



NORTH CAROLINA  
*Environmental Quality*

ROY COOPER

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ELIZABETH S. BISER

*Secretary*

TANCRED MILLER

*Director*

CRC-24-08

August 14, 2024

**MEMORANDUM**

**TO:** Coastal Resources Commission

**FROM:** Cathy Brittingham

**SUBJECT:** Amendments to 15A NCAC 7H .2302 and 7H .2305 – General Permit for Replacement of Existing Bridges and Culverts

Under the periodic review of rules process under the NC Administrative Procedure Act (APA), G.S. 150B-21.3A, the division inadvertently changed rule language in 15A NCAC 07H .2302 limiting the time the permit is active to 120 days. Additionally, under the same process, the Rules Review Commission (RRC) objected to 15A NCAC 07H .2305 for concerns with “unclear or ambiguous” rule language.

15A NCAC 07H .2302 is the approval procedures section of the General Permit for replacement of existing bridges and culverts in Estuarine waters, Estuarine and Public Trust Areas, and Coastal Wetlands AECs. During the periodic review, the expiration date of the General Permit was changed to 120 days from the original expiration date of 2 years. An expiration date of 120 days is typical of a General Permit but is inadequate for the Bridges and Culverts General Permit, primarily used by NC DOT, due to the overall construction process which can include design, bid and actual construction. Staff is proposing amendments to reinstate an expiration date of two years in addition to requiring a project narrative and dated plats of existing and proposed development as part of the application process. These requirements are applicable to this General Permit due to the complexity of these projects and to allow a thorough review of impacts to coastal resources. Additional technical changes are included in this.

15A NCAC 07H .2305 was objected to by the RRC on September 17, 2022 and removed from the administrative code on October 5, 2023 due to the term “significant adverse impacts” being undefined and therefore “unclear and ambiguous language” for the purpose of rule. Since that time, you have adopted a definition of “significant adverse impact” in rule which has been approved by the RRC. A citation referencing this previously approved rule is incorporated into the amended rule language.

Staff is recommending approval of these amendments. I look forward to answering any questions you may have regarding this General Permit at our upcoming meeting in Beaufort.



North Carolina Department of Environmental Quality | Division of Coastal Management  
Morehead City Office | 400 Commerce Avenue | Morehead City, North Carolina 28557  
252.515.5400

## 15A NCAC 07H .2302 APPROVAL PROCEDURES

(a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management at the Regional Office indicated on the map located at

<https://ncdenr.maps.arcgis.com/apps/webappviewer/index.html?id=1a5881ec85ca40679988982e02665b51> and request approval for development as defined in G.S. 113A-103(5).

(b) The applicant shall provide:

(1) the site location, **project narrative**, dimensions of the project area, and ~~his or her~~ applicant's name and address; and

**(2) a dated plat(s) showing existing and proposed development; and**

~~(2)~~**(3)** confirmation that a written statement has been obtained and signed by the adjacent riparian property owners, indicating that they have no objections to the proposed work; or

~~(3)~~**(4)** confirmation that the adjacent **riparian** property owners have been notified by certified mail of the proposed work. The notice shall instruct adjacent **riparian** property owners to provide any comments on the proposed development in writing to the Division of Coastal Management within 10 days of receipt of the notice and indicate that no response by the adjacent **riparian** property owners will be interpreted as the adjacent riparian property owners having no objection. Division 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. If Division staff finds that the comments are worthy of more in-depth review, the Division shall notify the applicant that he or she must submit an application for a major development permit.

(c) No work shall begin until an onsite meeting is held with the applicant and a Division of Coastal Management representative to review the proposed development. A permit 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 authorized by this permit shall be completed within two years of permit issuance or the permit shall expire and a new permit shall be required to begin or continue construction.** If the applicant seeks a new permit under this Section, the Division of Coastal Management shall re-examine the proposed development to determine if the General Permit may be reissued. Pursuant to G.S. 136-44.7B, permits issued to the North Carolina Department of Transportation for projects identified in the Transportation Improvement Program shall not expire. 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 General Permit.

(d) Any modification or addition to the permitted project shall require approval from the Division of Coastal Management.

*History Note: Authority G.S. 113A-107; 113A-118.1; 113A-124;*

*Eff. June 1, 1996;*

*Amended Eff. May 1, 2010;*

*Readopted Eff. October 1, 2022.*



**15A NCAC 07H .2305 SPECIFIC CONDITIONS**

(a) This General Permit is applicable to bridge replacement projects spanning no more than 400 feet of estuarine water, public trust area, and coastal wetland AECs.

(b) Existing roadway deck width shall not be expanded to create additional lanes, with the exception that an existing one lane bridge may be expanded to two lanes provided the proposed project does not create significant adverse impacts as defined in 15A NCAC 07H.0208 (7) and (8).

(c) Replacement of existing bridges with new bridges shall not reduce vertical or horizontal navigational clearances.

(d) All demolition debris shall be disposed of landward of all wetlands and the Normal Water Level (NWL) or Normal High Water (NHW) level as defined in 15A NCAC 07H .0106, and shall employ soil stabilization measures to prevent entry of sediments in the adjacent water bodies or wetlands.

(e) Bridges and culverts shall be designed to allow passage of anticipated high water flows.

(f) Measures sufficient to restrain sedimentation and erosion shall be implemented at each site.

(g) Bridge or culvert replacement activities involving excavation or fill in wetlands, public trust areas, and estuarine waters shall meet the following conditions:

(1) Replacing bridges with culverts shall not be allowed in primary nursery areas as defined by the Marine Fisheries or Wildlife Resources Commissions.

(2) The total area of public trust area, estuarine waters, and wetlands to be excavated or filled shall not exceed 2,500 square feet except that the coastal wetland component shall not exceed 750 square feet.

(3) Culverts shall not be used to replace bridges with open water spans greater than 50 feet.

(4) There shall be no temporary placement or double handling of excavated or fill materials within waters or vegetated wetlands.

(5) No excavated or fill material shall be placed in any wetlands or surrounding waters outside of the alignment of the fill area indicated on the work plat.

(6) All excavated materials shall be confined above Normal Water Level or Normal High Water level and landward of any wetlands behind dikes or other retaining structures to prevent spill-over of solids into any wetlands or surrounding waters.

(7) No bridges with a clearance of four feet or greater above the NWL or NHW shall be allowed to be replaced with culverts unless the culvert design maintains the existing water depth, vertical clearance and horizontal clearance.

(8) If a bridge is being replaced by a culvert(s) then the width of the waterbody shall not be decreased by more than 40 percent.

(9) All pipe and culvert inverts placed within the Public Trust or the Estuarine Waters AECs shall be buried at least one foot below normal bed elevation to allow for passage of water and aquatic life. Culverts placed in wetlands are not subject to this requirement.

*History Note: Authority G.S. 113A-107; 113A-118.1; 113A-124;*

*Eff. June 1, 1996;*



*Amended Eff. May 1, 2010;  
RRC objection September 17, 2022 and rule returned to agency on October 5, 2023.*



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