

**STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
DIVISION OF WATER QUALITY**

**STATE GENERAL PERMIT FOR IMPACTS TO ISOLATED
WETLANDS AND ISOLATED WATERS
PERMIT NUMBER: IWGP100000**

**FOR PROJECTS IMPACTING LESS THAN ONE (1) ACRE OF ISOLATED
WETLANDS, LESS THAN TWO HUNDRED, FIFTY FEET (250) OF ISOLATED
STREAMS AND/OR LESS THAN ONE-THIRD ACRE (1/3) OF OTHER
ISOLATED SURFACE WATERS**

In accordance with the provision of Article 21 of Chapter 143, General Statutes of North Carolina as amended and other lawful standards and regulations, including 15A NCAC 2H .1300 and 15A NCAC 2B .0200, promulgated and adopted by the North Carolina Environmental Management Commission.

Permission is hereby granted to all owners or operators of activities which impact isolated wetlands, isolated streams or other isolated waters in accordance with the conditions set forth in Parts I, II, III, IV, V, VI and VII of this General Permit Number One.

This General Permit shall become effective on September 10, 2003.

This General Permit shall expire at midnight on September 30, 2008 or unless otherwise rescinded by the Director of the NC Division of Water Quality (DWQ).

**Alan W. Kimek, Director
Division of Water Quality
By the Authority of the
NC Environmental Management Commission**

This General Permit is issued in conformity with the requirements of North Carolina Division of Water Quality (DWQ) Regulations in 15A NCAC 2H, Section .1300 for the discharge of fill material to isolated wetlands and isolated waters of the State of North Carolina. This Permit may be rescinded when deemed appropriate by the Director of DWQ after appropriate public notice.

The State of North Carolina certifies that the specified category of activity will not violate applicable portions of Sections 301, 302, 303, 306 and 307 of the Public Laws 92-500 and 95-217 if conducted in accordance with the conditions hereinafter set forth.

Conditions of Permit:

I. Totaling Impacts and Application Requirements:

A. Application Thresholds – Impacts to isolated, classified streams, wetlands and water that exceed any of the thresholds below require a complete application and written concurrence which may include site-specific conditions in order to use this Permit. These thresholds apply for the entire project regardless of the number of Nationwide or Individual Permits (if any) applicable to the project that are issued by the US Army Corps of Engineers for the project:

1. Impacts to isolated streams of greater or equal to 150 cumulative feet of stream length for the entire project require written notification to and approval by the Division of Water Quality, and/or
2. Impacts to isolated lakes and ponds of equal to or greater than 1/3 of an acre require written notification to and approval by the Division of Water Quality, and/or
3. Impacts to isolated wetlands of greater or equal to 1/3 of an acre east of I-95 and 1/10 of an acre west of I-95 require written notification to and approval by the Division of Water Quality;
4. Proposed fill or substantial modification of any amount of isolated wetlands classified in accordance with 15A NCAC 2B .0101(e)(7) as Unique Wetlands (UWL) shall require written concurrence from the Division of Water Quality;

B. Activities which are Deemed Permitted: Impacts to less than i) 150 linear feet of isolated stream, ii) 1/3 acre of isolated surface waters, iii) 1/3 acre of isolated wetlands east of Interstate-95 or iv) 1/10 acre of isolated wetland west of Interstate-95 are deemed permitted in accordance with 15A NCAC 2H .1305 (b) and do not require application to or written approval from DWQ as long as all the conditions of 15A NCAC 2H .1305 (b) are followed;

C. Totaling and Reporting of Impacts:

1. Isolated Streams - Impacts to isolated streams as determined by the Division of Water Quality shall be measured as the length of the centerline of the normal flow channel. Permanent and/or temporary stream impacts shall be enumerated on the entire project for all impacts regardless of which 404 Nationwide Permits are used (if any). Stream relocations and streambed and/or bank hardening are considered to be permanent stream impacts. Any activity that results in a loss of use of stream functions including but not limited to filling, relocating, flooding, excavation, dredging and complete shading shall be considered stream impacts.

