

DEPARTMENT OF THE ARMY  
Wilmington District, Corps of Engineers  
69 Darlington Avenue  
Wilmington, North Carolina 28403-1343  
<http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram.aspx>

General Permit No. 199602878  
Name of Permittee: General Public  
Effective Date: January 1, 2017  
Expiration Date: December 31, 2021

**DEPARTMENT OF THE ARMY  
GENERAL (REGIONAL) PERMIT**

A general permit to perform work in or affecting navigable waters of the United States and waters of the United States, upon recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899, (33 U.S.C. 1344) and Section 404 of the Clean Water Act (33 U.S.C. 1344) is hereby issued under the authority of the Secretary of the Army by the

District Engineer  
U.S. Army Engineer District, Wilmington  
Corps of Engineers  
69 Darlington Avenue  
Wilmington, North Carolina 28403-1343

TO AUTHORIZE MAINTENANCE DREDGING WITHIN FEDERALLY AUTHORIZED NAVIGATION CHANNELS AND BORROW AREAS, AND THE DISCHARGE OF EXCAVATED AND/OR FILL MATERIAL WITHIN FEDERALLY APPROVED CONFINED UPLAND DISPOSAL AREAS OR, IN THE CASE OF BEACH QUALITY SAND, FEDERALLY AUTHORIZED BEACH RETENTION AREAS OR FEDERALLY AUTHORIZED BEACH NOURISHMENT PROJECT AREAS IN THE STATE OF NORTH CAROLINA.

**Special Conditions**

a. Written confirmation that the proposed work complies with this general permit must be received from the Wilmington District Engineer prior to the commencement of any work. To enable this determination to be made, the permittee must furnish the following information for review and approval to the Wilmington District, Corps of Engineers (Corps):

- (1) The name, address, and telephone number of the sponsor and/or other individuals responsible for the work.

- (2) A map showing the location(s) of the work.
- (3) Appropriate, written permission of owner(s), leaseholder(s) or others having any rights regarding properties affected by the proposal.
- (4) Plans of the work at an acceptable scale (on 8-1/2 inch by 11-inch paper) showing the location and dimensions of the Federal channel before and after the work, location and size of any borrow area and the location and size of the disposal area(s).
- (5) Quantity (cubic yards) and composition (percentage of fines and/or sand grain size) of excavated and/or fill material.
- (6) A description of the methods, procedures, and equipment to be used to perform the proposed work.
- (7) Approximate commencement and completion dates of the proposed work.

(NOTE: Confirmation that the work is authorized will be provided to the permittee after the Wilmington District's Regulatory and other appropriate District elements have coordinated and agreed with the validity of the proposal. To minimize adverse impacts on fish, wildlife and other natural environmental resources, the Wilmington District Engineer, in close coordination with appropriate State and Federal agencies, will ensure that all work is conducted in strict accordance with the special and general conditions of this general permit and any appropriate recommendations from State/Federal resource agencies. Failure to comply with any condition or specific recommendation will result in an immediate order to cease operations.)

b. No work may occur during times (seasonal restrictions) designated by the North Carolina Division of Coastal Management, the North Carolina Division of Marine Fisheries, the U.S. Fish and Wildlife Service, and/or the National Marine Fisheries Service for protection of fish, shellfish, or wildlife resources. The permittee must not commence work until written confirmation is received from the Wilmington District Engineer as to when the work may begin and must be completed.

c. Excavation and/or filling of jurisdictional wetlands or submerged aquatic vegetation (SAV) beds is not authorized by this general permit. Excavation activities occurring near jurisdictional wetlands must allow for an adequate buffer, not less than 15 feet, between the excavated area and the wetland to prevent erosion of the wetland.

d. Dredged and/or fill material may not be placed within beach nourishment areas unless the Corps has determined, in writing, that the material complies with the State of North Carolina's Technical Standards for Beach fill Projects, North Carolina Statute T15A NCAC 07H.0312.

