SECTION .1700 - GENERAL PERMIT FOR EMERGENCY WORK REQUIRING A CAMA AND/OR A DREDGE AND FILL PERMIT

15A NCAC 07H .1701 PURPOSE

This permit allows work necessary to protect property and/or prevent further damage to property caused by a sudden or unexpected natural event or structural failure which imminently endangers life or structure. For the purposes of this general permit, major storms such as hurricanes, northeasters or southwesters may be considered a sudden unexpected natural event although such storms may be predicted and publicized in advance.

History Note: Authority G.S. 113-229(cl); 113A-107(a),(b); 113A-113(b); 113A-118.1;
Eff. November 1, 1985.

15A NCAC 07H .1702 APPROVAL PROCEDURES

(a) Any person wishing to undertake development in an area of environmental concern necessary to protect life or endangered structures will notify the Division of Coastal Management or Local Permit Office (LPO) when a possible emergency situation exists.

(b) The applicant may qualify for approval of work described in this permit after an onsite inspection by the LPO or Division of Coastal Management Field Consultant and upon his findings that the proposed emergency work requires a CAMA and/or Dredge and Fill permit. The LPO shall issue the permit if the required emergency measures constitute minor development.

(c) Once the LPO or Consultant determines that the applicant's proposed project may qualify for an emergency permit, he shall consult with the applicant and assist him in preparing an application. The applicant shall include a sketch showing existing conditions and the proposed work.

(d) The applicant for an emergency permit must take all reasonable steps to notify adjacent riparian landowners of the application, and prior to receiving a permit will certify by signing the permit the following:

(1) that a copy of the application and sketch has been served on all adjacent riparian landowners, or if service of a copy was not feasible, that the applicant has explained the project to all adjacent riparian landowners;

(2) that the applicant has explained to all adjacent riparian landowners that they have a right to oppose the issuance of a permit by filing objections with the local CAMA permit officer or with the Secretary of the Department of Environment, Health, and Natural Resources;

(3) that, as to adjacent riparian landowners not contacted, the applicant has made a reasonable attempt to contact them and furnish them with the required information.

(e) All work authorized by this general permit will cease after thirty days from the date of issuance.

History Note: Authority G.S. 113-229(cl); 113A-107(a),(b); 113A-113(b); 113A-118.1;
Eff. November 1, 1985;
Amended Eff. May 1, 1990.

15A NCAC 07H .1703 PERMIT FEE

The agency shall not charge a fee for permitting work necessary to respond to emergency situations except in the case when a temporary erosion control structure is used. In those cases, the applicant shall pay a permit fee of four hundred dollars ($400.00) by check or money order made payable to the Department.

History Note: Authority G.S. 113-229(cl); 113A-107(a),(b); 113A-113(b); 113A-118.1; 113A-119;
Eff. November 1, 1985;
Amended Eff. September 1, 2006; August 1, 2002; March 1, 1991; October 1, 199.

15A NCAC 07H .1704 GENERAL CONDITIONS

(a) Work permitted by means of an emergency general permit shall be subject to the following limitations:

(1) No work shall begin until an onsite meeting is held with the applicant and a Division of Coastal Management representative so that the proposed emergency work can be delineated. Written authorization to proceed with the proposed development may be issued during this visit.

(2) No work shall be permitted other than that which is necessary to reasonably protect against or reduce the imminent danger caused by the emergency, to restore the damaged property to its condition immediately before the emergency, or to re-establish necessary public facilities or transportation corridors.

(3) Any permitted erosion control projects shall be located no more than 20 feet waterward of the imminently threatened structure or the right-of way in the case of roads. If a building or road is found to be imminently threatened and at increased risk of imminent damage due to site conditions such as a flat beach profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet seaward of the structure being

protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal Management or designee.

(4) Fill materials used in conjunction with emergency work for storm or erosion control shall be obtained from an upland source. Excavation below MHW in the Ocean Hazard AEC may be allowed to obtain material to fill sandbags used for emergency protection.

(5) Structural work shall meet sound engineering practices.

(6) This permit allows the use of oceanfront erosion control measures for all oceanfront properties without regard to the size of the existing structure on the property or the date of construction.

(b) Individuals shall allow authorized representatives of the Department of Environment and Natural Resources to make inspections at any time deemed necessary to be sure that the activity being performed under authority of this general permit is in accordance with the terms and conditions in these Rules.

