

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. 197800080
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 MAINTAIN, REPAIR, CONSTRUCT AND BACKFILL BULKHEADS AND RIPRAP STRUCTURES ALONG ERODING HIGHGROUND SHORELINES AND CONSTRUCT RIPRAP STRUCTURES TO PROTECT ERODING WETLAND SHORELINES IN NAVIGABLE WATERS AND WATERS OF THE U.S. IN THE STATE OF NORTH CAROLINA.

The following definitions should be used for purposes of this RGP:

- a. Erosion: Land that is presently being worn away by the action of water or wind.
- b. Mean high water mark (MHW): The line on the shore, in tidal water, reached by the plane of the mean (average) high water. The precise determination of the actual location of the line can be established by survey with the reference to the available tidal datum, preferably averaged over a period of 18.6 years. A less precise method, such as observation of the apparent shoreline, which is determined by reference to physical markings, lines of vegetation, may be used for the purpose of this RGP.
- c. Ordinary High Water Mark (OHWM): The line on the shore, in non-tidal waters, established by the fluctuations of water indicated by physical characteristics such as clear, natural line impressed on the bank; shelving changes in the soil; destruction of

terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

Special 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>. This RGP does not authorize the construction of hardened or permanently fixed structures within the Federally Authorized Channel Setback, unless the activity is approved by the Wilmington District Corps of Engineers (Corps). The Permittee must submit the information described in Special Condition “t” to the Corps and obtain approval from the Corps prior to the construction of any structures within the Federally Authorized Channel Setback.
- b. This RGP is applicable only for work along shorelines exhibiting erosion.
- c. Bulkhead structures authorized by this RGP may be constructed of treated wood, vinyl, concrete slab, steel or aluminum sheet, broken concrete, brick or rock, with or without backfill material, conforming to the standards contained herein. Other construction activities are not authorized by this RGP.
- d. Riprap material must consist of clean rock or masonry materials such as marl granite or broken concrete free of exposed wire and/or rebar.
- e. All riprap material must be free from loose dirt or any pollutant and must be of a size sufficient to prevent its movement from the site by current or wave action.
- f. This RGP does not authorize the construction or placement of structures nor the discharge of fill material within Department of the Army (DA) jurisdictional wetlands, seagrass or submerged aquatic vegetation (SAV).
- g. Bulkhead and riprap structure alignments authorized by this RGP may not exceed a linear distance of 500 feet along any shoreline.
- h. Bulkhead placement must not exceed an average of 2 feet and a maximum of 5 feet waterward of the MHW in tidal waters or the OHWM in non-tidal waters.
- i. Riprap must be positioned so as not to exceed a maximum of 10 feet waterward of the MHW in tidal waters or the OHWM in non-tidal waters at any point along its alignment. This location standard also applies to riprap proposed waterward of the existing bulkhead.
- j. Unless specifically approved by the Corps, all backfill materials will be obtained from a high ground source and confined landward of the permitted bulkhead.

k. All construction and fill material will be clean and free of any toxic pollutants except in trace quantities. Tires, car bodies, scrap metal, paper products, tree limbs and stumps, asphalt and other metal products, organic materials and unsightly debris will not be used as construction or fill material.

l. Fill material will only be placed landward of bulkheads or riprap structures that are fully installed and that are impervious through structural tightness or the use of a suitable filter cloth.

m. No excavation is permitted by this RGP except for that required for installation of the bulkhead wall, deadmen and cables.

n. It is possible that an authorized structure may be damaged by wave wash from passing vessels. The issuance of this RGP does not relieve the Permittee from taking all proper steps to ensure the integrity of the permitted structure and the safety of moored boats. The Permittee will not hold the US liable for any such damage.

o. If the permitted work is on lands subject to an easement in favor of the US for the operation, maintenance, improvement, and enlargement of the Atlantic Intracoastal Waterway (AIWW), the Permittee will remove such structures and improvements at his/her own expense in the event that, in the judgment of the Corps acting on behalf of the US, the lands are needed at any time for any purpose within the scope of the easement. Permanent buildings will not be constructed within the easement.

p. This RGP is not applicable to any work on Atlantic Ocean beaches.

q. 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 Quality.

r. Stabilization activities shall not be conducted in such a manner as to impede water flow into or out of any natural channel or stream.

s. Shoreline stabilization activity undertaken waterward of existing DA jurisdictional wetlands is limited to the placement of riprap and must comply with the following additional special conditions.

