

**PUBLIC NOTICE**

**CHARLESTON DISTRICT, CORPS OF ENGINEERS  
69A Hagood Avenue  
Charleston, South Carolina 29403-5107**

REGULATORY DIVISION  
Refer to: General Permit # SAC-2008-785

10 April 2009

Pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344), a General Permit to perform work in or affecting navigable waters of the United States has been issued by the

District Commander  
U.S. Army Corps of Engineers  
Charleston District  
69A Hagood Avenue  
Charleston, South Carolina 29403

to authorize the excavation and placement of material waterward of mean high water (MHW) for Emergency Ocean Front Beach Nourishment activities for private, commercial, and public uses within navigable waters of the United States, specifically those waters of the Atlantic Ocean within the State of South Carolina, subject to special and general conditions, and for the purpose of providing immediate erosion relief, in the form of beach restoration, to eroded areas threatening inhabited structures or developed properties. The General Permit is applicable in Horry, Georgetown, Charleston, Colleton, Beaufort, and Jasper Counties, South Carolina.

The South Carolina Department of Health and Environmental Control has issued Water Quality Certification pursuant to Section 401 of the Clean Water Act and certified consistency with the South Carolina Coastal Zone Management Act (S.C. Code Ann. Section 48-39-10 et seq.).

General Permit No.: SAC-2008-785  
Name of Permittee: GENERAL PUBLIC  
Effective Date: 7 April 2009  
Expiration Date: 30 June 2014

**DEPARTMENT OF THE ARMY  
GENERAL PERMIT**

A General Permit to perform work in or affecting navigable waters of the United States, upon the recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (PL 92-500, 33 U.S.C. 1344) is hereby issued by the authority of the Secretary of the Army by the

District Engineer  
U.S. Army Engineer District, Charleston  
Corps of Engineers  
69-A Hagood Avenue  
Charleston, South Carolina 29403-5107

to authorize the excavation and placement of material waterward of mean high water (MHW) for Emergency Ocean Front Beach Nourishment activities for private, commercial, and public uses within navigable waters of the United States, specifically those waters of the Atlantic Ocean, within the State of South Carolina, subject to the following special and general conditions, and for the purpose of providing immediate erosion relief, in the form of beach restoration, to eroded areas threatening inhabited structures or developed properties.

**I. SPECIAL CONDITIONS:**

A. The work authorized by this general permit is limited to emergency situations requiring immediate remedial action to provide temporary erosion relief. An emergency situation exists when there is an imminent threat to public health and safety or the environment, an unacceptable hazard to life, or which would result in significant loss of property. This permit is intended for use after discrete events causing excessive erosion and for one-time use per event per property being protected. This permit does not authorize continuing or reoccurring beach nourishment work or beach maintenance. Persons or entities planning to do ocean front beach nourishment activities on a regular basis should apply for a standard individual permit. These re-occurring activities will be evaluated under the standard individual permit review process as specified in 33 CFR 325.

B. Sand scraping/excavation is limited to the area directly in front of the property being protected, within the extended property lines of the subject property, and landward of mean low water (MLW).

C. Mechanical excavation is authorized in non-vegetated ocean front beach areas between the MHW and MLW contours. The depth of excavation shall not exceed two feet. The permittee shall make every effort to contour and shape the excavated area such that the average depth decreases with proximity to the shoreline. Hydraulic excavation is not authorized. Shoals or sand bars shall not be excavated.

D. All excavation and filling activities shall be conducted during low tides. The material obtained and utilized for beach nourishment must be compatible with the soils in the nourished area.

E. Sand scraping/excavation is only authorized for the purpose of obtaining material to be placed along the shoreline for erosion relief. The excavation of material for placement behind bulkheads, seawalls, or other man-made structures is not authorized.

F. Emergency beach nourishment activities occurring waterward of MHW must be completed within 2 weeks of commencement of the work.

G. No sandbags shall be placed waterward of MHW or buried by emergency beach nourishment activities. In the event of continual erosion that shifts sandbags below MHW, it is the permittee's responsibility to immediately remove such sandbags. Any sandbags remaining in the project area must be removed and hauled offsite prior to beach nourishment activities.

H. For protection against further erosion, excavated material may be deposited along the eroded shoreline for restoration of the beach and sand dunes. Only vegetation may be used to stabilize deposited material. Vegetation must be native species typical of natural beach and dune ecosystems. A list of species proposed for stabilization must be submitted to this office for approval prior to planting.

I. Emergency beach nourishment activities are not authorized in areas designated or proposed as critical habitat (50 CFR 17) for Charadrius melodus (piping plover).

J. Emergency beach nourishment activities are not authorized in areas where the Amaranthus pumilus (Seabeach Amaranth) is likely to occur or establish, such as overwash flats at accreting ends of barrier islands and foredune areas.

