

**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.