1. The height of the erosion escarpment must not exceed three feet.
2. The riprap must be placed immediately waterward of the erosion escarpment.
3. The riprap must be positioned so as not to exceed a maximum of five feet waterward of the erosion escarpment at any point along its alignment.
4. The riprap must be positioned so as not to exceed a maximum of six

inches above the elevation of the adjacent wetland substrate.

5. Where the Corps staff determine that insufficient wetlands or coastal marsh exists along the Permittee's shoreline to provide adequate shoreline stabilization, the Permittee shall be required to plant appropriate coastal marsh or wetland species landward of the riprap structure as directed by the Regulatory staff.
6. No construction or discharge of fill material shall take place within DA jurisdictional wetlands.
7. No excavation of the shallow water bottom or any wetlands is authorized for riprap structures protecting eroding wetland shorelines.
8. Temporary mats shall be used when crossing wetland areas with any type of construction equipment and all mats shall be removed immediately upon completing the construction activity.

t. Permittees must submit a pre-construction notification (PCN) to the Corps and must receive written approval from the Corps prior to initiating any work for projects located outside of the 20 Coastal Counties (subject to regulation under the Coastal Area Management Act (CAMA)) or if other conditions of this RGP require the submittal of a PCN. The PCN must include the following information and must be submitted to the appropriate Corps Regulatory Field Office. You may apply online by using our website at https://edocs.deq.nc.gov/Forms/Pre-Construction_Notification_Form.

1. Name, address, and telephone number of the prospective Permittee.
2. Location of the proposed project, including waterbody, nearest community and county.
3. A description of the proposed project and/or structure, including width of structure and fill, distance from shoreline, type of materials, the amount of proposed impacts to waters and/or wetlands and a photograph of the area to be stabilized. 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).

u. Any large woody debris present at the edge of the water shall be left in place or, moved temporarily and replaced after the stabilization work is complete. If large woody

debris is moved and replaced, the debris must be adequately anchored, of sufficient weight, or installed in a manner that prevents relocation in most wave action or water flow conditions, except for extremely severe storms. Large woody debris is natural wood (trees, limbs and roots) that is greater than 4" in diameter and greater than 6' in length.

v. 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 of North Carolina's twenty coastal counties or which could affect a coastal use or resource in any 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.

General Conditions

a. 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.

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

c. 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 Quality.

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 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.

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 RGP 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.

h. 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 "t" and obtain approval from the Wilmington District Engineer prior to the initiation of any activity that has the potential to modify or conflict with a federally authorized project.

i. 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: CESA-W-OP-N, 69 Darlington Avenue, Wilmington, North Carolina 28403-1343, email: SAWWeb-NAV@usace.army.mil.

j. 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 RGP.

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

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

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

n. In issuing this RGP, 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 US 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 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.

o. 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 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 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.

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 must submit the information described in Special Condition “t” 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 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 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.

t. 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 any RGP 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 must submit the information described in Special Condition “t” to the Corps if any listed species or designated critical habitat may be affected by the proposed project. Permittees may not begin work until notified by the Corps that the requirements of the ESA have been satisfied and that the activity is authorized.

*Note - Section 7 consultation has been completed for the West Indian manatee and if the activity might affect the manatee, the Permittee does not have to submit the information in Special Condition “t” to the district engineer as long as the Permittee complies with General Condition “u”. Section 7 consultation has been completed for the Northern long-eared bat and the Permittee must submit the information in Special Condition “t” to the district engineer if the project meets the criteria in General Condition “v”.

u. 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>

v. The Wilmington District, U.S. Army Corps of Engineers (Corps) has consulted with the United States Fish and Wildlife Service (Service) in regard to the threatened Northern

long-eared bat (NLEB) (*Myotis septentrionalis*) and Standard Local Operating Procedures for Endangered Species (SLOPES) have been approved by the Corps and the Service. This condition concerns effects to the NLEB only and does not address effects to other federally listed species and/or to federally designated critical habitat.

