

1 15A NCAC 07H .1501 IS AMENDED **WITH CHANGES** AS PUBLISHED IN 29:15 NCR 1740 AS
2 FOLLOWS:

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4 SECTION .1500 - GENERAL PERMIT FOR EXCAVATION WITHIN OR CONNECTING TO EXISTING
5 ~~CANALS: CHANNELS: BASINS: OR DITCHES IN ESTUARINE WATERS: PUBLIC TRUST WATERS:~~
6 ~~AND ESTUARINE~~ CANALS, CHANNELS, BASINS, OR DITCHES IN ESTUARINE WATERS, PUBLIC
7 TRUST WATERS, AND COASTAL SHORELINE AEC'S AECs

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9 15A NCAC 07H .1501 PURPOSE

10 This permit ~~will~~ **for excavation within or connecting to existing canals, channels, basins, or ditches in estuarine**
11 **waters, public trust waters and coastal shoreline** AECs shall allow excavation within existing canals, channels,
12 ~~basins~~ **basins,** and ditches in estuarine and public trust waters for the purpose of maintaining ~~previous~~ water depths
13 and creating new boat basins from non-wetland areas that will be used for private, non-commercial activities. This
14 general permit ~~is being~~ **[was] developed according** **is also subject** to the procedures outlined in Subchapter **7J .1100.**
15 **7J .1100, and will apply [applies] to the estuarine waters and public trust waters areas of environmental concern.**

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17 *History Note: Authority G.S. 113A-107(a),(b); 113A-113(b); 113A-118.1; 113-229(cl);*

18 *Eff. July 1, 1984;*

19 *Amended Eff. July 1, 2015; December 1, 1987.*

1 **15A NCAC 07H .1502 IS AMENDED WITH CHANGES AS PUBLISHED IN 29:15 NCR 1740-1741 AS**
2 **FOLLOWS:**

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4 **15A NCAC 07H .1502 APPROVAL PROCEDURES**

5 (a) The applicant for a general permit for excavation within or connecting to existing canals, channels, basins, or
6 ditches in estuarine waters, public trust waters and coastal shoreline areas of environmental concern ~~must~~ shall
7 contact the Division of Coastal Management and ~~complete an application form requesting request~~ approval for
8 development. Applicants shall provide their name and address, the site ~~location~~ location, and the dimensions of the
9 project area.

10 (b) The applicant must provide:

- 11 (1) ~~confirmation~~ [Confirmation] that a A written statement has been obtained signed by the adjacent
12 riparian property owners indicating that they have no objections to the proposed work; or
13 (2) ~~confirmation~~ [Confirmation] Certified mail return receipts (or copies thereof) indicating that the
14 adjacent riparian property owners have been notified by certified mail of the proposed work. Such
15 notice should instruct adjacent property owners to provide any comments on the proposed
16 development in writing for consideration by permitting officials to the Division of Coastal
17 Management within ten days of receipt of the notice, ~~and, indicate~~ and indicate that no response
18 will be interpreted as no objection.

19 (c) DCM staff will review all the permit request and comments and determine, based on their relevance to the
20 potential impacts of the proposed project, ~~if whether~~ the proposed project complies with the requirements of this
21 Section and can be approved by a General Permit. If DCM staff finds that the comments are worthy of more
22 in depth review, proposed project does not comply with the requirements of this Section, the applicant will be
23 notified that ~~he they~~ must submit an application for a major development ~~permit.~~ permit in accordance with 15A
24 NCAC 07J .0200.

25 ~~(e)(d)~~ No work shall begin until an onsite meeting is held with the applicant and a Division of Coastal Management
26 representative to inspect and mark the proposed area of excavation and spoil disposal. Written authorization to
27 proceed with the proposed development ~~can~~ may be issued during this site visit. All excavation ~~must~~ shall be
28 completed within ~~90~~ 120 days of the date of permit ~~issuance, or the general authorization expires.~~ issuance.

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30 *History Note: Authority G.S. 113A-107(a),(b); 113A-113(b); 113A-118.1; 113-229(cl);*

31 *Eff. July 1, 1984;*

32 *Amended Eff. July 1, 2015; January 1, 1990; December 1, 1987.*

1 15A NCAC 07H .1504 IS AMENDED **WITH CHANGES** AS PUBLISHED IN 29:15 NCR 1741 AS
2 FOLLOWS:

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4 **15A NCAC 07H .1504 GENERAL CONDITIONS**

5 (a) Individuals shall allow **authorized** representatives of the **Department of Environment and Natural Resources**
6 **Division of Coastal Management** to make periodic inspections at any time necessary to ensure that the activity being
7 performed under authority of this general permit **for excavation within or connecting to existing canals, channels,**
8 **basins, or ditches in estuarine waters, public trust waters and coastal shoreline areas of environmental concern,** is in
9 accordance with the terms and conditions ~~prescribed herein.~~ **set forth in this Section.**

10 (b) This general permit ~~will~~ **shall** not be applicable to proposed maintenance excavation when the **Department**
11 **Division** determines that the proposed activity will adversely affect adjacent property.

