

DEPARTMENT OF THE ARMY
Wilmington District, Corps of Engineers
69 Darlington Avenue
Wilmington, North Carolina 28403-1343
<http://www.saw.usace.army.mil/WETLANDS/index.html>

General Permit No. 197800056
Name of Permittee: General Public
Effective Date: January 1, 2011
Expiration Date: December 31, 2016

**DEPARTMENT OF THE ARMY
GENERAL (REGIONAL) PERMIT**

A general permit 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 renewed by authority of the Secretary of the Army by

District Commander
U.S. Army Engineer District, Wilmington
Corps of Engineers
69 Darlington Avenue
Wilmington, North Carolina 28403- 1343

**TO MAINTAIN, REPAIR, CONSTRUCT AND INSTALL PIERS, DOCKS,
BOATHOUSES AND BOAT SHELTERS, MOORING PILES, DOLPHINS, JETTIES,
GROINS AND BREAKWATER STRUCTURES IN NAVIGABLE WATERS OF THE
UNITED STATES IN THE STATE OF NORTH CAROLINA.**

Projects must be constructed in conformance with following standards in order to be authorized by this RGP.

1. All piers, docks, boathouses and boat shelters will be pile-supported or floating structures.
2. Mooring piles, dolphins, jetties and breakwater structures may be constructed of wood, metal, or pre-cast concrete. Groins may be constructed of wood, pre-cast concrete, or rock riprap.
3. Breakwater structures will be designed to provide for adequate water circulation landward of the structures.

This RGP does not authorize excavation or the discharge of excavated or fill material within Waters of the US, except for the placement of rip-rap material for groin construction. This RGP does not authorize any work on Atlantic Ocean beaches.

The following definitions should be used for purposes of this regional general permit (RGP):

a. Mean high water mark (MHWM): The line on the shore, in tidal water, reached by the plane of the mean (average) high water. The precise determination of the actual location of the line can be established by survey with the reference to the available tidal datum, preferably averaged over a period of 18.6 years. A less precise method, such as observation of the apparent shoreline, which is determined by reference to physical markings, lines of vegetation, may be used for the purpose of this permit.

b. Ordinary High Water Mark (OHWM): The line on the shore, in non-tidal waters, established by the fluctuations of water indicated by physical characteristics such as clear, natural line impressed on the bank; shelving changes in the soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

Special Conditions

a. Authorized structures located on or adjacent to Federally authorized waterways will be constructed in accordance with the Commander's Policy on Setbacks Along Federally Authorized Channels. You may review a copy of the policy at <http://www.saw.usace.army.mil/WETLANDS/library.html>

b. This general permit does not authorize construction across or into any natural or manmade channel or water body in any manner that may adversely affect navigation by the general public.

c. Piers, docks, boathouses, boat shelters and mooring piles authorized by this general permit may be extended or be located up to 400 feet waterward of the mean high water (MHWM) elevation contour (tidal areas) or the Ordinary High Water Mark (OHWM) elevation contour (non-tidal areas) or one-third (1/3) the width of a natural water body, whichever is closer to the shoreline, except as otherwise governed by the presence of a Federally maintained channel.

d. The width of any pier will not exceed six (6) feet, unless the Corps determines, in writing, that a greater width is necessary for safe use, to improve public access, or to support a water dependent use that cannot otherwise occur.

e. The total square footage of shaded impact for docks and mooring facilities (excluding the pier) allowed shall be 8 square feet per linear foot of shoreline with a maximum of 800 square feet. In calculating the shaded impact, uncovered open water slips shall not be counted in the total. The maximum size of any individual component of the docking facility authorized by this

General Permit shall not exceed 400 square feet unless the Corps determines, in writing, that a greater width is necessary for safe use, to improve public access, or to support a water dependent use that cannot otherwise occur.

f. Boathouses and boat shelters will not be enclosed and will not exceed 400 square feet. Boatlifts will be open and will not exceed 400 square feet.

g. Boathouses, boatlifts, boat shelters and floating piers will not be constructed over Federally jurisdictional wetlands.

