

SECTION .2500 - EMERGENCY GENERAL PERMIT, TO BE INITIATED AT THE DISCRETION OF THE SECRETARY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES FOR REPLACEMENT OF STRUCTURES, THE RECONSTRUCTION OF PRIMARY OR FRONTAL DUNE SYSTEMS, AND THE MAINTENANCE EXCAVATION OF EXISTING CANALS, BASINS, CHANNELS, OR DITCHES, DAMAGED, DESTROYED, OR FILLED IN BY HURRICANES OR TROPICAL STORMS, PROVIDED ALL REPLACEMENT, RECONSTRUCTION AND MAINTENANCE EXCAVATION ACTIVITIES CONFORM TO ALL CURRENT STANDARDS

15A NCAC 07H .2501 PURPOSE

Following damage to coastal North Carolina due to hurricanes or tropical storms, the Secretary may, based upon an examination of the extent and severity of the damage, implement any or all provisions of this Section. Factors the Secretary may consider in making this decision include, but are not limited to, severity and scale of property damage, designation of counties as disaster areas, reconnaissance of the impacted areas, or discussions with staff, state, or federal emergency response agencies. This permit shall allow for:

- (1) the replacement of structures that were located within the estuarine system or public trust Areas of Environmental Concern and that were destroyed or damaged beyond 50 percent of the structures value as a result of any hurricane or tropical storm;
- (2) a one time per property fee waiver for the reconstruction or repair by beach bulldozing of hurricane or tropical storm damaged frontal or primary dune systems; and
- (3) a one time per property fee waiver for maintenance dredging activities within existing basins, canals, channels, and ditches. Structure replacement, dune reconstruction, and maintenance excavation activities authorized by this permit shall conform with all current use standards and regulations. The structural replacement component of this general permit shall only be applicable where the structure was in place and serving its intended function at the time of the impacting hurricane or storm, and shall not apply within the Ocean Hazard System of Areas of Environmental Concern (AEC) or waters adjacent to these AECs with the exception of those portions of shoreline 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. October 2, 1999;
Temporary Adoption Expired on July 28, 2000;
Eff. April 1, 2001;
Readopted Eff. July 1, 2022.*

15A NCAC 07H .2502 APPROVAL PROCEDURES

- (a) The applicant must contact the Division of Coastal Management and request approval for structural replacement, dune reconstruction, or maintenance excavation.
- (b) The applicant shall provide:
 - (1) the site location, dimensions of the project area including shoreline length, a description of the repair, replacement, reconstruction, or maintenance excavation needed, and his or her name and address. In the case of structural replacements, any additional documentation confirming the existence of the structure prior to the hurricane or tropical storm, such as surveys, previous permits, photographs or videos; and
 - (2) Description of the extent of repair, replacement, reconstruction, or maintenance excavation needed, including dimensions and shoreline length.
- (c) For projects involving the excavation or filling of any area of estuarine water, the applicant must provide confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. Such 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 shall be interpreted as 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 shall submit an application for a major development permit.
- (d) No work shall begin until a 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 may be issued during this meeting if the Division representative finds that the application meets all the requirements of this Subchapter.
- (e) Replacement, reconstruction, or maintenance excavation activities must be completed within one year of each activation by the Secretary of this general permit.
- (f) Authorizations under this General Permit shall not be issued more than one year following each activation by the Secretary of this general permit.

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

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15A NCAC 07H .2503 PERMIT FEE

The standard permit fee of two hundred dollars (\$200.00) has been waived for this General Permit.

History Note: Authority G.S. 113A-107; 113A-118.1;
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Readopted Eff. July 1, 2022.

15A NCAC 07H .2504 GENERAL CONDITIONS

- (a) This permit shall only become available following a written statement by the Secretary that, based upon hurricane or tropical storm related damage, implementation of the provisions of this Section are warranted.
- (b) Based upon an examination of the specific circumstances following a specific hurricane or tropical storm, the Secretary may choose to activate any or all of the components of this Section. The Secretary may also limit the geographic service area of this permit.
- (c) This permit authorizes only the replacement of damaged or destroyed structures, the reconstruction of frontal or primary dunes, and maintenance excavation activities conforming to the standards described in this Section.
- (d) This permit does not authorize the replacement of any structure within any Ocean Hazard Area of Environmental Concern, with the exception of those portions of shoreline within the Ocean Hazard 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.
- (e) Individuals shall allow authorized representatives of the Department of Environmental Quality to make inspections at any time in order to be sure 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.
- (f) The permit set forth in this Section shall not be applicable to proposed construction where the Department determines that the proposed activity would endanger adjoining properties or significantly affect historic, cultural, scenic, conservation, or recreational values identified in G.S. 113A-102 and G.S. 113A-113(b)(4).
- (g) This permit does not eliminate the need to obtain any other required State, local, or federal authorization.
- (h) This permit does not preclude an individual from applying for other authorizations for structure replacement that may be available under the Coastal Area Management Act and the Rules of the Coastal Resources Commission. However, application fees for any such authorization shall not be waived or deferred.

History Note: Authority G.S. 113A-107; 113A-118.1;
Temporary Adoption Eff. October 2, 1999;
Temporary Adoption Expired on July 28, 2000;
Eff. April 1, 2001;
Readopted Eff. July 1, 2022.

15A NCAC 07H .2505 SPECIFIC CONDITIONS

- (a) The replacement of a damaged or destroyed structure shall take place within the footprint and dimensions that existed immediately prior to the damaging hurricane or tropical storm. No structural enlargement or additions shall be allowed.
- (b) Structure replacement, dune reconstruction, and maintenance excavation authorized by this permit shall conform to the existing use standards and regulations for exemptions, minor development permits, and major development permits, including general permits. These use standards include, but are not limited to:
 - (1) 15A NCAC 07H .0208(b)(6) for the replacement of docks and piers;
 - (2) 15A NCAC 07H .0208(b)(7) for the replacement of bulkheads and shoreline stabilization measures;
 - (3) 15A NCAC 07H .0208(b)(9) for the replacement of wooden and riprap groins;
 - (4) 15A NCAC 07H .1500 for maintenance excavation activities; and
 - (5) 15A NCAC 07H .1800 for beach bulldozing in the Ocean Hazard AEC.
- (c) The replacement of an existing dock or pier facility, including associated structures, marsh enhancement breakwaters, or groins shall be set back 15 feet from the adjoining property lines and 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. Application of this Rule may be aided by reference to the approved diagram in 15A NCAC 07H .1205, illustrating the rule as applied to various shoreline configurations. Copies of the

diagram may be obtained from the Division of Coastal Management. When shoreline configuration is such that a perpendicular alignment cannot be achieved, the pier shall be aligned to meet the intent of this Rule to the maximum extent practicable. The setback 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 replacement of the structure 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 structure.

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