Impacts to streams shall include streams enclosed by bottomless culverts, bottomless arches or other spanning structures unless the entire structure (including construction impacts) spans the entire bed and both banks of the stream, is only used for a road, driveway or path crossing, and is not mitered to follow the stream pattern. Impacts for dam footprints and flooding will count toward the threshold for stream impacts, but flooding upstream of the dam will not count towards mitigation requirements as long as no filling, excavation, relocation or other modification of the existing stream dimension, pattern or

- profile occurs. Any filling, excavation, relocation or other modification of the existing stream (other than flooding) must re-establish the same dimensions, patterns and profiles of the existing channel (or those of a stable reference reach if the existing channel is unstable)
2. Isolated Lakes and Ponds – Impacts to isolated waters other than streams and wetlands as determined by the Division of Water Quality shall be measured as area. Permanent and/or temporary water impacts shall be enumerated on the entire project for all impacts proposed regardless of which 404 Nationwide Permits are used (if any). Any activity that results in a loss of use of aquatic functions including but not limited to filling, draining, and dredging shall be considered waters impacts.
 3. Isolated Wetlands - Impacts to isolated wetlands as determined by the Division of Water Quality shall be measured as area. Permanent and/or temporary wetland impacts shall be enumerated on the entire project for all impacts regardless of which 404 Nationwide Permits are used (if any). Any activity that results in a loss of use of wetland functions including but not limited to filling, excavating, draining, and flooding shall be considered wetland impacts. Impacts to wetlands shall include activities that change the hydrology of a wetland.
- D. Public Notice requirement – A separate Public Notice and Individual Permit will be required for all projects which propose to impact more than 250 linear feet of isolated streams or more than one (1) acre of isolated wetlands or other waters in accordance with 15A NCAC 2H .1303. For impacts less than these thresholds, this General Permit is applicable without additional Public Notice.
- E. In accordance with North Carolina General Statute Section 143-215.3D(e), any application for an Isolated Wetland General or Individual Permit must include the appropriate fee. If a project also requires a CAMA Permit, one payment to both agencies shall be submitted. This payment shall be the higher of the two fees;
- F. Impacts to any stream length for streams regulated by the respective riparian buffer rules in the Neuse, Tar-Pamlico, Catawba or Randleman River Basins (or any other major river basins with Riparian Area Protection Rules [Buffer Rules] in effect at the time of application) also requires written concurrence for this Permit from DWQ in accordance with 15A NCAC 2B.0200 except for “exempt activities” as noted below.
Activities listed as “exempt” from these rules do not need to apply for written concurrence under this Permit as long as they meet the impact thresholds provided in the rules. New development activities located in the protected riparian areas (whether jurisdictional streams, wetlands, waters or not) within river basins with riparian buffer protection rules shall be limited to “uses” identified within and constructed in accordance with 15A NCAC 2B .0200.
All new development shall be located, designed, constructed, and maintained to have minimal disturbance to protect water quality to the maximum extent practicable through the use of best management practices;
- G. Irrespective of other application thresholds in this General Permit, all impacts to perennial waters and their associated buffers in water supply watersheds require written approval from DWQ since such impacts are allowable as provided in 15A NCAC 2B. 0212 (WS-I), 2B .0213 (WS-II), 2B .0214 (WS-III) and 2B .0215 (WS-IV). Only water dependent activities, public projects and structures with diminimus increases in impervious surfaces will be allowed as outlined in those rules. All other activities require a variance from the delegated local government and/or the NC Environmental Management Commission before the Isolated Wetland General Permit can be processed. In addition, a 30 foot wide vegetative buffer for low density development or a 100 foot wide vegetative buffer for high density development must be maintained adjacent to all perennial waters in

water supply watersheds except for allowances as provided under the Water Supply Watershed Protection Rules. For the purposes of this condition, perennial waters are defined as those shown as perennial waters on the most recent USGS 1:24,000 topographic map or as otherwise determined by local government studies;

II. On-Site Stormwater Management:

- A. Additional site-specific stormwater management requirements may be added to this Permit at DWQ's discretion on a case by case basis for projects that have or are anticipated to have impervious cover of greater than 30 percent for either the entire site or portions of the site that exceed 30% imperviousness. Site-specific stormwater management shall be designed to remove at least 85% TSS according to the latest version of DWQ's Stormwater Best Management Practices manual at a minimum. Other stormwater management requirements (such as [but not limited to] providing diffuse flow through protected buffers) may also be added on a case-by-case basis.

