation, lower wave energy, and lower erosion rates than in adjoining Ocean Erodible Area.

History Note: Authority G.S. 113A-107; 113A-118.1; Eff. June 1, 1994;

Amended Eff. April 1, 2003; August 1, 2000.

15A NCAC 07H .2102 APPROVAL PROCEDURES

- (a) The applicant shall contact the Division of Coastal Management and request approval for development. The applicant shall provide information on site location, dimensions of the project area, and his name and address.

 (b) The applicant +-shall 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 shall instruct adjacent property owners to provide written comments on the proposed development to the Division of Coastal Management within 10 days of receipt of the notice, and, indicate that no response shall be interpreted as no objection. DCM staffthe Division of Coastal Management shall 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 staffthe Division of Coastal Management determines that the project exceeds the guidelines established by the General Permit Process, the applicant shall be notified that he must submit an application for a major development permit shall be required.
- (c) No work shall begin until an on-site meeting is held with the applicant and appropriate Division of Coastal Management representative so that the proposed breakwater alignment can be appropriately marked. Written authorization to proceed with the proposed development may be issued during this visit. Construction of the breakwater shall be completed within 90120 days of this visit issuance of the permit or the general authorization shall expire and it shall be necessary to re-examine the alignment to determine if the general authorization can be reissued.

History Note: Authority G.S. 113A-107; 113A-118.1; Eff. June 1, 1994;

Amended Eff. September 1, 2006; August 1, 2000.

15A NCAC 07H .2103 PERMIT FEE

The applicant shall pay a permit fee of two hundred dollars (\$200.00). This fee shall be paid by check or money order made payable to the Department Division of Coastal Management.

History Note: Authority G.S. 113A-107; 113A-118.1; 113A-119.1;

Eff. June 1, 1994;

Amended Eff. September 1, 2006; August 1, 2000.

15A NCAC 07H .2104 GENERAL CONDITIONS

(a) This permit authorizes only the construction of breakwaters conforming to the standards herein.

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- (b) Individuals shall allow authorized representatives of the Department Division of Coastal Management of Environment and Natural Resources to make periodic inspections at any time deemed necessary in order to be sureensure that the activity being performed under authority of this general permit is in accordance with the terms and conditions prescribed herein.
- (c) The placement of breakwaters authorized in this Rule shall not interfere with the established or traditional rights of navigation of the waters by the public. There shall be no significant interference with navigation or use of the waters by the public by the existence of the breakwater authorized herein.
- (d) This permit will-shall not be applicable to proposed construction where the Department Division of Coastal Management 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.
- (e) This permit does shall not eliminate the need to obtain any other required state, local, or federal authorization.
- (f) Development carried out under this permit must shall 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; 113A-118.1;

RRC Objection due to ambiguity Eff. May 19, 1994;

Eff. July 1, 1994;

Amended Eff. August 1,1998.

15A NCAC 07H .2105 **SPECIFIC CONDITIONS**

- (a) The breakwater shall be positioned no more than 20 feet waterward of the mean-normal high water or normal water level contour (whichever is applicable) or 20 feet waterward of the waterward edge of existing wetlands at any point along its alignment. For narrow waterbodies (canals, creeks, etc.) the breakwater alignment shall not be positioned offshore more than one sixth (1/6) the width of the waterbody.
- (b) Breakwaters authorized under this General Permit shall be allowed only in waters that average less than three (3) feet in depth along the proposed alignment as measured from the mean-normal high water or normal water level contour.level.
- (c) Where Department Staffthe Division of Coastal Management determine that insufficient wetland habitat exists along the permittee's shoreline to provide adequate shoreline stabilization, the permittee shall be required to plant appropriate wetland species landward of the breakwater structure as directed by Department Staff the Division of Coastal Management.
- (d) Construction authorized by this general permit will-shall be limited to a maximum length of 500 feet.
- (e) The breakwater shall be constructed with an equal gap between each sheathing board totaling at least one inch of open area every linear foot of breakwater. The breakwater shall have at least one five (5) foot opening at every 100 feet. The breakwater sections shall be staggered and overlap as long as the five foot separation between sections is maintained. Overlapping sections shall not overlap more than 10 feet.
- (f) The height of the breakwater shall not exceed six inches above mean-normal high water or the normal water
- (g) Offshore breakwater sections shall be set back 15 feet from the adjoining property lines and the riparian access dividing line. The line of division of riparian access shall be established by drawing a line along the channel or deep water in front of the property, then drawing a line perpendicular to the line of the channel so that it intersects with the shore at the point the upland property line meets the water's edge. The set back may be waived by written agreement of the adjacent riparian owner(s) or when the two adjoining riparian owners are co-applicants. Should the adjacent property be sold before construction of the breakwater begins, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and submit it to the Division of Coastal Management prior to initiating any construction of the breakwater.
- (h) Breakwaters shall be marked at 50 foot intervals with yellow reflectors extending at least three feet above mean high water.
- (i) No backfill of the breakwater or any other fill of wetlands, estuarine waters, public trust areas, or highground is authorized by this general permit.
- (j) No excavation of the shallow water bottom, any wetlands, or high ground is authorized by this general permit.

