SECTION .2600 – GENERAL PERMIT FOR CONSTRUCTION OF WETLAND, STREAM AND BUFFER MITIGATION SITES BY THE NORTH CAROLINA ECOSYSTEM ENHANCEMENT PROGRAM OR THE NORTH CAROLINA WETLANDS RESTORATION PROGRAM

15A NCAC 7H .2601 PURPOSE

This general permit shall allow for the construction of wetland, stream and buffer mitigation sites by the North Carolina Ecosystem Enhancement Program or the North Carolina Wetlands Restoration Program. This permit shall be applicable only where the restoration, creation or enhancement of a wetland, stream or buffer system is proposed. However, this permit shall not apply within the Ocean Hazard System of Areas of Environmental Concern (AEC) or waters adjacent to these AECs with the exception of those portions of shoreline within the Inlet Hazard Area AEC 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. October 1, 2004.

15A NCAC 7H .2602 APPROVAL PROCEDURES

(a) The applicant shall contact the Division of Coastal Management (DCM) and request approval for development. The applicant shall provide information on site location, a mitigation plan outlining the proposed mitigation activities, and the applicant's name and address.

(b) The applicant shall provide either 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 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 be interpreted as no objection.

(c) DCM staff 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

(d) No work shall begin until a meeting is held with the applicant and appropriate Division of Coastal Management representative. Written authorization to proceed with the proposed development shall be issued. Construction of the mitigation site shall be started within 180 days of the issuance date of this permit or the general authorization expires and it shall be necessary to re-examine the proposed development to determine if the general authorization shall be reissued.

History Note: *Authority G.S. 113A-107; 113A-118.1;*
Eff. October 1, 2004.

15A NCAC 7H .2603 PERMIT FEE

The applicant shall pay a permit fee of four hundred dollars ($400.00). This fee shall be paid by check or money order made payable to the Department.

History Note: *Authority G.S. 113A-107; 113A-118.1; 113A-119.1;*
Eff. October 1, 2004.
Amended Eff. September 1, 2006

15A NCAC 7H .2604 GENERAL CONDITIONS

This permit authorizes only the following activities associated with the construction of wetland, stream or buffer restoration: creation or enhancement projects conforming to the standards herein; the removal of accumulated sediments; the installation, removal and maintenance of small water control structures, dikes, and berms; the installation of current deflectors; the placement of in-stream habitat structures; modifications of the stream bed or banks to restore or create stream meanders; the backfilling of artificial channels and drainage ditches; the removal of existing drainage structures; the construction of small nesting islands; the construction of open water areas; the construction of oyster habitat over unvegetated bottom in tidal waters; the planting of submerged aquatic vegetation; activities needed to reestablish vegetation, including plowing or discing for seed bed preparation and the planting of appropriate wetland species; mechanized land clearing to remove non-native invasive exotic or nuisance vegetation; and other related activities.

Individuals shall allow authorized representatives of DENR to make periodic inspections at any time deemed necessary in order to be sure that the activity being performed under authority of this general permit is in accordance with the terms and conditions prescribed herein.
There shall be no interference with navigation or use of the waters by the public. No attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the authorized work.
This permit shall not be applicable to proposed construction where the DENR 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.
At the discretion of DCM staff, review of individual project requests shall be coordinated with Division of Marine Fisheries or Wildlife Resources Commission personnel. This coordination may result in a construction moratorium during periods of significant biological productivity or critical life stages.
This permit shall not eliminate the need to obtain any other required state, local, or federal authorization.
Development carried out under this permit shall 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. October 1, 2004.

15A NCAC 7H .2605 SPECIFIC CONDITIONS

(a) This general permit shall be applicable only for mitigation site proposals made by the North Carolina Ecosystem Enhancement Program or North Carolina Wetlands Restoration Program.
(b) No excavation or filling of any submerged aquatic vegetation shall be authorized by this general permit.
(c) The need to cross wetlands in transporting equipment shall be avoided or minimized to the maximum extent practicable. If the crossing of wetlands with mechanized or non-mechanized construction equipment is necessary, track and low pressure equipment or temporary construction mats shall be utilized for the area(s) to be crossed. The temporary mats shall be removed immediately upon completion of construction.
(d) No permanent structures shall be authorized by this general permit, except for fences, water control structures, or those structures needed for site monitoring or shoreline stabilization of the mitigation site.
(e) This permit does not convey or imply approval of the suitability of the property for compensatory mitigation for any particular project. The use of any portion of the site as compensatory mitigation for future projects shall be determined in accordance with the regulatory policies and procedures in place at the time such a future project is authorized.
(f) The authorized work shall result in a net increase in coastal resource functions and values.
(g) The entire mitigation site shall be protected in perpetuity in its mitigated state and shall be owned by the permittee or its approved designee. An appropriate conservation easement, deed restriction or other appropriate instrument shall be attached to the title for the subject property.
(h) The Division of Coastal Management shall be provided copies of all monitoring reports prepared for the authorized mitigation site.
(i) If water control structures or other hydrologic alterations are proposed, such activities shall not increase the likelihood of flooding any adjacent property.
(j) Appropriate sedimentation and erosion control devices, measures or structures shall be implemented to ensure that eroded materials do not enter adjacent wetlands, watercourses and property (e.g. silt fence, diversion swales or berms, sand fence, etc.).
(k) If one or more contiguous acre of property is to be graded, excavated or filled, the applicant shall file an erosion and sedimentation control plan with the Division of Land Resources, Land Quality Section, or government having jurisdiction. The plan shall be approved prior to commencing the land-disturbing activity.
(l) All fill material shall be clean and free of any pollutants, except in trace quantities.

History Note: *Authority G.S. 113A-107; 113A-118.1;*
Eff. October 1, 2004.