Additionally, in watersheds within one mile and draining to 303(d) listed waters, as well as watersheds that are classified as nutrient sensitive waters (NSW), water supply waters (WS), trout waters (Tr), high quality waters (HQW), and outstanding resource waters (ORW), the Division shall require that extended detention wetlands, bio-retention areas, and ponds followed by forested filter strips (designed according to latest version of the NC DENR Stormwater Best Management Practices Manual) be constructed as part of the stormwater management plan when a site-specific stormwater management plan is required. For streams classified as Water Supply, High Quality Waters and Outstanding Resource Waters, post-construction, on-site stormwater management shall be required as appropriate and as outlined in 15A NCAC 2B .0104(m) and 2H .1000 to .1007, respectively, in addition to that required in this General Permit.

Alternative designs may be requested by the applicant and will be reviewed on a case-by-case basis by the Division of Water Quality.

Approval of stormwater management plans by the Division of Water Quality's other existing state stormwater programs including appropriate local programs are sufficient to satisfy this Condition as long as the stormwater management plans meet or exceed the design requirements specified in this condition. This condition applies unless more stringent requirements are in effect from other state water quality programs.

1. Unless specified otherwise in the approval letter, the final, written stormwater management plan shall be approved in writing by the Division of Water Quality's Wetlands Unit before the impacts specified in this Permit occur.
2. The facilities must be designed to treat the runoff from the entire project, unless otherwise explicitly approved by the Division of Water Quality.
3. Also, before any permanent building or other structure is occupied at the subject site, the facilities (as approved by the Wetlands Unit) shall be constructed and operational, and the stormwater management plan (as approved by the Wetlands Unit) shall be implemented.
4. All structural stormwater practices as approved by the Wetlands Unit as well as drainage patterns must be maintained in perpetuity.
5. No changes to the structural stormwater practices shall be made without written authorization from the Division of Water Quality.

III. Compensatory Mitigation:

- A. Compensatory stream mitigation shall be required at a 1:1 ratio for not only perennial but also intermittent stream impacts that require application to DWQ in watersheds with streams classified as ORW, HQW, Tr, WS-I and WS-II unless the project is a linear, publicly-funded transportation project, which has a 150-foot per-stream impact allowance;
- B. In accordance with 15A NCAC 2H .1300, compensatory mitigation may be required for impacts to 150 linear feet or more of streams and/or one acre or more of wetlands for an entire project. For linear public transportation projects, impacts equal to or exceeding 150 feet per stream may require mitigation. In addition, buffer mitigation may be required for any project with Riparian Area Protection Rules (Buffer Rules) in effect at the time of application for buffer impacts resulting from activities classified as "allowable with mitigation" within the "Table of Uses" section of the Buffer Rules or require a variance under the Buffer Rules. A determination of buffer, wetland and stream mitigation requirements shall be made for any use of this General Permit. The most current design and monitoring protocols from DWQ shall be followed and written plans submitted for DWQ approval as required in those protocols.

