

1 15A NCAC 07H .2202 is amended as published in 31:24 NCR 2479 as follows:

2
3 15A NCAC 07H .2202 APPROVAL PROCEDURES

4 (a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management and
5 request approval for ~~development.~~ development pursuant to Paragraph (b).

6 (b) The applicant shall provide:

7 (1) information on site location, dimensions of the project area, and his/her applicant name and address;

8 (2) a dated plat(s) showing existing and proposed development; and

9 (3) ~~confirmation evidence~~ evidence that:

10 (A) a written statement has been obtained and signed by the adjacent riparian property owners
11 indicating that they have no objections to the proposed work; or

12 (B) the adjacent riparian property owners have been notified by certified mail of the proposed
13 work. The notice shall instruct adjacent property owners to provide any comments on the
14 proposed development in writing for consideration by permitting officials to the Division
15 of Coastal Management within 10 calendar days of receipt of the notice, and, indicate that
16 no response shall be interpreted as no objection. DCM Division of Coastal Management
17 staff shall review all comments. If DCM the Division of Coastal Management determines
18 that:

19 (i) the comments are relevant to the potential impacts of the proposed project; and

20 (ii) ~~the permitting issues raised by the comments are worthy of more detailed review;~~
21 the Division of Coastal Management shall review all comments and determine,
22 based on their relevance to the potential impacts of the proposed project, if the
23 proposed project ~~can~~ may be approved by a General Permit. If the Division of
24 Coastal Management determines that the project exceeds the guidelines
25 established by the General Permit ~~[process.]~~ process provided in 15A NCAC 7J
26 .1100. DCM the Division shall notify the applicant that ~~he must submit~~ an
27 application for a major development ~~permit.~~ permit shall be required.

28 (c) Approval of individual projects shall be acknowledged in writing by the Division of Coastal Management and the
29 applicant shall be provided a copy the rules of this Section. Construction authorized by this permit shall be completed
30 within 120 days of permit issuance or the general authorization expires and a new permit shall be required to begin or
31 continue construction.

32
33 *History Note:* Authority G.S. 113A-107; 113A-118.1;
34 Eff. February 1, 1996;
35 Amended Eff. January 1, 2018; August 1, 2007.

1 15A NCAC 07H .2204 is amended as published in 31:24 NCR 2479 as follows:

2

3 15A NCAC 07H .2204 GENERAL CONDITIONS

4 (a) A "freestanding mooring" is any means to attach a ship, boat, vessel, floating ~~structure~~ structure, or other water
5 craft to a stationary underwater device, mooring buoy, buoyed anchor, or piling (as long as the piling is not associated
6 with an existing or proposed pier, dock, or boathouse).

7 (b) A "bird nesting pole" is any pole or piling erected, with a platform on top, [specifically with] for the purpose of
8 attracting birds for nesting.

9 ~~(b)(c)~~ Freestanding moorings and bird nesting poles authorized by this permit shall be for the exclusive use of the
10 riparian landowner(s) in whose name the permit is issued, and shall not provide either leased or rented moorings or
11 any other commercial services.

12 ~~(c)(d)~~ There shall be no unreasonable interference with navigation or use of the waters by the public by the existence
13 of freestanding moorings or bird nesting pole authorized by this permit.

14 ~~(d)(e)~~ This general permit may not be applicable to proposed construction when the Department determines that the
15 proposal might significantly affect the quality of the human environment or unnecessarily endanger adjoining
16 properties. In those cases, individual permit applications and review of the proposed project shall be required
17 according to 15A NCAC 7J.

18 ~~(e)(f)~~ Development carried out under this permit must shall be consistent with all local requirements, AEC Guidelines
19 in 7H .0100 et. seq. rules, and local land use plans current at the time of authorization.

20 ~~(f)(g)~~ Individuals shall allow authorized representatives of the Department of ~~Environment, Health, and Natural~~
21 ~~Resources~~ Environmental Quality to make periodic inspections at any time deemed necessary in order to be sure that
22 the activity being performed under the authority of this general permit is in accordance with the terms and conditions
23 prescribed herein.

24 ~~(g)~~ Freestanding mooring(s) shall not be transferable or assignable. Upon transfer of riparian property ownership, the
25 ~~mooring(s) must be removed by the original permittee unless a new permit is issued to the new riparian owner.~~

26

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

28 *Eff. February 1, 1996;*

29 *Amended Eff: January 1, 2018.*

1 **15A NCAC 07H .2205 is amended as published in 31:24 NCR 2479-2480 as follows:**

2
3 **15A NCAC 07H .2205 SPECIFIC CONDITIONS**

4 (a) Freestanding moorings and bird nesting poles may be located up to a maximum of 400 feet from the mean high
5 water line, or the normal water line, whichever is applicable.

6 (b) Freestanding moorings and bird nesting poles along federally maintained channels must meet US Army Corps of
7 Engineers guidelines.

8 (c) Freestanding moorings in no case shall extend more than ~~1/3~~ 1/4 the width of a natural water body or man-made
9 canal or basin.