K. In an effort to minimize disturbance to nesting sea turtles, migrating shorebirds, and nesting birds, emergency beach nourishment activities are authorized between November 1 and February 28. For activities proposed outside this window, the Corps will consult with the U.S. Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service (NMFS). After appropriate coordination with USFWS and/or NMFS, the Corps must be able to make a case-specific determination that the work is not likely to adversely affect threatened or endangered species or their critical habitat before verification of the proposed work can be issued. The Corps may require the permittee to comply with specific conditions to ensure that authorized work does not adversely affect threatened or endangered species or their critical habitat. If work is authorized between May 1 and October 31, the permittee is required to coordinate with the South Carolina Department of Natural Resources Marine Turtle Conservation Program (SCDNR MTCP) and Nest Protection Project Leaders throughout the entire project.

L. For beach nourishment activities exceeding ¼ mile in length (1,320 feet), sand compaction in the project area shall be monitored annually by cone penetrometer for three years. If the average value exceeds 500 pounds per square inch (psi) or the ambient pressure in the natural beach areas, whichever is greater, then recoordination with the agencies must immediately commence. Remedial action such as tilling may be required. The following protocol shall be followed:

(i) Compaction monitoring transects, perpendicular to the shoreline, must be located at 500-foot intervals along the project site. Along each transect, a monitoring station must be located at the seaward edge of the dune/bulkhead line (when material is placed in this area), and midway between the dune line and the high water line (normal wrack line). To determine the ambient pressure of beaches in the area, measurements shall also be made at adjacent unaffected beaches; at least two reference transects shall be utilized.

(ii) At each station, the cone penetrometer will be pushed to a depth of 6, 12, and 18 inches three times (three replicates). Replicates will be located as close to each other as possible, without interacting with the previous hole and/or disturbed sediments. The three replicate compaction values for each depth will be averaged to produce final values for each depth at each station. Reports will include all 18 values for each transect line, and the final averaged compaction values.

(iii) Monitoring shall commence immediately after completion of the beach nourishment project and prior to May 1. Monitoring is required for three subsequent years. Annual sand compaction monitoring reports shall be submitted to the U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service at the following addresses:

U.S. Army Corps of Engineers  
Charleston District, Regulatory Division  
69 A Hagood Avenue  
Charleston, SC 29403

U.S. Fish and Wildlife Service  
Attention: Ms. Melissa Bimbi  
176 Croghan Spur Road, Suite 200  
Charleston, SC 29407

M. A Pre-Construction Notice (PCN) must be submitted prior to commencement of any emergency beach nourishment project/event. Work shall not commence until a written verification of authorization is received from this office. The PCN must be in writing and include the following information:

- Completed "Joint Federal And State Application Form For Activities Affecting Waters Of The United States Or Critical Areas Of The State Of South Carolina"
- Plans for the proposed work (8.5 X 11" black and white drawings) showing the areas where sand scraping/excavation will occur and the areas where the sand will be deposited. The MHW and MLW elevations should be located on the plans. Cross sectional diagrams should indicate the depth to which sand will be scraped and the depth to which sand will be deposited.
- Statement that the work will be conducted in compliance with the terms and conditions of this General Permit.

## **II. GENERAL CONDITIONS:**

A. This General Permit authorizes only those activities specifically addressed herein. The permittee must obtain Department of the Army authorization, such as the issuance of an individual permit, for all other activities that are regulated pursuant to Section 10 of the Rivers and Harbors Act and/or Section 404 of the Clean Water Act within waters of the United States.

B. All activities identified and authorized herein shall be consistent with the terms and conditions of this General Permit; any variance not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit and may result in the modification, suspension, or revocation of the authorization, as set forth more specifically in General Condition F. below and in the institution of such legal proceedings as the United States Government may consider appropriate.

C. The permittee must make every reasonable effort to conduct the work authorized herein in a manner so as to minimize any adverse impact to fish, wildlife, and other environmental resources.

D. The permittee must make every reasonable effort to conduct the work authorized herein in a manner so as to avoid and minimize any degradation of water quality.

E. The permittee shall allow the District Engineer or his authorized representative(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

F. Authorization of a specific work or structure authorized herein may be summarily suspended in whole or in part upon a finding by the District Engineer that immediate suspension would be in the general public interest or there has been a violation of any terms or conditions of this permit. Such suspension shall be effective upon receipt by the permittee of a written notice thereof which shall indicate (1) the extent of the suspension, (2) the reasons for this action, and (3) any corrective or preventative measures to be taken by a permittee which are deemed necessary by the District Engineer to abate imminent hazards to the general public interest. A permittee shall take immediate action to comply with the provisions of this notice. Within ten (10) days following the receipt of this notice of suspension, the permittee may request a meeting with the District Engineer or a public hearing to present information relevant to a decision whether their permit should be reinstated, modified, or revoked. If a public hearing is requested it shall be conducted pursuant to procedures prescribed by the Chief of Engineers. After completion of the public hearing or within a reasonable time after issuance of the suspension notice to the permittee if no hearing is requested, the authorization of the specific work or structure will be reinstated, modified, or revoked. Any modification, suspension, or revocation of authorization under this General Permit shall not be the basis for any claim for damages against the United States.