When compensatory mitigation is required for a project, the mitigation plans must be approved by DWQ in writing before the impacts approved by the Permit occur, unless otherwise specified in the approval letter. The mitigation plan must be implemented and/or constructed before any permanent building or structure on site is occupied. In the case of public road projects, the mitigation plan must be implemented before the road is opened to the travelling public. Please note that if a stream relocation is conducted as a stream restoration as defined in *The Internal Technical Guide for Stream Work in North Carolina* (April 2001 or its successor), the restored length can be used as compensatory mitigation for the impacts resulting from the relocation;

- C. For any project involving re-alignment of streams, a stream relocation plan must be included with the General Permit application for written DWQ approval. Relocated stream designs should include the same dimensions, patterns and profiles as the existing channel (or a stable reference reach if the existing channel is unstable). The new channel should be constructed in the dry and water shall not be turned into the new channel until the banks are stabilized. Vegetation used for bank stabilization shall be limited to native woody species, and should include establishment of a 30 foot wide wooded and an adjacent 20 foot wide vegetated buffer on both sides of the relocated channel. A smaller buffer may be allowed on a site-specific basis by DWQ. A transitional phase incorporating coir fiber and seedling establishment is allowable. Also, rip-rap, A-Jacks, concrete, gabions or other hard structures may be allowed if it is necessary to maintain the physical integrity of the stream, but the applicant must provide written justification and any hydraulic calculations used to determine the extent of rip-rap coverage requested. If suitable stream mitigation is not practical on-site, then stream impact will need to be mitigated elsewhere. If stream relocation is conducted as a stream restoration as defined in *The Internal Technical Guide for Stream Work in North Carolina*, (April 2001 or its successor), 2001, the restored length can be used as compensatory mitigation for the impacts resulting from the relocation;
- D. Culverts and other structures installed in waters, streams, and wetlands must be placed below the elevation of the streambed to allow low flow passage of water and aquatic life unless it can be shown to DWQ that providing passage would be impractical. Design and placement of culverts including open bottom or bottomless arch culverts and other structures including temporary erosion control measures shall not be conducted in a manner that may result in aggradation, degradation or significant changes in hydrology of wetlands or stream beds or banks, adjacent to or

upstream and down stream of the above structures. The applicant is required to provide written evidence that the equilibrium shall be maintained if requested to do so in writing by DWQ. Additionally, when roadways, causeways or other fill projects are constructed across FEMA-designated floodways or wetlands, openings such as culverts or bridges must be provided to maintain the natural hydrology of the system as well as prevent constriction of the floodway that may result in aggradation, degradation or significant changes in hydrology of streams or wetlands;

IV. Sedimentation and Erosion Control:

- A. All erosion and sediment control practices (for land uses that include construction/development, mining, agricultural and forestry practices) must be in full compliance with all specifications governing the proper design, installation, operation and maintenance of such Best Management Practices (BMPs).
 - 1. For construction/development and land disturbance activities, erosion and sediment control measures and maintenance must be installed and equal or exceed the proper design, installation, operation and maintenance outlined in the most recent version of the "North Carolina Sediment And Erosion Control Planning and Design Manual". If land disturbance amounts are below the thresholds where a Division of Land Resource (DLR) or a DLR delegated program require a Erosion and Sedimentation Control Plan, then measures and control practices must be installed such that sedimentation to waters is prevented.
 - 2. For mining activities, erosion and sediment control measures and maintenance must be installed and equal or exceed the proper design, installation, operation and maintenance outlined in the most recent version of the "North Carolina Surface Mining Manual".
 - 3. For projects located on agricultural sites, Best Management measures must be installed and equal or exceed the proper design, installation, operations and maintenance outlined in Section 4 of the Natural Resources Conservation Services (NRCS) Technical Guide. If erosion and sediment control measures are not specifically addressed by NRCS Technical Guide for an activity being conducted, then sediment control measures, control practices, and maintenance must be installed and implemented such that sedimentation to waters is prevented.
 - 4. For project located on forestry sites, Best Management Practices must be installed that equal or exceed the proper design, installation, operation and maintenance as outlined in the most recent version of the "Best Management Practice Manual" developed by the North Carolina Division of Forest Management. If the Best Management Practices, developed by the Division of Forest Resources, do not specifically address the activity being conducted, then measures, control practices, and maintenance must be installed and implemented such that sedimentation to waters is prevented.
- B. All sediment and erosion control measures placed in wetlands and waters shall be removed and the original grade restored within two months after the Division of Land Resources or DLR delegated program has released the project;

