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3 **SECTION .2600 – GENERAL PERMIT FOR CONSTRUCTION ~~OF WETLAND, STREAM AND~~**
4 **~~BUFFER MITIGATION SITES BY THE NORTH CAROLINA ECOSYSTEM ENHANCEMENT~~**
5 **~~PROGRAM OR THE NORTH CAROLINA WETLANDS RESTORATION PROGRAM OF~~**
6 **MITIGATION BANKS AND IN-LIEU FEE MITIGATION PROJECTS**
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8 **15A NCAC 07H .2601 IS AMENDED AS PUBLISHED IN 28:20 NCR 2422-2423 AS FOLLOWS:**
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10 **15A NCAC 07H .2601 PURPOSE**

11 This **The** general permit **in this Section** shall allow for the construction of wetland, stream and buffer mitigation sites
12 by the North Carolina Ecosystem Enhancement Program or the North Carolina Wetlands Restoration Program. ~~This~~
13 permit shall be applicable only where the restoration, creation or enhancement of a wetland, stream or buffer system
14 is proposed. of mitigation banks and in-lieu fee mitigation projects. This permit shall be applicable only for
15 activities resulting in net increases in aquatic resource functions and services. These activities include:

16 **(1) restoration;**

17 **(2) enhancement;**

18 **(3) establishment of tidal and non-tidal wetlands and riparian areas;**

19 **(4) restoration and enhancement of non-tidal streams and other non-tidal open waters; and**

20 **(5) rehabilitation or enhancement of tidal streams, tidal wetlands, and tidal open waters.** ~~However, this~~

21 This permit shall not apply within the Ocean Hazard System of Areas of Environmental Concern (AEC) or waters
22 adjacent to these AECs with the exception of those portions of shoreline within the Inlet Hazard Area AEC that
23 feature characteristics of Estuarine Shorelines. Such features include the presence of wetland vegetation, lower
24 wave energy, and lower erosion rates than in the adjoining Ocean Erodible Area.

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

27 *Eff. October 1, 2014; October 1, 2004.*
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1 **15A NCAC 07H .2602 IS AMENDED AS PUBLISHED IN 28:20 NCR 2423 AS FOLLOWS:**

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3 **15A NCAC 07H .2602 APPROVAL PROCEDURES**

4 (a) The applicant shall contact the Division of Coastal Management (~~DCM~~) and request approval for development.
5 The applicant shall provide information in writing on site location, a mitigation plan outlining the proposed
6 mitigation activities, and the applicant's name and address.

7 (b) The applicant shall provide either confirmation that a written statement has been obtained and signed by the
8 adjacent riparian property owners indicating that they have no objections to the proposed work, or confirmation that
9 the adjacent riparian property owners have been notified by certified mail of the proposed work. Such ~~notice~~ notices
10 shall instruct adjacent property owners to provide any comments on the proposed development in writing for
11 consideration ~~by permitting officials to~~ to the Division of Coastal Management within 10 days of receipt of
12 the ~~notice~~ notice, and, and indicate that no response shall be interpreted as no objection.

13 (c) ~~DCM staff~~ The Division of Coastal Management shall review all comments received from adjacent property
14 owners and determine, based on their relevance to the potential impacts of the proposed project, if the proposed
15 project meets the requirements of the rules in this Section.

16 (d) No work shall begin until a meeting is held with the applicant and ~~appropriate~~ the Division of
17 Coastal ~~Management representative~~ Management and ~~Written~~ written authorization to proceed with the proposed
18 development ~~shall be is~~ issued, issued in compliance with this Rule. Construction of the mitigation site shall be
19 ~~started~~ start within ~~180~~ 365 days of the ~~issuance~~ issue date of the general permit or the general authorization permit
20 ~~shall expires~~ expire and it shall be necessary to re-examine the proposed development for any changes to determine
21 if the general authorization permit shall be reissued.

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

24 *Eff. October 1, 2014; October 1, 2004.*

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1 15A NCAC 07H .2604 IS AMENDED AS PUBLISHED IN 28:20 NCR 2423 AS FOLLOWS:

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3 15A NCAC 07H .2604 GENERAL CONDITIONS

4 (a) ~~This~~ ~~The~~ permit ~~in this Section~~ authorizes only ~~the following~~ those activities associated with the construction
5 of ~~wetland, stream or buffer restoration; creation or enhancement projects conforming to the standards herein; the~~
6 ~~removal of accumulated sediments; the installation, removal and maintenance of small water control structures,~~
7 ~~dikes, and berms; the installation of current deflectors; the placement of in-stream habitat structures; modifications~~
8 ~~of the stream bed or banks to restore or create stream meanders; the backfilling of artificial channels and drainage~~
9 ~~ditches; the removal of existing drainage structures; the construction of small nesting islands; the construction of~~
10 ~~open water areas; the construction of oyster habitat over unvegetated bottom in tidal waters; the planting of~~
11 ~~submerged aquatic vegetation; activities needed to reestablish vegetation, including plowing or discing for seed bed~~
12 ~~preparation and the planting of appropriate wetland species; mechanized land clearing to remove non native~~
13 ~~invasive exotic or nuisance vegetation; and other related activities.~~ mitigation banks and in-lieu fee mitigation
14 projects.

