

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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HOUSE BILL 1028

Short Title: New Bulkhead Permit. (Public)

Sponsors: Representatives K. Williams, Justus (Primary Sponsors); Stiller, Grady, Gorman, and Preston.

Referred to: Finance.

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A GENERAL PERMIT FOR THE CONSTRUCTION OF
RIPRAP SILLS FOR WETLAND ENHANCEMENT AND SHORELINE
PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 7 of Chapter 113A of the General Statutes is amended by adding a new section to read:

"§ 113A-118.1A. General permit for construction of riprap sills for wetland enhancement and shoreline protection.

(a) The Commission shall establish a general permit to allow the construction of offshore parallel sills, made of stone or other suitable riprap materials for shoreline protection in conjunction with existing, created, or restored wetlands. The permit shall only be applicable where a shoreline is experiencing erosion in public trust areas and estuarine waters according to authority provided in 15A NCAC 7J. I 100. The permit shall not apply within the ocean hazard areas of environmental concern, or waters adjacent to these areas of environmental concern, with the exception of those portions of shoreline within the Inlet Hazard Area of environmental concern that feature characteristics of estuarine shorelines, including the presence of wetland vegetation, lower wave energy, and lower erosion rates than in the ocean erodible area.

(b) A permit issued under this section authorizes only the construction of sills and wetland enhancements that conform to the general conditions set out under subsection (c) of this section and the specific conditions set out under subsection (d) of this section. A permit issued under this section shall not be applicable to proposed construction where the Department has determined, based on an initial review of the application, that notice and review pursuant to G. S. 113A-119 is necessary because there are unresolved questions concerning the proposed activity's impact on adjoining properties or on water quality; air quality; coastal wetlands; cultural or historic sites; wildlife; fisheries resources; or public trust rights. Also, a permit issued under this

1 section does not eliminate the need to obtain any other required State, local, or federal
2 authorization.

3 (c) A permit issued under this section shall include the following general
4 conditions:

5 (1) The permittee shall allow authorized representatives of the Department
6 of Environment and Natural Resources to make periodic inspections at
7 any time deemed necessary in order to be sure that the activity being
8 performed under authority of this general permit is in accordance with
9 the terms and conditions of the permit.

10 (2) There shall be no significant interference with navigation or use of the
11 waters by the public by the existence of the breakwater authorized by
12 the permit.

13 (3) Development carried out under the permit shall be consistent with all
14 local requirements, area of environmental concern rules, and local
15 land-use plans current at the time of authorization.

16 (d) A permit issued under this section shall also include the following specific
17 conditions:

18 (1) On shorelines without existing wetlands, the landward edge of the sill
19 shall be positioned no more than 20 feet waterward of the waterward
20 depth of locally growing wetlands or 30 feet waterward of mean high
21 water or normal high water level, whichever is greater. On shorelines
22 with existing wetlands, the landward edge of the structures shall be
23 positioned no more than 20 feet waterward of the waterward depth
24 contour of locally growing wetlands or 20 feet waterward of the
25 existing wetlands at any point along the alignment of the structure,
26 whichever is greater. For narrow waterbodies (canals, creeks, etc.), the
27 sill alignment shall not be positioned offshore more than one-sixth the
28 width of the waterbody.

29 (2) Where insufficient wetlands habitat exists along the permittee's
30 shoreline to provide adequate shoreline stabilization, the permittee
31 shall be required to plant appropriate wetland species landward of the
32 sill structure as directed by Department staff. This permit shall only
33 apply to projects that combine existing or planted wetlands with
34 constructed sill structures.

35 (3) Construction authorized by this permit shall be limited to a maximum
36 length of 500 feet.

37 (4) The height of the sill shall be constructed so as not to exceed six
38 inches above the highest elevation of the adjacent wetland substrate, or
39 six inches above the mean high water or normal high waterline,
40 whichever is greater. The constructed slope of the sill shall not exceed
41 2:1 (2 foot horizontal 1 foot vertical) slope, and the width of the sill
42 crest shall not exceed three feet.

43 (5) No fill shall be placed on submerged aquatic vegetation or productive
44 shellfish beds. Backfilling of the sills shall only be utilized for the

1 purpose of creating a suitable substrate for the establishment or
2 reestablishment of coastal wetlands. Only clean sandy fill shall be used
3 for backfilling sills. Prior to filling, shellfish may be considered for
4 relocation to other sites using methods approved by the North Carolina
5 Division of Marine Fisheries. No more than 100 square feet of existing
6 emergent wetlands shall be filled per project site.

7 (6) No excavation of the shallow water bottom, any wetland, or high
8 ground is authorized by this permit.

9 (7) The sill material shall not be placed in a manner so as to impede water
10 flow into or out of any natural channel or stream.

11 (8) The sill material shall be free from loose dirt or other pollutants. It
12 shall be of a size sufficient to prevent its movement from the site by
13 wave or current action.

14 (9) Riprap material shall consist of clean rock or masonry materials, such
15 as marl, granite, or broken concrete. Material such as tires, car bodies,
16 scrap metal, paper products, tree limbs, wood debris, organic material,
17 or similar materials are not appropriate riprap for the purposes of this
18 general permit.

19 (10) If the crossing of wetlands with mechanized or nonmechanized
20 construction equipment is necessary, temporary construction mats
21 shall be utilized for the area to be crossed. The temporary mats shall be
22 removed immediately upon completion of the construction of the
23 riprap structure.

24 (11) The permittee shall maintain the structure in good condition and in
25 conformance with the terms and conditions of this permit or the
26 remaining sill structure shall be removed within 90 days of notification
27 from the Division of Coastal Management."

28 **SECTION 2.** The Department of Environment and Natural Resources shall
29 begin implementation of this act when it becomes law. The Department shall establish
30 the permit enacted by Section 1 of this act by December 1, 2003.

31 **SECTION 3.** Section 1 of this act becomes effective December 1, 2003.
32 The remainder of this act is effective when it becomes law.