

SECTION .2100 - GENERAL PERMIT FOR CONSTRUCTION OF SHEETPILE SILL 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 sheetpile sills, constructed from timber, vinyl, or steel sheetpiles for shoreline protection in conjunction with existing or created coastal wetlands. This permit shall only be applicable 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. February 1, 2009; April 1, 2003; August 1, 2000.*

15A NCAC 07H .2102 APPROVAL PROCEDURES

(a) An applicant for a General Permit under this Subchapter 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 the applicant's 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. The 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. The 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 the Division of Coastal Management determines that the project exceeds the rules established by the General Permit Process, DCM shall notify the applicant that 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 a Division of Coastal Management representative so that the proposed sill alignment may be marked. Written authorization to proceed with the proposed development shall be issued if the Division representative finds that the application meets all the requirements of this Subchapter. Construction of the sill shall be completed within 120 days of the 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 may be reissued.

*History Note: Authority G.S. 113A-107; 113A-118.1;
Eff. June 1, 1994;
Amended Eff. February 1, 2009; October 1, 2007; 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.

*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 sills conforming to the standards herein.

- (b) Individuals shall allow authorized representatives of the Department of Environment and Natural Resources to make periodic inspections at any time deemed necessary in order to ensure 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 sills authorized in this Rule shall not interfere with the established or traditional rights of navigation of the water by the public.
- (d) This permit shall not be applicable to proposed construction where the 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 not eliminate the need to obtain any other required state, local, or federal authorization.
- (f) Development carried out under this permit 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. February 1, 2009; August 1, 1998.*

15A NCAC 07H .2105 SPECIFIC CONDITIONS

- (a) The sill shall be positioned no more than 20 feet waterward of the normal high water or normal water level or 20 feet waterward of the waterward edge of existing wetlands at any point along its alignment. For narrow waterbodies (canals, creeks, etc.) the sill alignment shall not be positioned offshore more than one sixth (1/6) the width of the waterbody.
- (b) Sills authorized under this General Permit shall be allowed only in waters that average less than three feet in depth along the proposed alignment as measured from the normal high water or normal water level.
- (c) Where the Division of Coastal Management staff 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 sill structure as directed by the Division of Coastal Management staff.
- (d) Construction authorized by this general permit shall be limited to a maximum length of 500 feet.
- (e) The sill shall be constructed with an equal gap between each sheathing board totaling at least one inch of open area every linear foot of sill. The sill shall have at least one five-foot opening at every 100 feet. The sill 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 sill shall not exceed six inches above normal high water or the normal water level.
- (g) Offshore sill sections shall be set back 15 feet from 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 sill 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 sill.
- (h) Sills shall be marked at 50-foot intervals with yellow reflectors extending at least three feet above mean high water.
- (i) No backfill of the sill 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.
- (k) The sill shall be constructed of vinyl or steel sheet pile, formed concrete, timber, or other suitable equivalent materials approved by the Division of Coastal Management.
- (l) Perpendicular sections, return walls, or sections that would enclose estuarine waters or public trust areas shall not be allowed under this permit.
- (m) The permittee will maintain the sill in good condition and in conformance with the terms and conditions of this permit or the remaining sill 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. February 1, 2009; August 1, 2000.*