DEPARTMENT OF THE ARMY
Wilmington District, Corps of Engineers
Post Office Box 1890
Wilmington, North Carolina 28402-1890

Regional General Permit No. 198200031
Name of Permittee: General Public
Effective Date: November 1, 2008
Expiration Date: October 31, 2013

DEPARTMENT OF THE ARMY
REGIONAL GENERAL PERMIT

A regional general permit (RGP) to perform work in or affecting navigable waters of the United States and waters of the United States, upon recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403), and Section 404 of the Clean Water Act (33 U.S.C. 1344), is hereby modified and re-issued by authority of the Secretary of the Army by the

District Engineer
U.S. Army Engineer District, Wilmington
Corps of Engineers
Post Office Box 1890
Wilmington, North Carolina 28402-1890

TO AUTHORIZE **THE DISCHARGE OF DREDGED OR FILL MATERIAL IN WATERS OF THE UNITED STATES, INCLUDING WETLANDS, ASSOCIATED WITH THE CONSTRUCTION, MAINTENANCE AND REPAIR OF BRIDGES, INCLUDING COFFERDAMS, ABUTMENTS, FOUNDATION SEALS, PIERS, APPROACH FILLS, DETOUR FILLS, BOX CULVERT INSTALLATION AND TEMPORARY CONSTRUCTION AND ACCESS FILLS, IN WATERS OF THE UNITED STATES AS PART OF WORK CONDUCTED BY THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT) OR OTHER STATE, FEDERAL OR LOCAL GOVERNMENTAL ENTITY, IN THE STATE OF NORTH CAROLINA.**

1. Special Conditions.

a. Written confirmation that the proposed work complies with this RGP must be received from the Wilmington District Engineer prior to the commencement of any work. To enable this determination to be made, the permittee must furnish the Wilmington District Engineer a pre-construction notification with the following information:

(1) A map indicating the location of the work.

(2) Plans of the proposed work showing all pertinent structures, elevations, dimensions and quantities of materials and locations of all structures and/or fill in wetlands or waterward of the normal/high water elevation contours.

(3) A brief discussion of the affected aquatic resources, including streams and wetlands. The discussion shall include the identification and types of vegetation present.

(4) Approximate commencement and completion dates.

(5) A description of methods to be employed to avoid and/or minimize permanent and temporary impacts to aquatic resources caused by the proposed work.

(6) Plans, including timetables and techniques, for construction, stabilization and removal of all unavoidable temporary fills.

(7) Names and addresses of adjoining property owners.

b. In the case of fills of one acre or less, including permanent approach fills, detour fills and fills associated with culvert installation, the Corps of Engineers' Project Manager will determine, after appropriate onsite visits and review of plans, if the impacts on aquatic resources, including streams and wetlands, are likely to be such as to require review by Federal and State agencies. If it is determined that impacts are minimal or can be made minimal by changes agreed to by the applicant, a letter of authorization to proceed will be provided. If it is determined that review by Federal and State agencies is necessary to fully evaluate impacts, copies of all plans and materials will be forwarded to the U.S. Fish and Wildlife Service (USFWS), the National Marine Fisheries Service (NMFS), the U.S. Environmental Protection Agency (EPA) and the North Carolina Department of Environment and Natural Resources (NCDENR). These agencies will furnish comments to the Wilmington District Engineer within thirty (30) days.

c. In cases of fills greater than one acre, copies of all plans and materials will be forwarded to the USFWS, the NMFS, the EPA and the NCDENR. These agencies will furnish comments to the Wilmington District Engineer in thirty (30) days. In cases of land disturbing activities comprising more than one acre, a Sedimentation/Erosion Control Plan will be filed with the North Carolina Division of Land Resources, Land Quality Section, thirty (30) days prior to commencing work.

d. Where work is proposed within the twenty (20) coastal counties, as defined by the North Carolina Division of Coastal Management, the applicant shall forward a copy of the pre-construction notification to:

National Marine Fisheries Service
101 Pivers Island Road

Beaufort, North Carolina 28516

The counties in which this condition applies are:

Bertie	Carteret	Dare	Hyde	Pender
Beaufort	Chowan	Gates	Onslow	Perquimans
Brunswick	Craven	New Hanover	Pamlico	Tyrrell
Camden	Currituck	Hertford	Pasquotank	Washington

e. In the event that any Federal agency maintains an objection or any required State authorization is outstanding, no notice to proceed will be given until objections are resolved and State authorizations are issued.

f. No work will proceed until after the applicant has received written notice to proceed from the Wilmington District Engineer. This notice may include additional conditions and/or restrictions. Copies of the notice to proceed will be furnished to the USFWS, the NMFS, the EPA and the NCDENR with a brief description of the work, including the area of wetlands affected and the quantity of fill material.

g. Upon completion of any work authorized by this RGP, all temporary fills will be completely removed and the area reestablished as a wetland by restoring natural hydrology and native vegetation. Stream contours and riparian vegetation will be reestablished upon the removal of temporary culverts. In such instances, a restoration plan will be submitted to the Wilmington District Engineer for approval. Information in the restoration plan will be in accordance with special condition j. below.

h. Appropriate soil and erosion control measures must be established and maintained during construction. All fills, temporary and permanent, must be adequately stabilized at the earliest practicable date to prevent erosion of fill material into adjacent waters or wetlands.

i. In cases where new alignment approaches are to be constructed and the existing wetland approach fill is to be abandoned and no longer to be maintained as a roadway, the abandoned fill shall be removed and the area reestablished as a wetland. In such instances, a restoration plan will be submitted to the Wilmington District Engineer for approval. Information in the restoration plan will be in accordance with special condition j. below.

j. Discharges of dredged or fill material into waters of the United States, including wetlands, must be minimized or avoided to the maximum extent practicable. In reviewing an activity, the Wilmington District Engineer will first determine whether the activity will result in more than minimal adverse environmental affects. For activities that are determined to have more than minimal impacts, compensatory mitigation will be required. To expedite the process, the applicant will provide a mitigation plan with the request for authorization. Site specific mitigation proposals will include, but are not necessarily limited to, a description of work, a schedule of work and a monitoring plan, and they will be in accordance with currently approved

Wilmington District and/or Corps-wide mitigation guidelines. The applicant may propose other forms of mitigation, such as mitigation bank credits or in-lieu fee mitigation with the notification, which in some situations and at the discretion of the Wilmington District, may be considered acceptable mitigation.

k. Activities in any North Carolina designated "Mountain Trout Waters" must comply with all pH, temperature and turbidity criteria established for such waters by the North Carolina Wildlife Resources Commission (NCWRC) and/or the North Carolina Division of Water Quality (NCDWQ). Work that may result in the sedimentation of trout waters will generally be prohibited from October 15 to April 15, of any year, to avoid impacts on trout spawning.

l. Before discharging dredged or fill material into waters of the United States, including wetlands, in the twenty-five (25) mountain counties of North Carolina that contain trout waters, the applicant will obtain and provide a letter of comments and recommendations from the NCWRC on the proposed activities. A discussion of alternatives to working in the mountain trout waters and why alternatives were not selected, and a plan to provide compensatory mitigation for all unavoidable adverse impacts to the mountain trout waters shall also be submitted with the letter from NCWRC. To facilitate coordination with the NCWRC, the proponent may provide a copy of the notification to the NCWRC concurrent with the notification to the District Engineer. The NCWRC will respond both to the proponent and directly to the Corps of Engineers.

The applicant should contact NCWRC in the following NC Trout Counties at:

Mr. Ron Linville Western Piedmont Region Coordinator 3855 Idlewild Road Kernersville, NC 27284-9180 Telephone: (336) 769-9453	Counties		
	Alleghany	Caldwell	Watauga
	Ashe	Mitchell	Wilkes
	Avery	Stokes	
	Burke	Surry	

Mr. Dave McHenry Mountain Region Coordinator 20830 Great Smoky Mtn. Expressway Waynesville, NC 28786 Telephone: (828) 452-2546 Fax: (828) 452-7772	Counties		
	Buncombe	Henderson	Polk
	Cherokee	Jackson	Rutherford
	Clay	Macon	Swain
	Graham	Madison	Transylvania
	Haywood	McDowell	Yancey

m. This permit does not authorize the use of culverts in areas designated as anadromous fish spawning areas by the North Carolina Division of Marine Fisheries (NCDMF) or the North Carolina Wildlife Resources Commission (NCWRC).

n. Discharges into Waters of the United States designated by either the North Carolina Division of Marine Fisheries (NCDMF) or the NCWRC as anadromous fish spawning area are prohibited during the period between February 15 and June 30, without prior written approval from NCDMF or NCWRC and the Corps. Discharges into waters of the United States designated by NCDMF as primary nursery areas and discharges into waters of the United States designated by NCWRC as inland nursery areas shall be coordinated with NCDMF and NCWRC prior to being authorized by this RGP. Coordination with NCDMF and NCWRC may result in a required construction moratorium during periods of significant biological productivity or critical life stages.

The Applicant should contact:

NC Division of Marine Fisheries
3441 Arendell Street
Morehead City, NC 28557
Telephone 252-726-7021
or 800-682-2632

North Carolina Wildlife Resources Commission
Habitat Conservation Program Manager
1721 Mail Service Center
Raleigh, NC 27699-1721
Telephone (919) 733-7638

o. No activity may result in substantial permanent disruption of the movement of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area. The dimension, pattern, and profile of the stream above and below a pipe or culvert should not be modified by widening the stream channel or by reducing the depth of the stream in connection with the construction activity. The width, height, and gradient of a proposed opening should be such as to pass the average historical low flow and spring flow without adversely altering flow velocity. Spring flow should be determined from gage data, if available. In the absence of such data, bankfull flow can be used as a comparable level.

p. This permit generally allows the permanent installation of culverts to 100 feet in length. For culverts longer than 100 feet, the proposed application will be closely evaluated to determine if unacceptable impacts on movement of aquatic organisms would result. In such cases, approval may not be provided.

q. If the project is located within the twenty (20) counties of North Carolina designated as coastal counties by the Coastal Area Management Act (CAMA), then all pipe and culvert inverts will be buried at least one foot below normal bed elevation when they are placed within the Public Trust Area of Environmental Concern (AEC) and/or the Estuarine Waters AEC as designated by CAMA, and/or all streams appearing as blue lines on United States Geological Survey (USGS) quad sheets. If the project is not located within the twenty (20) counties of North Carolina designated as coastal counties by CAMA, then culvert inverts will be buried at least one foot below the bed of the stream for culverts greater than 48 inches in diameter. Culverts 48 inches in diameter or less shall be buried or placed on the stream bed as practicable and appropriate to maintain aquatic passage, and every effort shall be made to maintain the existing channel slope. The potential for destabilization of the channel and head cutting upstream should

be considered in the placement of the culvert. A waiver from the depth specifications in this condition may be requested in writing. The waiver will only be issued if it can be demonstrated that the impacts of complying with this condition would result in more adverse impacts to the aquatic environment. Culverts placed in wetlands do not have to be buried.

r. All activities authorized by this RGP shall, to the extent practicable, be conducted "in the dry", with barriers installed between work areas and aquatic habitat to protect that habitat from cement or other pollutants. Where concrete is utilized, measures will be taken to prevent live or fresh concrete, including bags of uncured concrete, from coming into contact with waters of the state until the concrete has hardened. Water in the work area will be pumped to holding and settling ponds as practicable, and water will not be allowed to re-enter the water column until decanted.

s. If the project authorized by this RGP is proposed by a Federal or State agency, and is located within the twenty (20) counties of North Carolina designated as coastal counties by the CAMA, then prior to project initiation the proponent must obtain a consistency concurrence that the proposed project would be consistent with the state's coastal management program from the N.C. Division of Coastal Management (DCM). A copy of the state's consistency approval must be provided to the appropriate Wilmington District Regulatory Office at the following address:

Wilmington Regulatory Field Office **P.O. Box 1890`** **Wilmington, NC 28402**	**Washington Regulatory Field Office** **P.O. Box 1000** **Washington, NC 27889**

The state's consistency approval will be conveyed in the form of a CAMA permit if the project is located within a designated CAMA Area of Environmental Concern (AEC), and will be conveyed in the form of a Consistency concurrence letter from DCM if the project is not located within a designated CAMA AEC.

t. No work shall be authorized by the RGP within the twenty coastal counties, as defined by the North Carolina Division of Coastal Management, without prior consultation with NOAA Fisheries. For each activity reviewed by the Corps of Engineers where it is determined that the activity may affect Essential Fish Habitat (EFH) for Federally managed species, an EFH Assessment shall be prepared by the applicant and forwarded to the Corps of Engineers and NOAA Fisheries for review and comment prior to authorization of work.

u. All work will comply with Water Quality Certification No. 3404, issued by the NCDWQ on 30 September 2008.

v. The activity must be designed to maintain preconstruction downstream flow conditions (e.g., location, capacity, and flow rates). Furthermore, the activity must not permanently restrict or impede the passage of normal or expected high flows and the structure or discharge of dredged or fill material must withstand expected high flows

2. General Conditions.

a. All activities authorized by this RGP that involve the discharge of dredged or fill material in waters of the United States will be consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, pre-treatment standards and management practices established pursuant to the Clean Water Act (33 U.S.C. 1344) and applicable State and local law. If the proposed activity involves the discharge of dredged or fill material in waters of the United States, prior to the commencement of any work, the applicant will satisfy the NCDWQ regarding the need for a Water Quality Certification pursuant to Section 401 of the Clean Water Act.

b. All activities authorized by this RGP that involve the use of concrete as a building material, measures will be taken to prevent live or fresh concrete, including bags of uncured concrete, from coming into contact with waters of the state until the concrete has hardened.

c. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

d. All activities authorized by this RGP that involve the use of riprap material for bank stabilization, the following measures shall be applied:

(1) Filter cloth must be placed underneath the riprap as an additional requirement of its use in North Carolina waters.

(2) The placement of riprap shall be limited to the areas depicted on submitted work plan drawings.

(3) The riprap material shall be clean and free from loose dirt or any pollutant except in trace quantities that would not have an adverse environmental effect.

(4) It shall be of a size sufficient to prevent its movement from the authorized alignment by natural forces under normal conditions.

(5) The riprap material shall consist of clean rock or masonry material such as, but not limited to, granite, marl, or broken concrete.

(6) A waiver from the specifications in this general condition may be requested in writing. The waiver will only be issued if it can be demonstrated that the impacts of complying with this Regional condition would result in greater adverse impacts to the aquatic environment.

e. There will be no unreasonable interference with navigation or the right of the public to riparian access by the existence or use of activities authorized by this RGP.

f. The activity must comply with applicable FEMA approved state or local floodplain management requirements.

g. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

h. A permittee, upon receipt of written notice from the Wilmington District Engineer of failure to comply with the terms or conditions of this RGP, will, within 60 days, without expense to the U.S. Government, and in such manner as the Wilmington District Engineer may direct, affect compliance with the terms and conditions or return the worksite to a pre-work condition.

i. The permittee must make every reasonable effort to perform the work authorized herein in a manner so as to minimize any adverse impact on fish, wildlife and natural environmental values.

j. The permittee must perform the work authorized herein in a manner so as to minimize any degradation of water quality. The activity will be conducted in such a manner as to prevent a significant increase in turbidity outside the area of construction or construction-related discharge. Increases such that the turbidity in the water body is 50 NTU's or less in all rivers not designated as trout waters by the North Carolina Division of Environmental Management (NCDEM), 25 NTU's or less in all saltwater classes and in all lakes and reservoirs, and 10 NTU's or less in trout waters, are not considered significant.

k. The permittee will permit the Wilmington District Engineer or his representative to make periodic inspections at any time deemed necessary in order to assure that the activity is being performed or maintained in strict accordance with the Special and General Conditions of this permit.

l. This RGP **does not** convey any rights, either in real estate or material, or any exclusive privileges; and it does not authorize any injury to property or invasion of rights or any infringement of Federal, State or local laws or regulations, nor does it obviate the requirement to obtain State or local assent required by law for the activity authorized herein. These may include, but are not necessarily limited to, a Dredge and/or Fill Permit (N.C.G.S. 113-229), a CAMA Permit (N.C.G.S. 113A-118), an Easement to Fill (N.C.G.S. 146-12) and a Water Quality Certification pursuant to Section 401 of the Clean Water Act.

m. Authorization provided by this RGP may be modified, suspended or revoked in whole or in part if the Wilmington District Engineer, acting on behalf of the Secretary of the Army, determines that such action would be in the best public interest. Unless subject to modification, suspension or revocation, the term of this RGP shall be five years. Any modification, suspension or revocation of this authorization will not be the basis for any claim for damages against the U.S. Government.

n. This RGP does not authorize the interference with any existing or proposed Federal project and the permittee will not be entitled to compensation for damages or injury to the structures or work authorized herein which may be caused by or results from existing or future operations undertaken by the United States in the public interest.

o. This RGP will not be applicable to proposed construction when the Wilmington District Engineer determines that the proposed activity would significantly affect the quality of the human environment and determines that an Environmental Impact Statement (EIS) must be prepared.

p. This RGP will not be applicable to proposed construction when the Wilmington District Engineer determines, after any necessary investigations, that the proposed activity would adversely affect areas that possess historic, cultural, scenic, conservation or recreational values. Application of this exemption applies to:

(1) Rivers named in Section 3 of the Wild and Scenic Rivers Act (15 U.S.C. 1273), those proposed for inclusion as provided by Sections 4 and 5 of the Act and wild, scenic and recreational rivers established by State and local entities.

(2) Historic, cultural or archeological sites listed in or eligible for inclusion in the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 as amended, the Abandoned Shipwreck Act of 1987 and the Native American Graves Protection and Repatriation Act.

(3) Sites included in or determined eligible for listing in the National Registry of Natural Landmarks.

(4) Endangered or threatened species or habitat of such species as determined by the Secretaries of Interior or Commerce and concerned in accordance with the Endangered Species Act (16 U.S.C. 1531).

(5) NOAA designated marine sanctuaries, National Estuarine Research Reserves, and coral reefs.

q. Permittees are advised that activities in or near a floodway may be subject to the National Flood Insurance Program, which prohibits any activities, including fill within a floodway that results in any increase in base flood elevations.

r. At his discretion, the Wilmington District Engineer may determine that this RGP will not be applicable to a specific construction proposal. In such case, the procedure for processing an individual permit in accordance with 33 CFR 325 will be available.

s. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety.

t. The discharge of dredged or fill material shall consist of suitable material free from toxic pollutants in toxic amounts.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

Jefferson M. Ryscavage.
Colonel, Corps of Engineers
District Commander