h. Docks and piers extending over wetlands will be elevated sufficiently (minimum of 3 feet) above the wetland substrate to prevent total shading of vegetation, substrate, or other elements of the aquatic environment.

i. Piers, docks, boat houses, and boat shelters shall not be constructed in seagrasses and other submerged aquatic vegetation.

j. Wooden jetties will not extend farther than 100 feet waterward of the MHWM (tidal areas) or the OHWM elevation contours.

k. This general permit does not authorize the installation of fueling facilities on authorized structures.

l. Riprap groins shall not exceed a base width of 10 feet or extend more than 25 feet waterward of the mean high water or normal water level elevation contour.

m. Riprap groins must be constructed of clean rock or masonry material and be of sufficient size to prevent displacement by wave or current action.

n. Riprap groins shall not be located within primary nursery areas, submerged aquatic vegetation, or areas identified as essential fish habitat.

o. Floating structures will be supported by material that will not become waterlogged or sink when punctured, will be installed to provide for fluctuations of water elevation, will be designed so that the structure will not rest on the bottom at any time and will be secured in such manner as to not break away.

p. Breakwater structures will be no longer than 500 feet. They will have a minimum of one-inch openings between standard width (6 to 12-inch) sheathing boards and at least one, five-foot wide opening for each 100 linear feet of structure.

q. Breakwater structures may not be constructed so as to prohibit access to estuarine waters or public trust areas.

r. If the display of lights and signals on the authorized structure is not otherwise provided for by law, such lights and signals as may be prescribed by the U.S. Coast Guard will be installed and maintained by and at the expense of the permittee.

s. It is possible that the authorized structure may be damaged by wavewash from passing vessels. The issuance of this permit does not relieve the permittee from taking all proper steps to ensure the integrity of the permitted structure and the safety of moored boats. The permittee will not hold the United States liable for any such damage.

t. This general permit does not authorize habitable structures or any structure or associated facility for nonwater-related use.

u. Structures and their attendant utilities, authorized by this general permit, located on lands subject to an easement in favor of the United States for the operation, maintenance, improvement, and enlargement of the Atlantic Intracoastal Waterway (AIWW), will be removed at the expense of the permittee, in the event that, in the judgment of the U.S. Army Corps of Engineers (USACE) acting on behalf of the United States, the lands are needed at any time for any purpose within the scope of the easement. Permanent buildings will not be constructed within the easement.

v. This general permit does not apply to structures within existing or proposed marinas as defined by North Carolina Administrative Code, Title 15, Subchapter 7H.0208(b)(5).

w. Should all or part of a proposed development activity be located in an Area of Environmental Concern (AEC) as designated by the North Carolina Coastal Resources Commission, a Coastal Area Management Act (CAMA) permit is required from the North Carolina Division of Coastal Management before the onset of the proposed activity. Should a Federal activity within any one of North Carolina's twenty coastal counties or which could affect a coastal use or resource in any one of North Carolina's twenty coastal counties be proposed by a Federal agency, a consistency determination pursuant to Subpart "C" of 15 CFR 930 must be prepared and submitted by that Federal agency to the North Carolina Division of Coastal Management before the onset of the proposed activity.

General Conditions.

a. Except as authorized by this general permit or any USACE approved modification to this general permit, no excavation, fill or mechanized land-clearing activities shall take place within waters or wetlands, at any time in the construction or maintenance of this project. This permit does not authorize temporary placement or double handling of excavated or fill material within waters or wetlands outside the permitted area. This prohibition applies to all borrow and fill activities connected with this project.

b. Authorization under this general permit does not obviate the need to obtain other federal, state, or local authorizations.

c. All work authorized by this general permit must comply with the terms and conditions of the applicable Clean Water Act Section 401 Water Quality Certification for this general permit issued by the North Carolina Division of Water Quality.