12 (c) This permit ~~will~~ **shall** not be applicable to proposed construction where the **Department** **Division** has
13 determined, based on an initial review of the application, that notice and review pursuant to G.S. 113A-119 is
14 necessary because there are unresolved questions concerning the proposed activity's impact on adjoining properties
15 or on water quality; air quality; coastal wetlands; cultural or historic sites; wildlife; fisheries resources; or public
16 trust rights.

17 ~~(d) New basins within or with connections to primary nursery areas are not allowed.~~

18 ~~(e)~~ (d) No new basins ~~will~~ **shall** be allowed that result in closure of shellfish waters according to the closure policy
19 of the Division of ~~Environmental Health.~~ **Marine [Fisheries.] Fisheries, 15A NCAC 18A .0911.**

20 ~~(f)~~ (e) This permit ~~does~~ **shall** not eliminate the need to obtain any other required state, local, or federal
21 authorization, ~~nor,~~ **nor** to abide by regulations adopted by any federal or other state agency.

22 ~~(g)~~(f) Development carried out under this permit ~~must~~ **shall** be consistent with all local requirements, AEC rules,
23 and local Land Use Plans current at the time of authorization.

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25 *History Note: Authority G.S. 113A-107(a),(b); 113A-113(b); 113A-118.1; 113-229(cl);*

26 *Eff. July 1, 1984;*

27 *Amended Eff. May 1, 1990; December 1, 1987;*

28 *RRC Objection due to ambiguity Eff. May 19, 1994;*

29 *Amended Eff. July 1, 2015; August 1, 1998; July 1, 1994.*

1 **15A NCAC 07H .1505 IS AMENDED WITH CHANGES AS PUBLISHED IN 29:15 NCR 1741-1742 AS**
2 **FOLLOWS:**

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4 **15A NCAC 07H .1505 SPECIFIC CONDITIONS**

5 Proposed maintenance excavation must shall meet each of the following specific conditions to be eligible for
6 authorization by this general permit.

- 7 (1) New basins will shall be allowed only when they are located entirely in highground and join
8 existing man-made canals or basins.
- 9 (2) New basins will shall be no larger than 50' in either length or width and no deeper than the waters
10 they join.
- 11 (3) New basins must shall be for the private non-commercial use of the land owner.
- 12 (4) Maintenance excavation must shall involve the removal of no more than 1,000 cubic yards of
13 material as part of a single and complete project.
- 14 (5) All excavated material must shall be placed entirely on high ground above the mean high tide or
15 ordinary high water line, and above any marsh or other wetland.
- 16 (6) All spoil material must shall be stabilized or retained so as to prevent any excavated material from
17 re-entering the surrounding waters, marsh or other wetlands.
- 18 (7) The proposed project must shall not involve the excavation of any marsh, submerged aquatic
19 vegetation, vegetation (as defined at 15A NCAC 03I .0101 by the Marine Fisheries Commission),
20 or other wetlands.
- 21 (8) Maintenance excavation must shall not exceed the original dimensions of the canal, channel, basin
22 or ditch and in no case be deeper than 6 feet below mean low water or ordinary low water, nor
23 deeper than connecting channels.
- 24 ~~(9) No excavation may occur during times designated by the N.C. Division of Coastal Management~~
25 ~~for protection of fish, shellfish or wildlife resources.~~
- 26 ~~(10)(9) No maintenance excavation may take place within prime shellfish areas as designated by the N.C.~~
27 ~~Division of Marine Fisheries.~~
- 28 ~~(11)(10) (9) Proposed excavation must shall not promote or provide the opportunity for a change in~~
29 ~~existing land to a public or commercial use at the time of project review.~~
- 30 ~~(12)(11) New basins and canals must maintain required setbacks between septic tank systems and surface~~
31 ~~waters.~~
- 32 ~~(12) (10) Maintenance excavation as well as excavation of new basins shall not be allowed within or with~~
33 ~~connections to primary nursery areas without prior approval from the Division of Marine Fisheries~~
34 ~~or Wildlife Resources Commission (whichever is applicable).~~
- 35 ~~(13) (11) Bulkheads shall be allowed as a structural component on one or more sides of the permitted~~
36 ~~basin to stabilize the shoreline from erosion.~~

1 [(14)] (12) The bulkhead shall not exceed a distance of two feet waterward of the normal high water or
2 normal water level at any point along its alignment.

3 [(15)] (13) Bulkheads shall be constructed of vinyl or steel sheet pile, concrete, stone, timber, or other
4 suitable materials approved by the Division of Coastal Management. Approval of other suitable
5 materials shall be based upon the potential environmental impacts of the proposed material.

6 [(16)] (14) All backfill material shall be obtained from an upland source pursuant to 15A NCAC 07H
7 .0208. The bulkhead shall be constructed prior to any backfilling activities and shall be
8 structurally tight so as to prevent seepage of backfill materials through the structure.

9 [(17)] (15) Construction of bulkhead authorized by this general permit in conjunction with bulkhead
10 authorized under 15A NCAC 07H .1100 shall be limited to a combined maximum shoreline length
11 of 500 feet.

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13 *History Note: Authority G.S. 113A-107(a),(b); 113A-113(b); 113A-118.1; 113-229(c1);*
14 *Eff. July 1, 1984;*
15 *Amended Eff. July 1, 2015; September 1, 1988; December 1, 1987.*
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