

SECTION .1500 - GENERAL PERMIT FOR EXCAVATION WITHIN OR CONNECTING TO EXISTING CANALS, CHANNELS, BASINS, OR DITCHES IN ESTUARINE WATERS, PUBLIC TRUST WATERS, AND COASTAL SHORELINE AECS

15A NCAC 07H .1501 PURPOSE

A person requesting excavation within or connecting to existing canals, channels, basins, or ditches in Estuarine Waters, Public Trust Waters, and Coastal Shorelines AECs for the purpose of maintaining water depths and creating new boat basins from non-wetland areas that will be used for private, non-commercial activities shall apply for a General Permit according to the rules of this Section.

History Note: Authority G.S. 113A-107(a),(b); 113A-113(b); 113A-118.1; 113-229(c1); Eff. July 1, 1984; Amended Eff. July 1, 2015; December 1, 1987; Readopted Eff. October 1, 2022.

15A NCAC 07H .1502 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-130(5).

(b) The applicant shall provide:

- (1) the site location, dimensions of the project area, and his or her name and address; and
- (2) 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
- (3) 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 to the Division of Coastal Management within ten days of receipt of the notice and indicate that no response by the adjacent property owners will be interpreted as the adjacent 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 permitted under this Section shall be completed within 120 days of the date of permit issuance or such permit shall expire. 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.

History Note: Authority G.S. 113A-107(a),(b); 113A-113(b); 113A-118.1; 113-229(c1); Eff. July 1, 1984; Amended Eff. July 1, 2015; January 1, 1990; December 1, 1987; Readopted Eff. October 1, 2022.

15A NCAC 07H .1503 APPLICATION FEE

The applicant shall pay a permit fee of two hundred dollars (\$200.00) for maintenance excavation of 100 cubic yards or less or four hundred dollars (\$400.00) for maintenance excavation of 100 to 1,000 cubic yards. Permit fees shall be paid by check or money order payable to the Department of Environmental Quality.

History Note: Authority G.S. 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113A-119.1; 113A-124; Eff. July 1, 1984; Amended Eff. September 1, 2006; August 1, 2000; March 1, 1991; Readopted Eff. October 1, 2022.

15A NCAC 07H .1504 GENERAL CONDITIONS

(a) Permittees shall allow representatives of the Department of Environmental Quality to make inspections at any time to ensure that the activity being performed under authority of the General Permit set forth in this Section is in accordance with the terms and conditions prescribed herein.

(b) The permit set forth in this Section 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 required because there are unresolved questions concerning the proposed activity's impact on Areas of Environmental Concern.

(c) No new basins shall be allowed that result in closure of shellfish waters according to the closure policy of the Division of Marine Fisheries, 15A NCAC 18A .0911.

History Note: Authority G.S. 113A-107(a),(b); G.S. 113A-108; 113A-113(b); 113A-118.1; 113-229(c1); Eff. July 1, 1984; Amended Eff. May 1, 1990; December 1, 1987; RRC Objection due to ambiguity Eff. May 19, 1994; Amended Eff. July 1, 2015; August 1, 1998; July 1, 1994; Readopted Eff. October 1, 2022.

15A NCAC 07H .1505 SPECIFIC CONDITIONS

Proposed maintenance excavation shall meet each of the following specific conditions to be eligible for authorization by this general permit.

- (1) New basins shall be allowed only when they are located entirely in highground and join existing man-made canals or basins.
- (2) New basins shall be no larger than 50 feet in either length or width and no deeper than the waters they join.
- (3) New basins shall be for the private non-commercial use of the land owner.
- (4) Maintenance excavation shall involve the removal of no more than 1,000 cubic yards of material as part of a single and complete project.
- (5) All excavated material shall be placed entirely on high ground above the mean high tide or ordinary high water line, and above any marsh, or other wetland.
- (6) All spoil material shall be stabilized or retained so as to prevent any excavated material from re-entering the surrounding waters, marsh, or other wetlands.
- (7) The proposed project shall not involve the excavation of any marsh, submerged aquatic vegetation as defined at 15A NCAC 03I .0101 by the Marine Fisheries Commission, or other wetlands.
- (8) Maintenance excavation shall not exceed the original dimensions of the canal, channel, basin, or ditch and in no case be deeper than 6 feet below mean low water or ordinary low water, nor deeper than connecting channels.
- (9) Proposed excavation in existing channels and basins shall not allow for a public or commercial use.
- (10) Maintenance excavation as well as excavation of new basins shall not be allowed within or with connections to primary nursery areas without prior approval from the Division of Marine Fisheries or Wildlife Resources Commission.
- (11) Bulkheads shall be allowed as a structural component on one or more sides of the permitted basin to stabilize the shoreline from erosion.
- (12) The bulkhead shall not exceed a distance of two feet waterward of the normal high water or normal water level at any point along its alignment.
- (13) Bulkheads shall be constructed of vinyl or steel sheet pile, concrete, stone, timber, or other materials approved by the Division of Coastal Management.
- (14) All backfill material shall be obtained from an upland source pursuant to 15A NCAC 07H .0208. The bulkhead shall be constructed prior to any backfilling activities and shall be constructed so as to prevent seepage of backfill materials through the structure.
- (15) Construction of bulkhead authorized by this general permit in conjunction with bulkhead authorized under 15A NCAC 07H .1100 shall be limited to a combined maximum shoreline length of 500 feet.

History Note: Authority G.S. 113A-107(a),(b); 113A-108; 113A-113(b); 113A-118.1; 113-229(c1); Eff. July 1, 1984; Amended Eff. July 1, 2015; September 1, 1988; December 1, 1987; Readopted Eff. October 1, 2022.