

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE DRH50221-LHf-139 (03/26)

Short Title: New Bulkhead Permit.

(Public)

Sponsors: Representative K. Williams.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A GENERAL PERMIT FOR THE CONSTRUCTION OF
RIPRAP SILLS FOR WETLAND ENHANCEMENT AND SHORELINE
PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 7 of Chapter 113A of the General Statutes is amended
by adding a new section to read:

**"§ 113A-118.1A. General permit for construction of riprap sills for wetland
enhancement and shoreline protection.**

(a) The Commission shall establish a general permit to allow the construction of
offshore parallel sills, made of stone or other suitable riprap materials for shoreline
protection in conjunction with existing, created, or restored wetlands. The permit shall
only be applicable where a shoreline is experiencing erosion in public trust areas and
estuarine waters according to authority provided in 15A NCAC 7J. I 100. The permit
shall not apply within the ocean hazard areas of environmental concern, or waters
adjacent to these areas of environmental concern, with the exception of those portions of
shoreline within the Inlet Hazard Area of environmental concern that feature
characteristics of estuarine shorelines, including the presence of wetland vegetation,
lower wave energy, and lower erosion rates than in the ocean erodible area.

(b) A permit issued under this section authorizes only the construction of sills
and wetland enhancements that conform to the general conditions set out under
subsection (c) of this section and the specific conditions set out under subsection (d) of
this section. A permit issued under 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 necessary because
there are unresolved questions concerning the proposed activity's impact on adjoining
properties or on water quality; air quality; coastal wetlands; cultural or historic sites;

1 wildlife; fisheries resources; or public trust rights. Also, a permit issued under this
2 section does not eliminate the need to obtain any other required State, local, or federal
3 authorization.

4 (c) A permit issued under this section shall include the following general
5 conditions:

6 (1) The permittee shall allow authorized representatives of the Department
7 of Environment and Natural Resources to make periodic inspections at
8 any time deemed necessary in order to be sure that the activity being
9 performed under authority of this general permit is in accordance with
10 the terms and conditions of the permit.

11 (2) There shall be no significant interference with navigation or use of the
12 waters by the public by the existence of the breakwater authorized by
13 the permit.

14 (3) Development carried out under the permit shall be consistent with all
15 local requirements, area of environmental concern rules, and local
16 land-use plans current at the time of authorization.

17 (d) A permit issued under this section shall also include the following specific
18 conditions:

19 (1) On shorelines without existing wetlands, the landward edge of the sill
20 shall be positioned no more than 20 feet waterward of the waterward
21 depth of locally growing wetlands or 30 feet waterward of mean high
22 water or normal high water level, whichever is greater. On shorelines
23 with existing wetlands, the landward edge of the structures shall be
24 positioned no more than 20 feet waterward of the waterward depth
25 contour of locally growing wetlands or 20 feet waterward of the
26 existing wetlands at any point along the alignment of the structure,
27 whichever is greater. For narrow waterbodies (canals, creeks, etc.), the
28 sill alignment shall not be positioned offshore more than one-sixth the
29 width of the waterbody.

30 (2) Where insufficient wetlands habitat exists along the permittee's
31 shoreline to provide adequate shoreline stabilization, the permittee
32 shall be required to plant appropriate wetland species landward of the
33 sill structure as directed by Department staff. This permit shall only
34 apply to projects that combine existing or planted wetlands with
35 constructed sill structures.

36 (3) Construction authorized by this permit shall be limited to a maximum
37 length of 500 feet.

38 (4) The height of the sill shall be constructed so as not to exceed six
39 inches above the highest elevation of the adjacent wetland substrate, or
40 six inches above the mean high water or normal high waterline,
41 whichever is greater. The constructed slope of the sill shall not exceed
42 2:1 (2 foot horizontal 1 foot vertical) slope, and the width of the sill
43 crest shall not exceed three feet.

- 1 (5) No fill shall be placed on submerged aquatic vegetation or productive
2 shellfish beds. Backfilling of the sills shall only be utilized for the
3 purpose of creating a suitable substrate for the establishment or
4 reestablishment of coastal wetlands. Only clean sandy fill shall be used
5 for backfilling sills. Prior to filling, shellfish may be considered for
6 relocation to other sites using methods approved by the North Carolina
7 Division of Marine Fisheries. No more than 100 square feet of existing
8 emergent wetlands shall be filled per project site.
- 9 (6) No excavation of the shallow water bottom, any wetland, or high
10 ground is authorized by this permit.
- 11 (7) The sill material shall not be placed in a manner so as to impede water
12 flow into or out of any natural channel or stream.
- 13 (8) The sill material shall be free from loose dirt or other pollutants. It
14 shall be of a size sufficient to prevent its movement from the site by
15 wave or current action.
- 16 (9) Riprap material shall consist of clean rock or masonry materials, such
17 as marl, granite, or broken concrete. Material such as tires, car bodies,
18 scrap metal, paper products, tree limbs, wood debris, organic material,
19 or similar materials are not appropriate riprap for the purposes of this
20 general permit.
- 21 (10) If the crossing of wetlands with mechanized or nonmechanized
22 construction equipment is necessary, temporary construction mats
23 shall be utilized for the area to be crossed. The temporary mats shall be
24 removed immediately upon completion of the construction of the
25 riprap structure.
- 26 (11) The permittee shall maintain the structure in good condition and in
27 conformance with the terms and conditions of this permit or the
28 remaining sill structure shall be removed within 90 days of notification
29 from the Division of Coastal Management."

30 **SECTION 2.** The Department of Environment and Natural Resources shall
31 begin implementation of this act when it becomes law. The Department shall establish
32 the permit enacted by Section 1 of this act by December 1, 2003.

33 **SECTION 3.** Section 1 of this act becomes effective December 1, 2003.
34 The remainder of this act is effective when it becomes law.