A. Procedures when the Corps is the lead federal* agency for a project:

The Permittee must comply with (1) and (2) below when:

- the project is located in the western 41 counties of North Carolina, to include non-federal aid North Carolina Department of Transportation (NCDOT) projects, OR;
- the project is located in the 59 eastern counties of North Carolina and is a non-NCDOT project.

*Generally, if a project is located on private property or on non-federal land, and the project is not being funded by a federal entity, the Corps will be the lead federal agency due to the requirement to obtain Department of the Army authorization to impact waters of the U.S. If the project is located on federal land, contact the Corps to determine the lead federal agency.

(1) A Permittee using a Nationwide Permit (NWP) or an RGP (RGP) must check to see if their project is located in the range of the NLEB by using the following website:

<http://www.fws.gov/midwest/endangered/mammals/nleb/pdf/WNSZone.pdf>. If the project is within the range of the NLEB, or if the project includes percussive activities (e.g., blasting, pile driving, etc.), the Permittee is then required to check the appropriate website in the paragraph below to discover if their project:

- is located in a 12-digit Hydrologic Unit Code area (“red HUC” - shown as red areas on the map), AND/OR;
- involves percussive activities within 0.25 mile of a red HUC.

Red HUC maps - for the western 41 counties in NC (covered by the Asheville Ecological Services Field Office), check the project location against the electronic maps found at: http://www.fws.gov/asheville/htmls/project_review/NLEB_in_WNC.html. For the eastern 59 counties in NC (covered by the Raleigh Ecological Services Field Office), check the project location against the electronic maps found at: https://www.fws.gov/raleigh/NLEB_RFO.html.

(2) A Permittee must submit a pre-construction notification (PCN) to the district engineer, and receive written authorization from the district engineer, prior to commencing the activity, if the activity will involve either of the following:

- tree clearing/removal, construction/installation of wind turbines in a red HUC, AND/OR;
- bridge removal or maintenance, unless the bridge has been inspected and there is no evidence of bat use, (applies anywhere in the range of the NLEB), AND/OR;
- percussive activities in a red HUC, or within 0.25 mile of a red HUC.

The Permittee may proceed with the activity without submitting a PCN to either the Corps or the USFWS, provided the activity complies with all applicable NWP terms and general and regional conditions, or all applicable RGP terms and general and special conditions, and if the Permittee's review under A.(1) and A.(2) above shows that the project is:

- located outside of a red HUC (and there are no percussive activities), and the activity will NOT include bridge removal or maintenance, unless the bridge has been inspected and there is no evidence of bat use, OR;
- located outside of a red HUC and there are percussive activities, but the percussive activities will not occur within 0.25-mile of a red HUC boundary, and the activity will NOT include bridge removal or maintenance, unless the bridge has been inspected and there is no evidence of bat use, OR;
- located in a red HUC, but the activity will NOT include tree clearing/removal; construction/installation of wind turbines; bridge removal or maintenance, unless the bridge has been inspected and there is no evidence of bat use, and/or; any percussive activities.

B. Procedures when the Corps is not the lead federal agency:

For projects where another federal agency is the lead federal agency - if that other federal agency has completed project-specific ESA Section 7(a)(2) consultation for the NLEB, and has (1) determined that the project would not cause prohibited incidental take of the NLEB, and (2) completed coordination/consultation that is required by the Service (per the directions on the respective Service office's website), that project may proceed without notification to either the Corps or the Service, provided all General and Regional Permit Conditions (for NWPs), or RGP general and special conditions (for RGPs) are met.

The NLEB SLOPES can be viewed on the Corps website at the following World Wide Web Page: <http://www.saw.usace.army.mil/Missions/Regulatory-Permit-Program/Agency-Coordination/ESA/>. Permittees who do not have internet access may contact the Corps at (910) 251- 4633.

w. 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. All PBOs can be found on our website at:
<https://www.saw.usace.army.mil/Missions/Regulatory-Permit-Program/Agency-Coordination/ESA/>

x. 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.

y. 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.

z. 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.

aa. The Permittee must maintain any structure or work authorized by this RGP in good condition and in conformance with the terms and conditions of this RGP. 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 RGP will automatically transfer this RGP 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 RGP and provide the subsequent owner with a copy of the terms and conditions of this RGP.

bb. 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.

cc. 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.

dd. 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.

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

BY AUTHORITY OF THE SECRETARY OF THE ARMY:



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