(c) Development shall not jeopardize the use of the waters for navigation or for other public trust rights in public trust areas including estuarine waters.

(d) This permit shall 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.

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

(f) Development carried out under this permit must be consistent with all local requirements, CAMA rules, and local land use plans, storm hazard mitigation, and post-disaster recovery plans current at the time of authorization.

History Note: *Authority G.S. 113-229(cl); 113A-107(a),(b); 113A-113(b); 113A-118.1;*
Eff. November 1, 1985;
Amended Eff. December 1, 1991; May 1, 1990;
RRC Objection due to ambiguity Eff. May 19, 1994;
Amended Eff. May 1, 2010; August 1, 1998; July 1, 1994.

15A NCAC 07H .1705 SPECIFIC CONDITIONS

(a) Temporary Erosion Control Structures in the Ocean Hazard AEC.

(1) Permittable temporary erosion control structures shall be limited to sandbags placed landward of mean high water and parallel to the shore.

(2) Temporary erosion control structures as defined in Subparagraph (1) of this Paragraph shall be used to protect only imminently threatened roads and associated right of ways, and buildings and their associated septic systems. A structure shall be considered imminently threatened if its foundation, septic system, or, right-of-way in the case of roads, is less than 20 feet away from the erosion scarp. Buildings and roads located more than 20 feet from the erosion scarp or in areas where there is no obvious erosion scarp may also be found to be imminently threatened when site conditions, such as a flat beach profile or accelerated erosion, increase the risk of imminent damage to the structure.

(3) Temporary erosion control structures shall be used to protect only the principal structure and its associated septic system, but not appurtenances such as pools, gazebos, decks or any amenity that is allowed as an exception to the erosion setback requirement.

(4) Temporary erosion control structures may be placed seaward of a septic system when there is no alternative to relocate it on the same or adjoining lot so that it is landward of or in line with the structure being protected.

(5) Temporary erosion control structures shall not extend more than 20 feet past the sides of the structure to be protected. The landward side of such temporary erosion control structures shall not be located more than 20 feet seaward of the structure to be protected or the right-of-way in the case of roads. If a building or road is found to be imminently threatened and at increased risk of imminent damage due to site conditions such as a flat beach profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet seaward of the structure being protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal management or designee.

(6) Temporary erosion control structures may remain in place for up to two years after the date of approval if they are protecting a building with a total floor area of 5000 square feet or less and its associated septic system, or for up to five years for a building with a total floor area of more than 5000 square feet and its associated septic system. Temporary erosion control structures may remain in place for up to five years if they are protecting a bridge or a road. The property owner shall be responsible for removal of the temporary structure within 30 days of the end of the allowable time period.

(7) Temporary sandbag erosion control structures may remain in place for up to five years from the date of approval if they are located in a community that is actively pursuing a beach nourishment project, and up to eight years from the date of approval if they are located in an Inlet Hazard Area adjacent to an inlet for which a community is actively pursuing an inlet relocation project. For purposes of this Rule, a community is considered to be actively pursuing a beach nourishment or inlet relocation project if it has:

(A) an active CAMA permit, where necessary, approving such project, or

(B) been identified by a U.S. Army Corps of Engineers' Beach Nourishment Reconnaissance Study, General Reevaluation Report, Coastal Storm Damage Reduction Study, or an ongoing feasibility study by the U.S. Army Corps of Engineers and a commitment of local or federal money, when necessary; or

(C) received a favorable economic evaluation report on a federal project; or

(D) is in the planning stages of a project that has been designed by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements and has been initiated by a local government or community with a commitment of local or state funds to construct the project and the identification of the financial resources or funding bases necessary to fund the beach nourishment or inlet relocation project.

If beach nourishment or inlet relocation is rejected by the sponsoring agency or community, or ceases to be actively planned for a section of shoreline, the time extension is void for that section of beach or community and existing sandbags are subject to all applicable time limits set forth in Subparagraph (6) of this Paragraph.

(8) Once the temporary erosion control structure is determined to be unnecessary due to relocation or removal of the threatened structure, a storm protection project constructed by the U.S. Army Corps of Engineers, a large scale beach nourishment project or an inlet relocation project, it shall be removed by the permittee within 30 days of official notification by the Division of Coastal Management regardless of the time limit placed on the temporary erosion control structure.