G. Upon receipt of a notice from the District Engineer for failure to comply with the terms, conditions, or standards of this General Permit, the owner or person responsible for the work must within sixty (60) days without expense to the United States and in such manner as directed by the District Engineer or his authorized representative(s), effect compliance with the terms, conditions, and standards or restore the site to pre-construction contours.

H. This General Permit does not convey any property rights, either in real estate or material, or any exclusive privileges; it does not authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws, nor does it obviate the requirement to obtain other Federal, State, or local assent or to comply with any applicable standards required by ordinance for the activities authorized herein. Other Federal, State, or local agencies are not limited by this document and may impose more stringent requirements than those stated herein as they see fit.

I. Any activity that may affect any federally listed threatened or endangered species, a species proposed for listing, or designated critical habitat is **NOT** authorized by this General Permit unless project-specific consultation with USFWS and/or NMFS has occurred, it is determined that the activity is not likely to adversely affect species or their critical habitat, and the specific project has been authorized. Otherwise, these activities will be evaluated under the individual permit review process as specified in 33 CFR 325.

J. Any activity that may affect any historic properties listed, or which may be eligible for listing on the National Register of Historic Places is **NOT** authorized by this General Permit. These activities will be evaluated under the individual permit review process as specified in 33 CFR 325.

K. If the permittee, prior to or during the performance of the work authorized herein, encounters previously unidentified archeological remains or cultural resources within the area subject to Department of the Army authorization, the applicant agrees to cease work and contact the District Engineer, so that further coordination with the South Carolina Institute of Archaeology and Anthropology and the South Carolina Department of Archives and History may be conducted.

L. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to restore the site completely to pre-construction conditions, without expense to the United States. No claim shall be made against the United States on account of any such work.

M. The Charleston District Engineer, at his discretion, may determine that this General Permit will not be applicable to a specific construction proposal. In such case, the procedure for processing an individual permit in accordance with 33 CFR 325 will be available.

N. A copy of the project-specific authorization and drawings must be available at the site of the permitted activity during construction.

### **III. PROHIBITED ACTIVITIES:**

All work that exceeds the terms and conditions specified herein is prohibited unless an Individual Department of the Army Permit or Nationwide Permit authorization has been obtained from the Corps of Engineers. All work for purposes other than those specified herein is expressly not authorized by this document.

### **IV. REQUIRED AUTHORIZATIONS:**

A. Prior to performing any of the work authorized herein the permittee shall obtain the necessary state permits from the South Carolina Department of Health and Environmental Control (SCDHEC) and any other required Federal, State or local authorizations.

B. The permittee must comply with the conditions of the state Section 401 Water Quality Certification.

### **V. PENALTIES FOR VIOLATIONS:**

Authorization obtained under this General Permit limits the number of times this authorization can be used per site and places limits on the work authorized herein. Any deviation from the specifications, or other terms or conditions of the General Permit shall constitute a violation of Section 10 of the Rivers and Harbors Act of 1899 and may result in the District Engineer seeking judicial relief to have the permittee remove the structure or work and/or restore the project area to its former condition, as well as the imposition of penalties as provided by law.

### **VI. REVOCATION OF THE GENERAL PERMIT:**

This permit may be revoked by issuance of a public notice at any time the District Engineer determines that the cumulative effects of the activities authorized herein have an adverse effect on the public interest. Following such revocation, any future activities in areas covered by this General Permit will be processed as an Individual Department of the Army Permit or Nationwide Permit authorization.

### **VII. DURATION OF THE GENERAL PERMIT:**

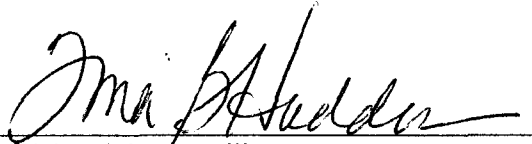
This General Permit will cover activities started within five (5) years of issuance unless this permit is revoked in the interim. Revoking the General Permit will not affect work performed in accordance with the conditions stated herein. At the end of the first year and every succeeding year, the Corps of Engineers and the Federal and State regulatory and resource agencies will jointly review activities authorized by this General Permit to determine if significant cumulative impacts have resulted. If the

District Engineer determines revocation of this permit, in whole or in part, may be in order due to cumulative impacts, a public notice of the intention will be issued and after a review of all additional data submitted, action will be taken to amend, modify or revoke this permit as appropriate. Revocation of the General Permit will not affect the work that had been authorized when the General Permit was in effect if such work is in accordance with the provisions contained herein.

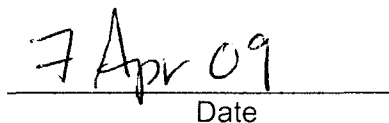
This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

This permit shall become effective on the date of the District Engineer's signature.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:



J. Richard Jordan, III  
Lieutenant Colonel, U.S. Army  
District Commander



Date

Or His Designee

**Tina B. Hadden**  
**Chief, Regulatory Division**