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(k) The breakwater must be constructed of treated wood, plastic lumber, metal sheet shall be constructed of vinyl, or steel sheet pile, concrete, stone, timber, or other suitable materials approved by the Division of Coastal Management. piles or materials approved as similar by Department personnel.

- (l) Perpendicular sections, return walls, or sections which would enclose estuarine waters or public trust areas shall not be allowed under this permit.
- (m) The permittee will maintain the breakwater in good condition and in conformance with the terms and conditions of this permit or the remaining breakwater structure shall be removed within 90 days of notification from the Division of Coastal Management.

History Note: Authority G.S. 113A-107; 113A-118.1;

Eff. June 1, 1994;

Amended Eff. August 1, 2000.

Last Revised: 5/1/07 DCM Version 9
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SECTION .2400 – GENERAL PERMIT FOR PLACEMENT OF RIPRAP FOR WETLAND PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS

15A NCAC 07H .2401 PURPOSE

The general permit for placement riprap for wetland protection in estuarine and public trust waters shall allow the placement of riprap immediately adjacent to and waterward of wetlands. This permit shall only be applicable where a shoreline is experiencing erosion in public trust areas and estuarine waters according to authority provided in 15A NCAC 07J .1100 and according to the rules in this Section. This permit shall not apply to oceanfront shorelines or to waters and shorelines adjacent to the Ocean Hazard AEC with the exception of those portions of shoreline that feature characteristics of Estuarine Shorelines. Such features include the presence of wetland vegetation, lower wave energy, and lower erosion rates than in the adjoining Ocean Erodible Area.

History Note: Authority G.S. 113A-107; 113A-118.1;

Eff. August 1, 2000; Amended Eff. April 1, 2003.

15A NCAC 07H .2402 APPROVAL PROCEDURES

- (a) The applicant must shall contact the Division of Coastal Management and request approval for development.The applicant shall provide information on site location, dimensions of the project area, and his name and address.(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 shall 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 10 days of receipt of the notice, and, indicate that no response shall will be interpreted as no objection. DCM staffThe Division of Coastal Management shall 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 staffthe Division of Coastal Management finds that the comments are worthy of more in-depth review, the applicant shall will be notified that he must submit an application for a major development permit shall be required.
- (c) DCM staffThe Division of Coastal Management shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project meets the requirements of the rules in this Section. If DCM staff finds that the comments are worthy of more in depth review, the applicant shall be notified that he must submit an application for a major development permit. If The Division of Coastal Management determines that the project exceeds the guidelines established by the General Permit Process, the applicant shall be notified that an application for a major development permit shall be required.
- (d) No work shall begin until an on-site meeting is held with the applicant and appropriate Division of Coastal Management representative so that the wetland protection structure can be appropriately marked. Written authorization to proceed with the proposed development may be issued during this visit. Construction of the wetland protection structure must be completed within 90120 days of this visit or the general authorization expires and it shall be necessary to re-examine the alignment to determine if the general authorization can be reissued.

History Note: Authority G.S. 113A-107; 113A-118.1; Eff. August 1, 2000.

