

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. 198000048  
Name of Permittee: General Public  
Effective Date: January 1, 2022  
Expiration Date: December 31, 2026

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

A RGP to perform work in or affecting navigable waters of the U.S. and waters of the U.S., 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. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344), is hereby modified and renewed by 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 EMERGENCY CONSTRUCTION OF PRIMARY DUNES AND ANY ASSOCIATED EXCAVATION WATERWARD OF THE MEAN HIGH WATER (MHW) ELEVATION CONTOUR ON ATLANTIC OCEAN SHORELINES WITHIN NORTH CAROLINA AND TO AUTHORIZE THE EMERGENCY PLACEMENT OF SANDBAGS AND ANY ASSOCIATED EXCAVATION NECESSARY TO FILL SANDBAGS WATERWARD OF THE MEAN HIGH WATER ELEVATION CONTOUR ON ATLANTIC OCEAN SHORELINES WITHIN NORTH CAROLINA.

**Special Conditions**

- a. Before initiating work under the authority of this RGP, the Permittee must obtain written approval from the North Carolina Division of Coastal Management (NCDCM) and forward this approval to the appropriate Corps of Engineers, Wilmington District, Regulatory Field Office. You may apply online at [https://edocs.deq.nc.gov/Forms/Pre-Construction\\_Notification\\_Form](https://edocs.deq.nc.gov/Forms/Pre-Construction_Notification_Form).
  1. Name, address, email and/or telephone number of the prospective Permittee.
  2. Location of the proposed project, including waterbody, nearest community, and county.

3. A detailed description of the proposed project, including applicable project details such as width, height, length of structures or fills, distance from the shoreline, type of materials, location of structure(s), and the amount of proposed impact to waters and/or wetlands. The description should be sufficiently detailed to allow the Wilmington District Engineer to determine that the adverse effect of the project will be minimal and to determine the need for compensatory mitigation. Project drawings should be provided when necessary to show that the activity complies with the terms of the RGP. (Drawings usually clarify the project and when provided results in a quicker decision. Drawings should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans).

b. This RGP does not authorize the placement of sandbags for the protection of vacant lots.

c. Work authorized by this RGP is limited to the reconstruction of primary dunes and the placement of sandbags determined to be absolutely necessary to rectify an emergency situation as defined by North Carolina Coastal Resources Commission Regulations. In coordination with the Corps of Engineers, Wilmington District, Regulatory Division (Corps), the NCDCM will make the decision whether an emergency exists. All work must comply with the North Carolina Guidelines for Areas of Environmental Concern in Ocean Hazard Areas.

d. This RGP does not necessarily authorize restoration of the property to its condition prior to the emergency. The Corps or the NCDCM may limit the scope of work to that which is necessary to stabilize the beach to prevent property damage, injury, or loss of life. Neither the US Government nor the State of North Carolina (NC) will be held liable should the authorized work not fulfill its intended purpose.

e. All activities authorized by this RGP must be performed in strict accordance with the Special and General Conditions of this RGP, any specific instructions from the State or the Corps, and any other state or federal requirements including North Carolina General Statutes 113-229, 143-215.3(a)(1), 143-215.3(c) and 113A-118.

f. This RGP does not authorize the excavation or filling of wetlands subject to Clean Water Act regulation.

g. Primary dunes will be reconstructed at or landward of existing or recently eroded primary dunes and/or adjacent primary dunes.

h. Between April 1 and November 15 of any year, no work will be authorized by this RGP until the Permittee notifies the Corps and the Corps, after appropriate coordination with the US Fish and Wildlife Service (USFWS), the National Marine Fisheries Service (NMFS) and/or NC Wildlife Resources Commission, makes a case specific determination that the requirements of the Endangered Species Act and the Magnuson Stevens Fishery Conservation and Management Act have been met. The Corps may require a Permittee to comply with specific conditions if the activity would adversely impact Essential Fish Habitat or if the activity may affect threatened or endangered species or their critical habitat. The Permittee must submit the information described

in Special Condition “a” to the Corps and obtain approval from the Corps prior to any work between April 1 and November 15.

i. Return water from upland, contained disposal areas must comply with the terms and conditions of the applicable Clean Water Act Section 401 Water Quality Certifications for this RGP and NWP 16 issued by the North Carolina Division of Water Resources. Water Quality Certification for the discharge of beach quality sand in waters of the U.S. will be obtained prior to any commencement of such work.

### **General Conditions**

a. Authorized structures located on or adjacent to federally authorized waterways will be constructed in accordance with the latest setback criteria established by the Wilmington District Engineer. You may review the setback policy at <http://www.saw.usace.army.mil/Missions/Navigation/Setbacks.aspx>. The Permittee must obtain approval from the Corps prior to the construction of any structures within the Federally Authorized Channel Setback. The Permittee must submit the information described in Special Condition “a” to the Corps and obtain approval from the Corps prior to the construction of any structures within the Federally Authorized Channel Setback.

b. Except as authorized by this RGP or any Corps approved modification to this RGP, 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 RGP 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.

c. Authorization under this RGP does not obviate the need to obtain other federal, state, or local authorizations.

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

e. 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).

f. The activities authorized by this RGP must not interfere with the public’s right to free navigation on all navigable waters of the U.S. 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.

g. The Permittee understands and agrees that, if future operations by the US 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 US. No claim shall be made against the US on account of any such removal or alteration.

h. 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 US 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 US to its former conditions.

i. This RGP 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. The Permittee must submit the information described in Special Condition "a" to the Corps and obtain approval from the Corps prior to the initiation of any activity that has the potential to modify or conflict with a federally authorized project.