V. Compliance with Water Quality Standards:

- A. Additional site-specific conditions may be added to projects proposed under this Permit in order to ensure compliance with all applicable water quality and effluent standards;
- B. Measures shall be taken to prevent live or fresh concrete from coming into contact with waters of the state until the concrete has hardened;
- C. If this Permit is used to access building sites, all lots owned by the applicant must be buildable without additional fill beyond that explicitly allowed under other General or

Individual 401 Water Quality Certifications. The applicant is required to provide evidence that the lots are buildable without requiring additional impacts to wetlands, waters or buffers if required to do so in writing by DWQ. For road construction purposes, this Permit shall only be utilized from natural high ground to natural high ground;

V. Possible requirement for an Individual Permit and Public Meetings

- A. The Director of the North Carolina Division of Water Quality may require submission of a formal application for Individual Permit for any project in this category of activity that requires written concurrence under this Permit, if it is determined that the project is likely to 1) have a significant adverse effect upon water quality, 2) impact state or federally listed threatened or endangered species, or 3) degrade the waters so that existing uses of the wetland or downstream waters are precluded.
- B. Public meetings may be held for specific applications or group of applications prior to a Permit decision if deemed in the public's best interest by the Director of the North Carolina Division of Water Quality.

VI. Compliance and Reporting:

- A. If an environmental document is required, this Permit is not valid until a Finding of No Significant Impact (FONSI) or Record of Decision (ROD) is issued by the State Clearinghouse;
- B. Deed notifications or similar mechanisms shall be placed on all lots with remaining wetlands and waters or on areas within 50 feet of all streams and ponds if riparian buffer protection rules are applicable. These mechanisms shall be put in place within 30 days of the date of issuance of the General Permit letter or the issuance of the 404 Permit (whichever is later). A sample deed notification format can be downloaded from the 401/Wetlands Unit web site at <http://h2o.enr.state.nc.us/ncwetlands> . DWQ shall be sent copies of all deed restrictions applied to these lots;
- C. When written concurrence is required, the applicant is required to use the most recent version of the Certificate of Completion to inform DWQ that work authorized by this General Permit has been completed;
- D. Concurrence from DWQ that this Permit applies to an individual project shall expire five years from the date of the cover letter from DWQ or on the same day as the expiration date of the corresponding US Army Corps of Engineers 404 Permit (if any), whichever is sooner unless otherwise explicitly allowed in the approval letter from DWQ.
- E. Non-compliance with or violation of the conditions herein set forth by a specific fill project may result in revocation of this Permit for the project and may also result in criminal and/or civil penalties.
- F. Failure to abide by the conditions and limitations contained in this permit may subject the Permittee to an enforcement action by the Division of Water Quality in accordance with 143-215.6A to 143-215.6C.
- G. This permit may be modified, revoked and reissued or terminated for cause. The filing of a request for a permit modification, revocation and reissuance, or termination does not stay any permit condition.
- H. The issuance of this Permit does not prohibit the Director from reopening and modifying the Permit, revoking and reissuing the Permit, or terminating the Permit as allowed by the laws, rules, and regulations contained in Title 15A of the North Carolina Administrative Code 3, Subchapter 02H. 1300, and North Carolina General Statute 143-215.1 et. al.
- I. The Permit is not transferable to any person or entity except after notice to and written approval by the Director. The Director may require modification or revocation and reissuance of the Permit to change the name and incorporate such other requirements as may be necessary. A formal permit request must be submitted to the Division of Water Quality accompanied by the appropriate fee, documentation from both parties involved, and other supporting materials as may be appropriate. The approval of this request will be considered on its merits, and may or may not be approved.

- J. The issuance of this Permit does not preclude the Permittee from complying with any and all statutes, rules, regulations, or ordinances which may be imposed by other governments agencies (local, state, and federal) which have jurisdiction. If any of those permits results in revisions to the plans, a permit modification must be submitted.
- K. The permittee grants permission to DENR Staff to enter the property during business hours for the purposes of inspections and compliance review.
- L. The permittee shall notify the Division of Water Quality of any mailing address changes within 30 days.