



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: July 16, 2019
Comment Deadline: August 14, 2019
Corps Action ID #: SAW-2019-00155

The DISTRICT ENGINEER, WILMINGTON DISTRICT, 69 Darlington Avenue, Wilmington North Carolina 28403, hereby proposes to renew, with modifications, **Regional General Permit 198200031 (RGP 31)** pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C 403) and Section 404 of the Clean Water Act (33 U.S.C 1344). The general permit authorizes the discharge of fill material associated with maintenance, repair, and construction projects conducted by the various divisions of the North Carolina Department of Transportation (NCDOT), within all waters subject to regulatory jurisdiction of the Wilmington District, Corps of Engineers. Title 33, Code of Federal Regulations (CFR), Paragraph 325, authorizes issuance of general (regional) permits for activities, which are substantially similar in nature and cause minimal individual and cumulative environmental impacts. Please review the existing general permit and the proposed modified general permit, at the following web address: <https://www.saw.usace.army.mil/Missions/Regulatory-Permit-Program/Public-Notices/> Due to the large number of revisions, the proposed modifications are not highlighted as tracked changes in the documents.

Please contact the Corps by email, telephone, or mail if you wish to receive a hard copy of the general permit and proposed modifications. Contact information is listed at the end of this public notice.

This proposal will be reviewed for the applicability of other actions by North Carolina agencies such as:

- a. The issuance of a Water Quality Certificate under Section 401 of the Clean Water Act by the North Carolina Division of Water Resources (NCDWR).
- b. The issuance of a permit to dredge and/or fill under North Carolina General Statute 113-229 by North Carolina Division of Coastal Management (NCDCM).
- c. The issuance of a permit under the North Carolina Coastal Area Management Act (CAMA) by the NCDCM or their delegates.
- d. The issuance of an easement to fill or otherwise occupy State-owned submerged land under North Carolina General Statute 143-341(4), 146-6,

146-11, and 146-12 by the North Carolina Department of Administration (NCDA) and the North Carolina Council of State.

- e. The approval of an Erosion and Sedimentation Control Plan by the Land Quality Section, North Carolina Division of Energy, Minerals and Land Resources, Land Quality Section (NCDLR), pursuant to the State Sedimentation Pollution Control Act of 1973 (NC G.S. 113 A-50-66).

This general permit may not be renewed if any required State or local authorizations and/or certificates are denied. Renewal of the authorization will not occur until a State coordinated viewpoint is received and reviewed by this agency. Recipients of this notice are encouraged to furnish comments on factors of concern represented by the above agencies directly to the agency, with a copy furnished to the Corps of Engineers.

Essential Fish Habitat

Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, this notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The Corps' initial determination is that this proposal would have minimal adverse effects to EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service.

Cultural Resources

Any proposed activity that would, or has potential to, affect any sites that are listed, or are eligible for inclusion, in the National Register of Historic Places, will require consultation with the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO), and any interested, federally recognized Tribes. In the event an activity proposed under this general permit is determined to have potential to affect, or if a project may or will have an adverse effect on these properties, the Corps will initiate consultation pursuant to Section 106 of the National Historic Preservation Act with the aforementioned parties, unless another federal agency is lead federal agency for a particular project and is in the process, or has completed Section 106 consultation with the SHPO or the THPO, and any interested, federally recognized Tribes.

Endangered Species

Any proposed activity that may affect any threatened or endangered species or critical habitat that are protected by the Endangered Species Act, will require consultation with the United States Fish and Wildlife Service (USFWS) or National Marine Fisheries Service (NMFS).

In the event that the Corps determines an activity proposed under this general permit may affect any listed species or critical habitat, the Corps will initiate consultation with the USFWS or NMFS pursuant to Section 7 of the Endangered Species Act, unless another

federal agency is lead federal agency for a particular project and is in the process, or has completed Section 7 consultation with the USFWS and/or the NMFS.

Evaluation

The decision whether to renew this general permit, will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activities and their intended use on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values (in accordance with Executive Order 11988), land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving the discharge of dredged or fill materials in waters of the United States, the evaluation of the impact of the activity on the public interest will include application of the Environmental Protection Agency's 404(b)(1) guidelines.

Commenting Information

The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials, including any consolidated State Viewpoint or written position of the Governor; Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing shall be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

Generally, the decision whether to issue Department of the Army (DA) permits will not be made until the NCDWR issues, denies, or waives State certification required by Section 401 of the Clean Water Act. The NCDWR considers whether the proposed

activity will comply with Sections 301, 302, 306, and 307 of the Clean Water Act. This public notice from the DA for these general permits serves as application to the NCDWR for certification.

Additional information regarding the Clean Water Act certification may be reviewed at the NCDWR Central Office, 401 and Buffer Permitting Unit, 512 North Salisbury Street, Suite 942-E, Raleigh, North Carolina 27604. Copies of such materials will be furnished to any person requesting copies upon payment or reproduction cost. All persons desiring to make comments regarding the application for the Clean Water Act certification should do so in writing delivered to the NCDWR, Attention: Amy Chapman, 1617 Mail Service Center, Raleigh, NC 27699-1617, on or before August 5, 2019.

The Corps of Engineers, Wilmington District will receive written comments pertinent to the proposed work, as outlined above, until 5pm, August 14, 2019. Written comments should be submitted to Lori Beckwith, Regulatory Project Manager, Asheville Regulatory Field Office, 828-271-7980, by either email or mail.

By email:

loretta.a.beckwith@usace.army.mil

By mail:

Asheville Regulatory Field Office
Attention: Lori Beckwith
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