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. 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 permit.

l. This RGP does not grant any property rights or exclusive privileges.

m. This RGP does not authorize any injury to the property or rights of others.

n. This RGP does not authorize the interference with any existing or proposed federal project.

o. In issuing this RGP, the US 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 US in the public interest.

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

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

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

p. Authorization provided by this RGP 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 RGP 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 US .

q. 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.)

r. This RGP 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 Permittee 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.

s. 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 have been satisfied. Permittees must submit the information described in Special Condition “a” to the Corps if any properties subject to the above criteria

may be affected by the proposed project. The Permittee may not begin work until notified by the Corps that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized.

t. If you discover any previously unknown historic, cultural, or archeological remains and artifacts while accomplishing the activity authorized by this RGP, 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.

u. Endangered Species.

(1) No activity is authorized under this RGP which is likely to jeopardize the continued existence of a threatened or endangered species directly or indirectly 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 this RGP which “may affect” a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

(2) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal prospective Permittees (and when FHWA is the lead federal agency) must provide the District Engineer with the appropriate documentation to demonstrate compliance with those requirements. The District Engineer will review the documentation and determine whether it is sufficient to address ESA compliance for the RGP activity, or whether additional ESA consultation is necessary.

(3) Non-federal prospective Permittees - for activities that might affect federally-listed endangered or threatened species or designated critical habitat, the PCN must include the name(s) of the endangered or threatened species that might be affected by the proposed work or that utilize the designated critical habitat that might be affected by the proposed work. The District Engineer will determine whether the proposed activity “may affect” or will have “no effect” to listed species and designated critical habitat. In cases where the non-federal prospective Permittee has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the prospective Permittee shall not begin work until the Corps has provided notification that the proposed activities will have “no effect” on listed species or critical habitat, or until Section 7 consultation has been completed.

(4) As a result of formal or informal consultation with the U.S. Fish and Wildlife Service (USFWS) or NMFS, the District Engineer may add species-specific endangered species conditions to the RGP verification letter for a project.

(5) Authorization of an activity by a RGP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the

USFWS or the NMFS, the ESA prohibits any person subject to the jurisdiction of the U.S. to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering.

(6) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the USFWS in Raleigh, North Carolina at the address provided below, or from the USFWS and NMFS via their world wide web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.noaa.gov/fisheries.html> respectively.

The Raleigh USFWS Office covers all NC counties east of, and including, Richmond, Montgomery, Randolph, Guilford, and Rockingham Counties.

US Fish and Wildlife Service  
Raleigh Field Office  
Post Office Box 33726  
Raleigh, NC 27636-3726  
Telephone: (919) 856-4520

(7) The Wilmington District, USFWS, NCDOT, and the FHWA have conducted programmatic Section 7(a)(2) consultation for a number of federally listed species and habitat, and programmatic consultation concerning other federally listed species and/or habitat may occur in the future. The result of completed programmatic consultation is a Programmatic Biological Opinion (PBO) issued by the USFWS. These PBOs contain mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" of whichever species or critical habitat is covered by a specific PBO. Authorization under this RGP is conditional upon the Permittee's compliance with all the mandatory terms and conditions associated with incidental take of the applicable PBO (or PBOs), which are incorporated by reference in this RGP. Failure to comply with the terms and conditions associated with incidental take of an applicable PBO, where a take of the federally listed species occurs, would constitute an unauthorized take by the Permittee, and would also constitute Permittee non-compliance with the authorization under this RGP. If the terms and conditions of a specific PBO (or PBOs) apply to a project, the Corps will include this/these requirements in any RGP verification that may be issued for a project. The USFWS is the appropriate authority to determine compliance with the terms and conditions of its PBO, and with the ESA.

(8) Northern long-eared bat (NLEB) (*Myotis septentrionalis*). Standard Local Operating Procedures for Endangered Species (SLOPES) for the NLEB have been approved by the Corps and the U.S. Fish and Wildlife Service. See <http://www.saw.usace.army.mil/Missions/Regulatory-Permit-Program/Agency-Coordination/ESA/>. This SLOPES details how the Corps will make determinations of effect to the NLEB when the Corps is the lead federal agency for an NCDOT project that is located in the

western 41 counties of North Carolina. This SLOPES do not address NCDOT projects (either federal or state funded) in the eastern 59 counties in North Carolina. Note that if another federal agency is the lead federal agency for a project in the western 41 counties, procedures for satisfying the requirements of Section 7(a)(2) of the ESA will be dictated by that agency and will not be applicable for consideration under the SLOPES; however, information that demonstrates the lead federal agency's (if other than the Corps) compliance with Section 7(a)(2) / 4(d) Rule for the NLEB, will be required in the PCN. Note that at the time of issuance of this RGP, the federal listing status of the NLEB as "Threatened" is being litigated at the National level. If, as a result of litigation, the NLEB is federally listed as "Endangered", this general condition ("s") will no longer be applicable because the 4(d) Rule, and this NLEB SLOPES, will no longer apply/be valid.

(9) 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>

(10) 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.

v. 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 RGP does not authorize any activity prohibited by the National Flood Insurance Program.

w. 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).

x. At his/her sole discretion, any time during the processing cycle, the Wilmington District Engineer may determine that this RGP 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.

y. Except as authorized by this RGP or any Corps approved modification to this RGP, 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.

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



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

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

A handwritten signature in black ink, appearing to read 'B. A. Bennett', with a long horizontal line extending to the right.

Benjamin A. Bennett  
Colonel, U.S. Army  
District Commander