(9) Removal of temporary erosion control structures shall not be required if they are covered by dunes with stable and natural vegetation.

(10) The property owner shall be responsible for the removal of remnants of all portions of any damaged temporary erosion control structure.

(11) Sandbags used to construct temporary erosion control structures shall be tan in color and 3 to 5 feet wide and 7 to 15 feet long when measured flat. Base width of the structure shall not exceed 20 feet, and the height shall not exceed 6 feet.

(12) Soldier pilings and other types of devices to anchor sandbags shall not be allowed.

(13) Excavation below mean high water in the Ocean Hazard AEC may be allowed to obtain material to fill sandbags used for emergency protection.

(14) An imminently threatened structure may be protected only once regardless of ownership unless the threatened structure is located in an Inlet Hazard Area and in a community that is actively pursuing an inlet relocation project in accordance with Subparagraph (7). Existing temporary erosion control structures located in Inlet Hazard Areas may be eligible for an additional eight year permit extension provided that the structure being protected is still imminently threatened, the temporary erosion control structure is in compliance with requirements of this Subparagraph and the community in which it is located is actively pursuing an inlet relocation project in accordance with Subparagraph (7) of this Paragraph. In the case of a building, a temporary erosion control structure may be extended, or new segments constructed, if additional areas of the building become imminently threatened. Where temporary structures are installed or extended incrementally, the time period for removal under Subparagraph (6) or (7) shall begin at the time the initial erosion control structure is installed. For the purpose of this Rule:

(A) a building and septic system shall be considered as separate structures.

(B) a road or highway shall be allowed to be incrementally protected as sections become imminently threatened. The time period for removal of each section of sandbags shall begin at the time that section is installed in accordance with Subparagraph (6) or (7) of this Rule.

(15) Existing sandbag structures may be repaired or replaced within their originally permitted dimensions during the time period allowed under Subparagraph (6) or (7) of this Rule.

(b) Erosion Control Structures in the Estuarine Shoreline, Estuarine Waters, and Public Trust AECs. Work permitted by this general permit shall be subject to the following limitations:

(1) no work shall be permitted other than that which is necessary to reasonably protect against or reduce the imminent danger caused by the emergency or to restore the damaged property to its condition immediately before the emergency;

(2) the erosion control structure shall be located no more than 20 feet waterward of the imminently threatened structure. If a building or road is found to be imminently threatened and at increased risk of imminent damage due to site conditions such as a flat shore profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet seaward of the structure being protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal Management or designee.

(3) fill material used in conjunction with emergency work for storm or erosion control in the Estuarine Shoreline, Estuarine Waters and Public Trust AECs shall be obtained from an upland source.

(c) Protection, Rehabilitation, or Temporary Relocation of Public Facilities or Transportation Corridors.

(1) Work permitted by this general permit shall be subject to the following limitations:

(A) no work shall be permitted other than that which is necessary to protect against or reduce the imminent danger caused by the emergency or to restore the damaged property to its condition immediately before the emergency;

(B) the erosion control structure shall be located no more than 20 feet waterward of the imminently threatened structure or the right-of-way in the case of roads. If a public facility or transportation corridor is found to be imminently threatened and at increased risk of imminent damage due to site conditions such as a flat shore profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet seaward of the facility or corridor being protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal Management or designee;

(C) any fill materials used in conjunction with emergency work for storm or erosion control shall be obtained from an upland source except that dredging for fill material to protect public facilities or transportation corridors shall be considered in accordance with standards in 15A NCAC 7H .0208;

(D) all fill materials or structures associated with temporary relocations which are located within Coastal Wetlands, Estuarine Water, or Public Trust AECs shall be removed after the emergency event has ended and the area restored to pre-disturbed conditions.

(2) This permit authorizes only the immediate protection or temporary rehabilitation or relocation of existing public facilities. Long-term stabilization or relocation of public facilities shall be consistent with local governments' post-disaster recovery plans and policies which are part of their Land Use Plans.

History Note: *Authority G.S. 113-229(cl); 113A-107(a),(b); 113A-113(b); 113A-118.1;*
Eff. November 1, 1985;
Amended Eff. April 1, 1999; February 1, 1996; June 1, 1995;
Temporary Amendment Eff. July 3, 2000; May 22, 2000;
Amended Eff. May 1, 2010; August 1, 2002.Temporary Amendment Eff. July 3, 2000; May 22, 2000;