15 (b) Individuals shall allow authorized representatives of DENR the Department of Environment and Natural
16 Resources to make periodic inspections at any time deemed necessary in order to be sure that the activity being
17 performed under authority of this general permit is in accordance with the terms and conditions ~~prescribed herein.~~ of
18 the Rules of this Section.

19 (c) There shall be no interference with navigation or use of the waters by the public. No attempt shall be made by
20 the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the development
21 authorized work. pursuant to the Rules of this Section.

22 (d) This permit shall not be applicable to proposed construction where the DENR Division of Coastal Management
23 has determined, based on an initial review of the application, that notice and review pursuant to G.S. 113A-119 is
24 necessary because there are unresolved questions concerning the proposed activity's impact on adjoining properties
25 or on water quality; quality, air quality; quality, coastal wetlands; wetlands, cultural or
26 historic sites; sites, wildlife; wildlife, fisheries resources; resources, or public trust rights.

27 (e) At the discretion of DCM staff, the Division of Coastal Management, review of individual project requests shall
28 be coordinated with ~~Division of Marine Fisheries or Wildlife Resources Commission~~ the Department of
29 Environment and Natural Resources DENR personnel. This coordination may result in to determine if a construction
30 moratorium during periods of significant biological productivity ~~or~~ and/or critical life ~~stages.~~ stages of fisheries
31 resources is necessary to protect those resources.

32 (f) This permit shall not eliminate the need to obtain any other required state, local, or federal authorization.

33 (g) Development carried out under this permit shall be consistent with all local requirements, rules, regulations,
34 laws, or AEC Guidelines, and local land use plans current at the time of authorization. of the local government in
35 which the development takes place.

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

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Eff. October 1, 2014; October 1, 2004.

1 **15A NCAC 07H .2605 IS AMENDED AS PUBLISHED IN 28:20 NCR 2423-2424 AS FOLLOWS:**

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3 **15A NCAC 07H .2605 SPECIFIC CONDITIONS**

4 (a) ~~This~~ **The** general permit **in this Section** shall be applicable only ~~for mitigation site proposals made by the North~~
5 ~~Carolina Ecosystem Enhancement Program or North Carolina Wetlands Restoration Program.~~ **for the construction of**
6 **mitigation banks or in-lieu fee mitigation projects.**

7 (b) No excavation or filling of any submerged aquatic vegetation shall be authorized by this general permit.

8 (c) ~~The need to cross~~ **crossing of** wetlands in transporting equipment shall be avoided or minimized to the maximum
9 extent practicable. If the crossing of wetlands with mechanized or non-mechanized construction equipment is
10 necessary, track and low pressure equipment or temporary construction mats shall be utilized for the area(s) to be
11 crossed. The temporary mats shall be removed immediately upon completion of construction.

12 (d) No permanent structures shall be authorized by this general permit, except for ~~signs,~~ fences, water control
13 structures, or those structures needed for site monitoring or shoreline ~~stabilization of the mitigation site.~~ **stabilization.**

14 (e) This permit does not convey or imply approval of the suitability of the property for compensatory mitigation for
15 any particular project. The use of any portion of the site as compensatory mitigation for future projects shall be
16 determined in accordance with ~~the~~ **applicable** regulatory policies and ~~procedures~~ **procedures in place at the time such a**
17 **future project is authorized.**

18 (f) ~~The~~ **development** authorized ~~pursuant to this general permit~~ **work** shall result in a net increase in coastal resource
19 functions and values.

20 (g) The entire mitigation ~~bank or in-lieu fee project~~ site shall be protected in perpetuity in its mitigated state **through**
21 **conservation easement, deed restriction or other appropriate instrument attached to the title for the subject**
22 **property** and shall be owned by the permittee or its ~~approved~~ **designee.** ~~An appropriate conservation easement, deed~~
23 ~~restriction or other appropriate instrument shall be attached to the title for the subject property.~~

24 (h) The Division of Coastal Management shall be provided copies of all monitoring reports **prepared by the**
25 **permittee or its designee** for the authorized mitigation ~~bank or in-lieu fee project~~ site.

26 (i) If water control structures or other hydrologic alterations are proposed, such activities shall not increase the
27 likelihood of flooding any adjacent property.

28 (j) Appropriate sedimentation and erosion control devices, measures or structures **such silt fences, diversion swales**
29 **or berms, sand fences, etc.** shall be implemented to ensure that eroded materials do not enter adjacent wetlands,
30 watercourses and ~~property~~ **property (e.g. silt fence, diversion swales or berms, sand fence, etc.).**

31 (k) If one or more contiguous acre of property is to be graded, excavated or filled, the applicant shall ~~file~~ **submit** an
32 erosion and sedimentation control plan with the Division of Energy, Mineral, and Land Resources, **Land Quality**
33 **Section** ~~or government having jurisdiction.~~ The plan shall be approved prior to commencing the land-disturbing
34 activity.

35 (l) All fill material shall be **clean and** free of any pollutants, except in trace quantities.

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

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Eff. October 1, 2004;

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Amended Eff. October 1, 2014; August 1, 2012 (see S.L. 2012-143, s.1.(f)).