- e. Unless specifically approved for beach nourishment or beach disposal, all excavated material must be placed and retained in a Corps-approved upland disposal area.
- f. Prior to commencing work the permittee must present the Wilmington District Engineer with a written preliminary determination providing reasonable assurance that the proposed discharge is not a carrier of contaminants. This documentation must be a comprehensive analysis of all existing and readily available information on the proposed discharge. Work may not proceed until the permittee has received written approval from the Wilmington District Engineer.
- g. Maintenance excavation must not exceed the Federally authorized dimensions (including authorized over depth) of the Federal channel.
- h. No excavation is authorized in primary nursery or prime shellfish areas as designated by the North Carolina Division of Marine Fisheries.
- i. All fill material used for dike construction or repair will be obtained from an upland source.
- j. Should the activity involve the removal of material from a Corps' retention area, the permittee shall not damage or destroy dikes or spillways. The permittee will be responsible for any necessary repairs.
- k. Should all or part of a proposed development activity be located in an Area of Environmental Concern (AEC) as designated by the North Carolina Coastal Resources Commission, a Coastal Area Management Act (CAMA) permit is required from the North Carolina Division of Coastal Management before the onset of the proposed activity. Should a Federal activity within any one of North Carolina's twenty coastal counties or which could affect a coastal use or resource in any one of North Carolina's twenty coastal counties be proposed by a Federal agency, a consistency determination pursuant to Subpart "C" of 15 CFR 930 must be prepared and submitted by that Federal agency to the North Carolina Division of Coastal Management before the onset of the proposed activity.
- l. Return water from upland, contained disposal areas must comply with Water Quality Certification No. 3888, issued by the North Carolina Division of Water Resources (NCDWR) on March 19, 2012 or the current Water Quality Certification applicable to return water from upland disposal facilities. Water Quality Certification for the discharge of beach quality sand in waters of the United States will be obtained prior to any commencement of such work.

### **General Conditions**

- a. Except as authorized by this general permit or any Corps approved modification to this general permit, no excavation, fill or mechanized land-clearing activities shall take place within waters or wetlands, at any time in the construction or maintenance of this project. This general permit does not authorize temporary placement or double handling of excavated or fill material

within waters or wetlands outside the permitted area. This prohibition applies to all borrow and fill activities connected with this project.

b. Authorization under this general permit does not obviate the need to obtain other federal, state, or local authorizations.

c. All work authorized by this general permit must comply with the terms and conditions of the applicable Clean Water Act Section 401 Water Quality Certification for this general permit issued by the North Carolina Division of Water Resources.

d. The permittee shall employ all sedimentation and erosion control measures necessary to prevent an increase in sedimentation or turbidity within waters and wetlands outside the permit area. This shall include, but is not limited to, the immediate installation of silt fencing or similar appropriate devices around all areas subject to soil disturbance or the movement of earthen fill, and the immediate stabilization of all disturbed areas. Additionally, the project must remain in full compliance with all aspects of the Sedimentation Pollution Control Act of 1973 (North Carolina General Statutes Chapter 113A Article 4).

e. The activities authorized by this general permit must not interfere with the public's right to free navigation on all navigable waters of the United States. No attempt will be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the authorized work for a reason other than safety.

f. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his/her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

g. The permittee, upon receipt of a notice of revocation of the permit for the verified individual activity, may apply for an individual permit, or will, without expense to the United States and in such time and manner as the Secretary of the Army or his/her authorized representative may direct, restore the affected water of the United States to its former conditions.

h. The permittee will allow the Wilmington District Engineer or his/her representative to inspect the authorized activity at any time deemed necessary to assure that the activity is being performed or maintained in strict accordance with the Special and General Conditions of this general permit.

i. This General Permit does not authorize any activity that would conflict with a federal project's congressionally authorized purposes, established limitations or restrictions, or limit an agency's ability to conduct necessary operation and maintenance functions. Per Section 14 of the

Rivers and Harbors Act of 1899, as amended (33 U.S.C. 408), no project that has the potential to take possession of or make use of for any purpose, or build upon, alter, deface, destroy, move, injure, or obstruct a federally constructed work or project, including, but not limited to, levees, dams, jettys, navigation channels, borrow areas, dredged material disposal sites, flood control projects, etc., shall be permitted unless the project has been reviewed and approved by the appropriate Corps approval authority.

j. The permittee shall obtain a Consent to Cross Government Easement from the Wilmington District's Land Use Coordinator prior to any crossing of the Corps easement and/or prior to commencing construction of any structures, authorized dredging or other work within the right-of-way of, or in proximity to, a federally designated disposal area. The Land Use Coordinator may be contacted at: CESAW-OP-N, 69 Darlington Avenue, Wilmington, North Carolina 28403-1343, email: [SAWWeb-NAV@usace.army.mil](mailto:SAWWeb-NAV@usace.army.mil).

k. This general permit does not grant any property rights or exclusive privileges.

l. This general permit does not authorize any injury to the property or rights of others.

m. This general permit does not authorize the interference with any existing or proposed federal project.

n. In issuing this general permit, the Federal Government does not assume any liability for the following:

(1) Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

(2) Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

(3) Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this general permit.

(4) Design or construction deficiencies associated with the permitted work.