15A NCAC 07H .2403 PERMIT FEE

The applicant shall pay a permit fee of two hundred dollars (\$200.00). This fee shall be paid by check or money order made payable to the Department Division of Coastal Management.

History Note: Authority G.S. 113A-107; 113A-118.1; 113A-119.1;

Eff. August 1, 2000;

Amended Eff. September 1, 2006.

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Last Revised: 5/1/07 DCM Version 9

15A NCAC 07H .2404 **GENERAL CONDITIONS**

- (a) This permit authorizes only the construction of wetland protection structures conforming to the standards herein.
- (b) Individuals shall allow authorized representatives of the Department Division of Coastal Management of Environment and Natural Resources (DENR) to make periodic inspections at any time deemed necessary in order to be surcensure that the activity being performed under authority of this general permit is in accordance with the terms and conditions prescribed herein.
- (c) The placement of riprap authorized in this Rule shall not interfere with the established or traditional rights of navigation of the waters by the public. There shall be no unreasonable interference with navigation or use of the waters by the public by the existence of the riprap structure authorized herein.
- (d) This permit shall not be applicable to proposed construction where the Department Division of Coastal Management 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.
- (e) This permit shall does not eliminate the need to obtain any other required state, local, or federal authorization.
- (f) Development carried out under this permit shall must be consistent with all local requirements, AEC Guidelines. and local land use plans current at the time of authorization.

History Note: Authority G.S. 113A-107; 113A-118.1; Eff. August 1, 2000.

SPECIFIC CONDITIONS 15A NCAC 07H .2405

- (a) This general permit shall only be applicable along shorelines possessing wetlands, and which exhibit an identifiable erosion escarpment.
- (b) The structure shall be constructed of stone in the form of granite, marl, riprap, broken concrete, or other suitable materials approved by the Division of Coastal Management.
- (b)(c) The height of the erosion escarpment shall not exceed three feet.
- (e)(d) The riprap shall be placed immediately waterward of the erosion escarpment.
- (d)(e) The riprap must-shall be positioned so as not to exceed a maximum of five-six (6) feet waterward of the erosion escarpment at any point along its alignment with a slope no flatter than 3 feet horizontal per 1 foot vertical and no steeper than 1 ½ feet horizontal per 1 foot vertical.
- (e)(f) The riprap must shall be positioned so as not to exceed a maximum of six inches above the elevation of the adjacent wetland substrate.
- (f)(g) Where Department staffthe Division of Coastal Management determine that insufficient wetlands or coastal marsh vegetation exists along the permittee's shoreline to provide adequate shoreline stabilization, the permittee shall be required to plant appropriate equatal marsh or wetland species wetland vegetation landward of the riprap structure as directed by Department staff. the Division of Coastal Management.
- (g)(h) Construction authorized by this general permit will be limited to a maximum length of 500 feet.
- (h)(i) No backfill or any other fill of wetlands, submerged aquatic vegetation, estuarine waters, public trust areas, or highground areas is authorized by this general permit.
- (i) No excavation of the shallow water bottom, any wetlands, or high ground is authorized by this general permit.
- (i) The riprap must not be placed in such a manner as to impede water flow into or out of any natural channel or
- (k)(k) The riprapRiprap material used for construction must-shall be free from loose dirt or any pollutant pollutant and be. It must be of a size sufficient to prevent its movement from the site by wave action or current action.
- (1) Riprap material must consist of clean rock or masonry materials such as marl, granite or broken concrete. Materials such as tires, car bodies, scrap metal, paper products, tree limbs, wood debris, organic material or similar materials are not appropriate riprap for the purposes of this General Permit.
- (m) (m) If the crossing of wetlands with mechanized or non-mechanized construction equipment is necessary. temporary construction mats shall be utilized for the area(s) to be crossed. The temporary mats shall be removed immediately upon completion of construction of the riprap structure.
- (n) The permittee shall maintain the structure in good condition and in conformance with the terms and conditions of this permit or the remaining riprap structure shall be removed within 90 days of notification from the Division of Coastal Management.

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Authority G.S. 113A-107; 113A-118.1; Eff. August 1, 2000-History Note: