

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

General Permit No. 198600020
Name of Permittee: General Public
Effective Date: January 1, 1998
Expiration Date: December 31, 2002

**DEPARTMENT OF THE ARMY
GENERAL PERMIT**

A general permit to perform work in or affecting waters of the United States, upon recommendation of the Chief of Engineers, pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344), is hereby renewed and modified 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 INSTALLATION, MAINTENANCE AND REPAIR OF FISH
ENHANCEMENT STRUCTURES IN MOUNTAIN TROUT WATERS IN THE STATE OF
NORTH CAROLINA.

Authorized structures include deflectors, low flow channel structures, channel blocks and sills, boulder placement, half-log structures, elevated boulder structures and other structures described in recognized fishery habitat improvement publications such as "Fish Habitat Improvement Handbook", Technical Publication R8-TP 7, U.S. Department of Agriculture, Forest Service, Southern Region, 1720 Peachtree Road, N.W., Atlanta, Georgia 30367.

1. Special Conditions.

a. Written confirmation that the proposed work complies with this general permit must be received from the Wilmington District Engineer prior to the commencement of any work. For this purpose, the proponent should submit detailed plans, location maps, and other supplemental information explaining the nature and scope of the work.

In addition, prior to the construction of any fish enhancement structure, approval must be obtained from the North Carolina Wildlife Resources Commission, Archdale Building, 512 North Salisbury Street, Raleigh, North Carolina 27611; the U.S. Fish and Wildlife Service, Fish and Wildlife Enhancement, Post Office Box 33726, Raleigh, North Carolina 27636-3726; and the U.S. Fish and Wildlife Service, Endangered Species Field Office, 160 Zillocao Street, Asheville, North Carolina 28801.

- b. Stone used to construct any authorized structure will be sound and durable and of sufficient weight to resist transport by streams.
- c. Deflectors will be constructed with sufficient slope to prevent scouring upstream of the structure. Deflectors will be designed to allow flood waters to pass over them.
- d. Deflectors may be placed on one or both sides of a stream, either singly or in alternating or opposing pairs.
- e. Low flow channel structures may consist of logs, timber decking, timber wingwalls and/or stone fill.
- f. Low channel structures will be constructed so as not to impede high water flows and will be designed to accommodate normal stream flow so that sufficient hydraulic pressure to accomplish the objective of the structure is created. The size of the upstream pool will be kept to a minimum.
- g. Stone, used to construct low flow channel structures, will be placed at the structures' junction with the bank and may be slightly embedded in the stream.
- h. Channel blocks will be designed to allow flood water to use the blocked channel, thus diverting stream waters only during periods of low flows. Stone used to construct channel blocks will consist of sound, durable rocks of sufficient weight to resist transport by the stream.
- i. Root wads, low riprap walls, and mud sills will be constructed to improve fishery habitat in areas undergoing serious erosion.
- j. Boulder placement will consist of individually placed boulders designed to perform any of several functions to improve fishery habitat. Boulders will not be placed so as to create or aggravate bank erosion.
- k. Boulders will be placed so that no pooling results. Construction of a weir, dam or other water retaining structure through consecutive placement of individual boulders is not authorized by this general permit.

l. Fish enhancement structures will be designed and constructed to preclude any interference with normal fish migration.

m. Stream flow will not be constricted to a degree greater than the most narrow natural point on the stream in the vicinity of the work.

n. This general permit does not apply to waterways used for commercial navigation. Any fish enhancement structure must be constructed in such a way that it does not unduly hinder recreational navigation.

o. Fish enhancement structures will be maintained in a functional condition. Periodically, debris will be removed.

p. All disturbed slopes will be stabilized to conform to the erosion control regulations of the North Carolina Department of Environmental, Health and Natural Resources, Land Quality Section.

q. The permittee will remove any fish enhancement structure, or portion thereof, within fifteen (15) days of receipt of a notification that the District Engineer has determined that the structure is causing or creating an adverse environmental impact.

r. All work will comply with Water Quality Certification No. 3098, issued by the North Carolina Division of Water Quality (NCDWQ) on February 11, 1997. Proposed fill or substantial modification of waters or wetlands for this General Certification requires written concurrence from the North Carolina Division of Water Quality.

s. Activities in any mountain trout water will comply with all pH, temperature and turbidity criteria established for such waters by the North Carolina Wildlife Resources Commission and/or the North Carolina Division of Water Quality. Work that may result in the sedimentation of trout waters will generally be prohibited from November 1 to April 15 of any year.

2. General Conditions.

a. All activities authorized by this general permit 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 North Carolina Division of Water Quality (NCDWQ) regarding the need for a Water Quality Certification pursuant to Section 401 of the Clean Water Act.

b. 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 general permit.

c. A permittee, upon receipt of written notice from the Wilmington District Engineer of failure to comply with the terms or conditions of this general permit, 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.

d. 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.

e. 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.

f. 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.

g. This general permit **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 Coastal Area Management Act (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.

h. Authorization provided by this general permit may be either 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 general permit 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.

i. This general permit 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 result from existing or future operations undertaken by the United States in the public interest.

j. This general permit 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.

k. This general permit 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 which 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 and its codified regulations, the National Historic Preservation Amendment Acts of 1980 and 1992, 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).

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

m. At his discretion, the Wilmington District Engineer may determine that this general permit 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.

n. The permittee or the permittee's successors will maintain the authorized work in good condition and in conformance with the terms and conditions of the general permit.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

Terry R. Youngbluth
Colonel, Corps of Engineers
District Engineer