(5) Damage claims associated with any future modification, suspension, or revocation of this general permit.

o. Authorization provided by this general permit may be modified, suspended or revoked in whole or in part if the Wilmington District Engineer, acting for the Secretary of the Army, determines that such action would be in the best public interest. The term of this general permit shall be five (5) years unless subject to modification, suspension or revocation. Any modification, suspension or revocation of this authorization will not be the basis for any claim for damages against the United States Government.

p. No activity may occur in a component of the National Wild and Scenic Rivers System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or “study river” (e.g., National Park Service, U.S. Forest Service, etc.)

q. This general permit does not authorize any activity within, or directly affecting, a marine sanctuary established by the Secretary of Commerce under authority of Section 302 of the Marine Protection, Research and Sanctuaries Act of 1972, unless the applicant provides the Corps with a certification from the Secretary of Commerce that the proposed activity is consistent with the purposes of Title III of the Marine Protection, Research and Sanctuaries Act. Information on marine sanctuaries may be obtained at <http://sanctuaries.noaa.gov/#MN>. Permittees may not begin work until they provide the Corps with a written certification from the Department of Commerce.

r. In cases where the Wilmington District Engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places and its codified regulations, the National Historic Preservation Amendment Acts of 1980 and 1992, the Abandoned Shipwreck Act of 1987 and the Native American Graves Protection and Repatriation Act, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied. Permittees may not begin work until notified by the Corps that the requirements of the NHPA have been satisfied and that the activity is authorized.

s. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this general permit, you must immediately notify the Wilmington District Engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The Wilmington District Engineer will initiate the Federal, tribal and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

t. No activity is authorized under this RGP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which “may affect” a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed\*. Information on threatened and endangered species and their critical habitat can be

obtained directly from the Corps field offices, the USFWS field offices or at the following web addresses: <http://www.fws.gov/> or <http://www.fws.gov/ipac/> or <http://www.noaa.gov/fisheries.html>. Permittees may not begin work until notified by the Corps that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.

\*Note - Section 7 consultation has been completed for the West Indian manatee, and the permittee must comply with General Condition “u” in order to satisfy the requirements of the ESA for this species.

u. In order to further protect the endangered West Indian Manatee (*Trichechus manatus*), the applicant must implement the USFWS’ Manatee Guidelines, and strictly adhere to all requirements therein. The guidelines can be found at [http://www.fws.gov/nc-es/mammal/manatee\\_guidelines.pdf](http://www.fws.gov/nc-es/mammal/manatee_guidelines.pdf).

v. If the permittee discovers or observes any live, damaged, injured or dead individual of an endangered or threatened species during construction, the permittee shall immediately notify the Wilmington District Engineer so that required coordination can be initiated with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service.

w. Permittees are advised that development activities in or near a floodway may be subject to the National Flood Insurance Program that prohibits any development, including fill, within a floodway that results in any increase in base flood elevations. This general permit does not authorize any activity prohibited by the National Flood Insurance Program.

x. The permittee must install and maintain, at his/her expense, any signal lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, on authorized facilities. For further information, the permittee should contact Coast Guard Sector North Carolina at (910) 772-2191 or email Coast Guard Fifth District at [cgd5waterways@uscg.mil](mailto:cgd5waterways@uscg.mil).

y. The permittee must maintain any structure or work authorized by this general permit in good condition and in conformance with the terms and conditions of this general permit. The Permittee is not relieved of this requirement if the Permittee abandons the structure or work. Transfer in fee simple of the work authorized by this general permit will automatically transfer this general permit to the property's new owner, with all of the rights and responsibilities enumerated herein. The permittee must inform any subsequent owner of all activities undertaken under the authority of this general permit and provide the subsequent owner with a copy of the terms and conditions of this general permit.

z. At his/her sole discretion, any time during the processing cycle, the Wilmington District Engineer may determine that this general permit will not be applicable to a specific proposal. In such case, the procedures for processing an individual permit in accordance with 33 CFR 325 will be available.

aa. Except as authorized by this general permit or any Corps approved modification to this general permit, all fill material placed in waters or wetlands shall be generated from an upland source and will be clean and free of any pollutants except in trace quantities. Metal products, organic materials (including debris from land clearing activities), or unsightly debris will not be used.

bb. Except as authorized by this general permit or any Corps approved modification to this general permit, all excavated material will be disposed of in approved upland disposal areas.

cc. Activities which have commenced (i.e., are under construction) or are under contract to commence in reliance upon this general permit will remain authorized provided the activity is completed within twelve months of the date of the general permit's expiration, modification, or revocation. Activities completed under the authorization of this general permit that were in effect at the time the activity was completed continue to be authorized by the general permit.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

FOR THE COMMANDER:



Scott McLendon  
Chief, Regulatory Division  
Wilmington District