



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: March 29, 2021
Comment Deadline: April 28, 2021
Corps Action ID #: SAW-2021-00644

The DISTRICT ENGINEER, WILMINGTON DISTRICT, 69 Darlington Avenue, Wilmington North Carolina 28403, hereby proposes to renew, with modifications, Regional General Permit 198500194 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 construction, maintenance and repair of artificial reefs in coastal and offshore waters, as part of work authorized by the North Carolina Division of Marine Fisheries, 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 general permit, with proposed modifications, at the following web address:
<http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram/Permits/RegionalGeneralPermits.aspx>. The proposed modifications are highlighted as tracked changes in the documents.

Please contact the Corps by mail, email or telephone if you wish to receive a hard copy of the general permits 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 (NCDCEM).
- c. The issuance of a permit under the North Carolina Coastal Area Management Act (CAMA) by the NCDCEM 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 will 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. Our initial determination is that the proposed action would not have a substantial individual or cumulative adverse impact on EFH or fisheries managed by Fishery Management Councils and the National Marine Fisheries Service (NMFS). The proposed general permits includes conditions that minimize impacts to EFH. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

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 concurrence or consultation with the State Historic Preservation Officer or Tribal Historic Preservation Officer. 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.

Endangered Species

The only activities that are immediately authorized by these general permits are ones that have an approved programmatic agreement with the United State Fish and Wildlife Service (USFWS) or National Marine Fisheries Service (NMFS) and activities that would have no effect on any threatened or endangered species or critical habitat designated pursuant to the Endangered Species Act (ESA). Any proposed activity that may affect listed species or designated critical habitat, will require consultation with the (USFWS) or NMFS.

The Corps has determined that activities authorized by these general permits that are

located in coastal waters may affect but are not likely to adversely affect the West Indian manatee (*Trichechus manatus*). The following condition will be added to the general permits that authorize activities in coastal waters. **“In order to further protect the endangered West Indian Manatee, *Trichechus manatus*, the applicant must implement the U.S. Fish and Wildlife Service’s Manatee Guidelines, and strictly adhere to all requirements therein. The guidelines can be found at <https://www.fws.gov/raleigh/pdfs/ManateeGuidelines2017.pdf>”**.

In the event that the Corps determines an activity proposed under any of the general permits may affect a listed species (excluding the West Indian manatee) or designated critical habitat, the Corps will initiate consultation with the USFWS or NMFS pursuant to Section 7 of the Endangered Species Act.

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.

The Corps of Engineers, Wilmington District will receive written comments pertinent to the proposed work, as outlined above, until 5pm, April 28, 2021. Comments should be submitted to:

Wilmington Regulatory Division Office
Attention: Ronnie Smith
69 Darlington Avenue
Wilmington, North Carolina 28403
Ronnie.d.smith@usace.army.mil
(910) 251-4829