

SECTION .2700 – GENERAL PERMIT FOR THE CONSTRUCTION OF MARSH SILLS

15A NCAC 07H .2701 PURPOSE

A general permit under this Section shall allow for the construction of marsh sills for wetland enhancement and shoreline stabilization in estuarine and public trust waters as set out in 15A NCAC 07J .1100 and according to the rules in this Section. Marsh sills are defined as sills that are shore-parallel structures built in conjunction with existing, created, or restored wetlands. This general permit shall not apply within the Ocean Hazard System AECs 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;
Temporary Adoption Eff. June 15, 2004;
Eff. April 1, 2005;
Temporary Amendment Eff. April 1, 2019;
Amended Eff. July 1, 2019.*

15A NCAC 07H .2702 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 applicant 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 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 will 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 can be approved by a General Permit.

(d) No work shall begin until an on-site meeting is held with the applicant and a Division of Coastal Management representative to review the proposed development. 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 shall be completed within 120 days of the issuance of the general authorization or the authorization shall expire and it shall be necessary to re-examine the proposed development to determine if the general authorization may be reissued.

*History Note: Authority G.S. 113A-107; 113A-118.1;
Temporary Adoption Eff. June 15, 2004;
Eff. April 1, 2005;
Amended Eff. October 1, 2007.*

15A NCAC 07H .2703 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;
Temporary Adoption Eff. June 15, 2004;
Eff. April 1, 2005;
Amended Eff. September 1, 2006.*

15A NCAC 07H .2704 GENERAL CONDITIONS

- (a) Structures authorized by a permit issued pursuant to this Section shall be marsh sills conforming to these Rules.
- (b) Individuals shall allow authorized representatives of the Department of Environmental Quality (DEQ) 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 in these Rules.
- (c) The placement of marsh sills authorized in these Rules 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 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 shall be consistent with all local requirements, AEC Guidelines as set out in 15A NCAC 07H .0200, and local land use plans current at the time of authorization.

*History Note: Authority G.S. 113A-107; 113A-118.1;
Temporary Adoption Eff. June 15, 2004;
Eff. April 1, 2005;
Temporary Amendment Eff. April 1, 2019;
Amended Eff. July 1, 2019.*

15A NCAC 07H .2705 SPECIFIC CONDITIONS

- (a) A general permit issued pursuant to this Section shall be applicable only for the construction of marsh sill structures built in conjunction with existing, created, or restored wetlands. Planted wetland vegetation shall consist only of native species.
- (b) The landward edge of the sill shall be positioned no greater than 30 feet waterward of the normal high water or normal water level or five feet waterward of the existing wetlands, whichever distance is greater.
- (c) The permittee shall maintain the authorized sill, including wetlands and tidal inundation, in conformance with the terms and conditions of this permit, or the remaining sill structures shall be removed within 90 days of notification of noncompliance from the Division of Coastal Management.
- (d) The height of sills shall not exceed 12 inches above normal high water, normal water level, or the height of the adjacent wetland substrate, whichever is higher.
- (e) Sill construction authorized by this permit shall be limited to a maximum length of 500 feet.
- (f) The sills shall have at least one five-foot opening every 100 feet and may be staggered, overlapped or left open as long as the five-foot separation between sections is maintained. Overlapping sections shall not overlap more than 10 feet. Deviation from these opening requirements shall be allowable following coordination with the N.C. Division of Coastal Management.
- (g) The sill structure shall not exceed a slope of a one and a half foot horizontal distance over a one foot vertical rise. The width of the structure on the bottom shall not exceed 12 feet.
- (h) For water bodies narrower than 150 feet, no portion of the structures shall be positioned offshore more than one sixth (1/6) the width of the waterbody.
- (i) The sill shall not be within a navigation channel or associated setbacks marked or maintained by a state or federal agency.
- (j) The sill shall not interfere with leases or franchises for shellfish culture.
- (k) All structures shall have a minimum setback distance of 15 feet between any parts of the structure and the adjacent property owner's riparian access corridor, unless either a signed waiver statement is obtained from the adjacent property owner or the portion of the structure within 15 feet of the adjacent riparian access corridor is located no more than 25 feet from the normal high or normal water level. The riparian access corridor line is determined by drawing a line parallel to the channel, then drawing a line perpendicular to the channel line that intersects with the shore at the point where the upland property line meets the water's edge, as defined in 15A NCAC 07H .1205(t). Additionally, the sill shall not interfere with the exercise of riparian rights by adjacent property owners, including access to navigation channels from piers, or other means of access.
- (l) Sills shall be marked at 50-foot intervals with yellow reflectors extending at least three feet above normal high water or normal water level and must be maintained for the life of the structure.
- (m) If the crossing of wetlands with mechanized construction equipment is necessary, temporary construction mats shall be utilized for the areas to be crossed. The temporary mats shall be removed upon completion of the

construction of the sill structure. Material used to construct the sill shall not be stockpiled on existing wetlands or in open water unless contained in a containment structure supported by construction mats.

(n) Sedimentation and erosion control measures shall be implemented to ensure that eroded materials do not enter adjacent wetlands or waters.

(o) No excavation or filling, other than that necessary for the construction and bedding of the sill structure, is authorized by this general permit.

(p) Sills shall not be constructed within any native submerged aquatic vegetation. If submerged aquatic vegetation is present within a project area, a submerged aquatic vegetation survey shall be completed during the growing season of April 1 through September 30. All sills shall have a minimum setback of 10 feet from any native submerged aquatic vegetation.

(q) Sills shall not be constructed within any habitat that includes oyster reefs or shell banks. All sills shall have a minimum setback of 10 feet from any oysters, oyster beds, or shell banks.

(r) No excavation of the shallow water bottom or any wetland is authorized by this general permit.

(s) The sill material shall consist of clean rock, marl, oyster shell, or masonry materials such as granite or broken concrete, or other similar materials that are approved by the N.C. Division of Coastal Management. Sill material shall be free of loose sediment or any pollutant, including exposed rebar. The sill material shall be of sufficient size and slope to prevent its movement from the approved alignment by wave or current action.

*History Note: Authority G.S. 113A-107; 113A-118.1;
Temporary Adoption Eff. June 15, 2004;
Eff. April 1, 2005;
Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1.(f));
Temporary Amendment Eff. April 1, 2019;
Amended Eff. July 1, 2019.*