10 (d) Freestanding mooring buoys and piles shall be evaluated based upon the arc of the swing including the vessel to
11 be moored. Moorings and the attached vessel shall not interfere with the access to any riparian property, and shall
12 thhave a minimum setback of 15 feet from the adjacent property lines extended into the water at the points that they
13 intersect the shoreline. The minimum setbacks provided in the rule this Rule may be waived by the written agreement
14 of the adjacent riparian owner(s), or when two adjoining riparian owners are co-applicants. Should the adjacent
15 property be sold before construction commences, the applicant shall obtain a written agreement with the new owner
16 waiving the minimum setback and submit it to the Division of Coastal Management prior to initiating any development
17 of freestanding moorings. The line of division of areas of riparian access shall be established by drawing a line along
18 the channel or deep water in front of the property, then drawing a line perpendicular to the line of the channel so that
19 it intersects with the shore at the point the upland property line meets the water's edge.

20 (e) The total number of ~~docking/mooring~~ docking or mooring facilities to be authorized via by a CAMA this General
21 permit, a Certificate of Exemption or any combination of the two may permit Permit shall not exceed ~~four~~ two per
22 property.

23 (f) Bird nesting poles shall be limited to one per property. Any proposal to change the location of a [previously]
24 permitted bird nesting pole shall require additional authorization from the Division of Coastal Management.

25 ~~(f)~~(g) Freestanding moorings and bird nesting poles shall not significantly interfere with shellfish franchises or leases.
26 Applicants for authorization to construct freestanding moorings and bird nesting poles shall provide notice of the
27 permit application to the owner of any part of a shellfish franchise or lease over which the proposed installation would
28 extend.

29 (h) Freestanding moorings shall not be constructed in a designated Primary Nursery Area as defined in 15A NCAC
30 7H .0208(a)(4) with less than two feet of water at normal low water level or normal water level under the General
31 Permit set forth in this Section without prior approval from the Division of Marine Fisheries or the Wildlife Resources
32 Commission.

33 (i) Freestanding moorings located over shellfish beds or submerged aquatic vegetation (as defined by the Marine
34 Fisheries Commission) may be constructed without prior consultation from the Division of Marine Fisheries or the
35 Wildlife Resources Commission if the following two conditions are met:

- 36 (1) [Water] water depth at the freestanding mooring location is equal to or greater than two feet of water
37 at normal low water level or normal water level; and

1 (2) ~~[The]~~ the freestanding mooring is located to minimize the area of submerged aquatic vegetation or
2 shellfish beds impacted under the structure as determined by the Division of Coastal Management.

3 ~~(g)(j)~~ Freestanding moorings and bird nesting poles shall not be established in submerged cable/pipe utility crossing
4 areas or in a manner which that interferes with the operation of an access through any bridge.

5 ~~(h)(k)~~ Freestanding moorings and bird nesting poles shall be marked or colored for the life of the mooring(s) in
6 compliance with G.S. 75A-15 and the applicant shall contact the U.S. Coast Guard and N.C. Wildlife Resource
7 Commission to ensure compliance. requirements and the required marking maintained for the life of the mooring(s).
8 ~~[At minimum, permanent]~~ Permanent reflectors shall be attached to the structure in order to make it more visible
9 during hours of darkness or inclement weather.

10 ~~(i)(l)~~ Freestanding moorings must shall bear owner's name, vessel State registration numbers or U.S. Customs
11 Documentation numbers. Required identification must shall be legible for the life of the mooring(s).

12 ~~(j)(m)~~ The type of material used to anchor a proposed mooring buoy(s) must shall be non-polluting and of sufficient
13 weight and design to safely anchor the buoy and vessel.

14 ~~(k)~~ If use of any freestanding mooring authorized by this General permit is discontinued for a period of 12 months or
15 more, it must be removed by the permittee.

16 ~~(l)(n)~~ Mooring buoys authorized by this General permit Permit-must shall be a minimum 12" in diameter or otherwise
17 be designed to be easily recognized and not present a hazard to navigation.

18 ~~(m)~~ Existing freestanding moorings (i.e. buoys/pilings) may be maintained in place for two years. However, if the
19 mooring(s) deteriorate or are damaged such that replacement is necessary during the two year period, the mooring(s)
20 then must comply with those guidelines of the Division in place at that time. In any event, existing moorings must
21 comply with these Rules within two years.

22 ~~(o)~~ The platform located at the apex of the bird nesting pole shall not exceed 3'x 3' and shall not have sides.

23 ~~(p)~~ This permit does not relieve the permit holder of the responsibility to ensure that all other State and Federal
24 permit requirements requirements are met prior to implementation of the project. project, including G.S 113A-107(a),
25 113A-118(d)(1) or 113A-120(b1)(4).

26
27 *History Note: Authority G.S. 113A-107; 113A-118.1;*
28 *Eff. February 1, 1996;*
29 *Amended Eff. January 1, 2018.*