d. The permittee shall employ all sedimentation and erosion control measures necessary to prevent an increase in sedimentation or turbidity within waters and wetlands outside the permit area. This shall include, but is not limited to, the immediate installation of silt fencing or similar appropriate devices around all areas subject to soil disturbance or the movement of earthen fill, and the immediate stabilization of all disturbed areas. Additionally, the project must remain in full compliance with all aspects of the Sedimentation Pollution Control Act of 1973 (North Carolina General Statutes Chapter 113A Article 4).

e. The activities authorized by this general permit must not interfere with the public's right to free navigation on all navigable waters of the United States. No attempt will be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the authorized work for a reason other than safety.

f. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

g. The permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the work will, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the affected water of the United States to its former conditions.

h. The permittee will allow the Wilmington District Engineer or his representative to inspect the authorized activity at any time deemed necessary to assure that the activity is being performed or maintained in strict accordance with the Special and General Conditions of this permit.

i. This general permit does not grant any property rights or exclusive privileges.

j. This permit does not authorize any injury to the property or rights of others.

k. This general permit does not authorize the interference with any existing or proposed federal project.

l. In issuing this permit, the Federal Government does not assume any liability for the following:

(1) Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

(2) Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

(3) Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

(4) Design or construction deficiencies associated with the permitted work

(5) Damage claims associated with any future modification, suspension, or revocation of this permit.

m. Authorization provided by this general permit may be modified, suspended or revoked in whole or in part if the Wilmington District Engineer, acting for the Secretary of the Army, determines that such action would be in the best public interest. The term of this general permit shall be five (5) years unless subject to modification, suspension or revocation. Any modification, suspension or revocation of this authorization will not be the basis for any claim for damages against the United States Government.

n. This general permit does not authorize any activity which the District Engineer determines, after any necessary investigations, would adversely affect:

(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.

o. This general permit does not authorize any activity which will adversely affect any threatened or endangered species or a species proposed for such designation, or their designated critical habitat as identified under the Federal Endangered Species Act (16 U.S.C. 1531). Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the Corps field offices or at the following internet address: <http://www.ncnhp.org/Pages/heritagedata.html>. or <http://nc-es.fws.gov/es/es.html>. Permittees should notify the Corps if any listed species or designated critical habitat might be affected by the proposed project and may not begin work until notified by the Corps that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.

p. Permittees are advised that development activities in or near a floodway may be subject to the National Flood Insurance Program that prohibits any development, including fill, within a

floodway that results in any increase in base flood elevations. This general permit does not authorize any activity prohibited by the National Flood Insurance Program.

q. The permittee must install and maintain, at his expense, any signal lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, on authorized facilities. For further information, the permittee should contact the U.S. Coast Guard Marine Safety Office at (910) 772-2191.

r. The permittee must maintain any structure or work authorized by this permit in good condition and in conformance with the terms and conditions of this permit. The Permittee is not relieved of this requirement if the Permittee abandons the structure or work. Transfer in fee simple of the work authorized by this permit will automatically transfer this permit to the property's new owner, with all of the rights and responsibilities enumerated herein. The permittee must inform any subsequent owner of all activities undertaken under the authority of this permit and provide the subsequent owner with a copy of the terms and conditions of this permit.


s. At his sole discretion, any time during the processing cycle, the Wilmington District Engineer may determine that this general permit will not be applicable to a specific proposal. In such case, the procedures for processing an individual permit in accordance with 33 CFR 325 will be available.

t. Except as authorized by this general permit or any USACE approved modification to this general permit, all fill material placed in waters or wetlands shall be generated from an upland source and will be clean and free of any pollutants except in trace quantities. Metal products, organic materials (including debris from land clearing activities), or unsightly debris will not be used.

u. Except as authorized by this general permit or any USACE approved modification to this general permit, all excavated material will be disposed of in approved upland disposal areas.

v. Activities which have commenced (i.e., are under construction) or are under contract to commence in reliance upon this general permit will remain authorized provided the activity is completed within twelve months of the date of the general permit's expiration, modification, or revocation. Activities completed under the authorization of this general permit which were in effect at the time the activity was completed continue to be authorized by the general permit.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:


Jefferson M. Roscavage
Colonel, U.S. Army
District Engineer