

# STATE AND FEDERAL REGULATION OF COASTAL ARMORING IN THE SOUTHEAST

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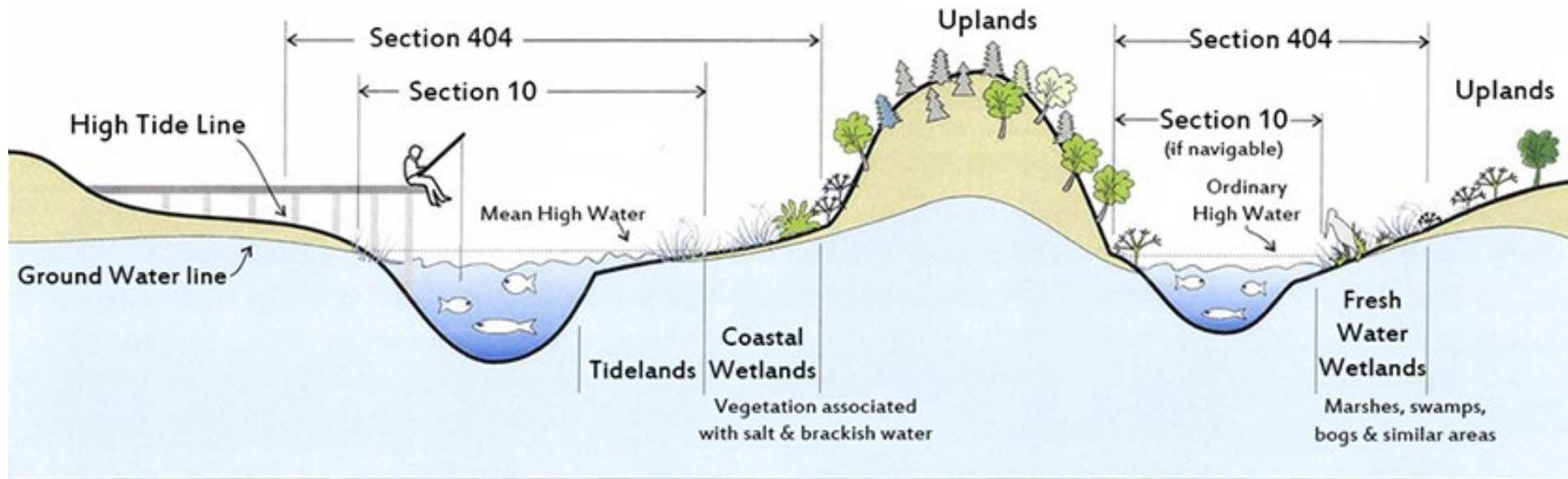
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# Corps of Engineers Regulatory Jurisdiction

## Tidal Waters

## Fresh Waters



Typical examples of regulated activities

**Section 103**  
Ocean Discharge of Dredged Material  
Ocean discharges of dredged material.

**Section 404**  
Disposal of Dredged or Fill Material  
All filling activities, utility lines, outfall structures, beach nourishment, riprap, jetties, some excavation activities, etc.

**Section 10**  
All Structures and Work (navigable waters)  
Dredging, marinas, piers, wharves, floats, intake/outtake pipes, pilings, bulkheads, ramps, fills, overhead transmission lines, etc.

CLEAN WATER ACT §  
404(A):  
DREDGE AND FILL  
PERMITS

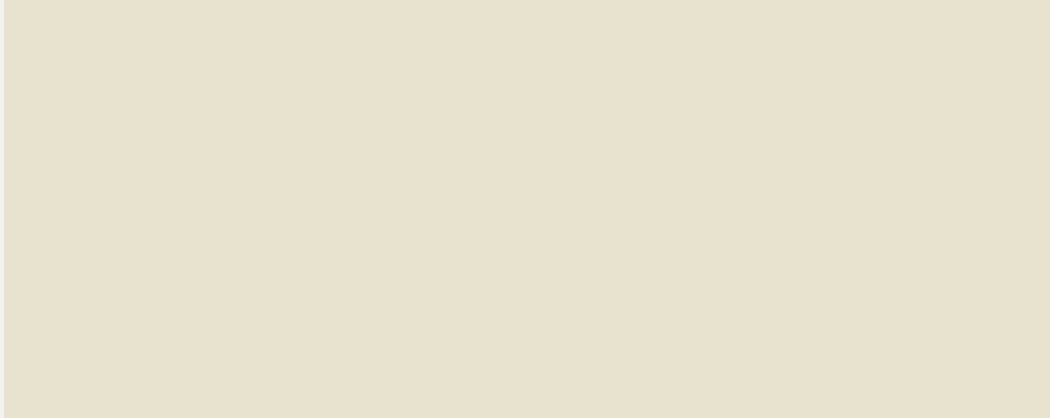
The [United States Army Corps of Engineers] **may issue permits**, after notice and opportunity for public hearings for **the discharge of dredged or fill material into the navigable waters** [“the waters of the United States”] **at specified disposal sites.**

CLEAN WATER ACT §  
404(E):  
GENERAL PERMITS

[The United States Army Corps of Engineers] may issue **general permits** on a State regional, or nationwide basis for any category of activities involving discharges of dredged or fill material if the Secretary determines that the activities in such category are similar in nature, **will cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effect on the environment.**

NATIONWIDE PERMIT 13:  
BANK STABILIZATION

Bank stabilization activities necessary for erosion control or prevention, such as . . . rip rap, revetment, bulkheads, or combinations of bank stabilization techniques, provided the activity meets all of the following criteria: . . . (b) The activity is **no more than 500 feet in length** along the bank . . .



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NATIONWIDE PERMIT  
54: LIVING  
SHORELINES

- Requires submission of a **Preconstruction Notice** to the District Engineer for approval
- Must be the “**minimum size necessary**” for erosion control
- Must be “designed, constructed, and maintained so that it has **no more than minimal adverse effects** on water movement between the waterbody and the shore and the movement of aquatic organisms between the waterbody and the shore.”



# 500-FOOT CONCRETE BULKHEAD PERMIT APPLICATION

## Nationwide Permit 54 (Living Shorelines)

- Not the minimum size necessary for erosion control
- Has an excessive effect on water movement and the migration of aquatic organisms to the shoreline
- **DENIED** by District Engineer

## Nationwide Permit 13 (Bank Stabilization)

- **APPROVED** with no Preconstruction Notice required

# 1. FIXED OR IRREGULARLY UPDATED SETBACK LINES

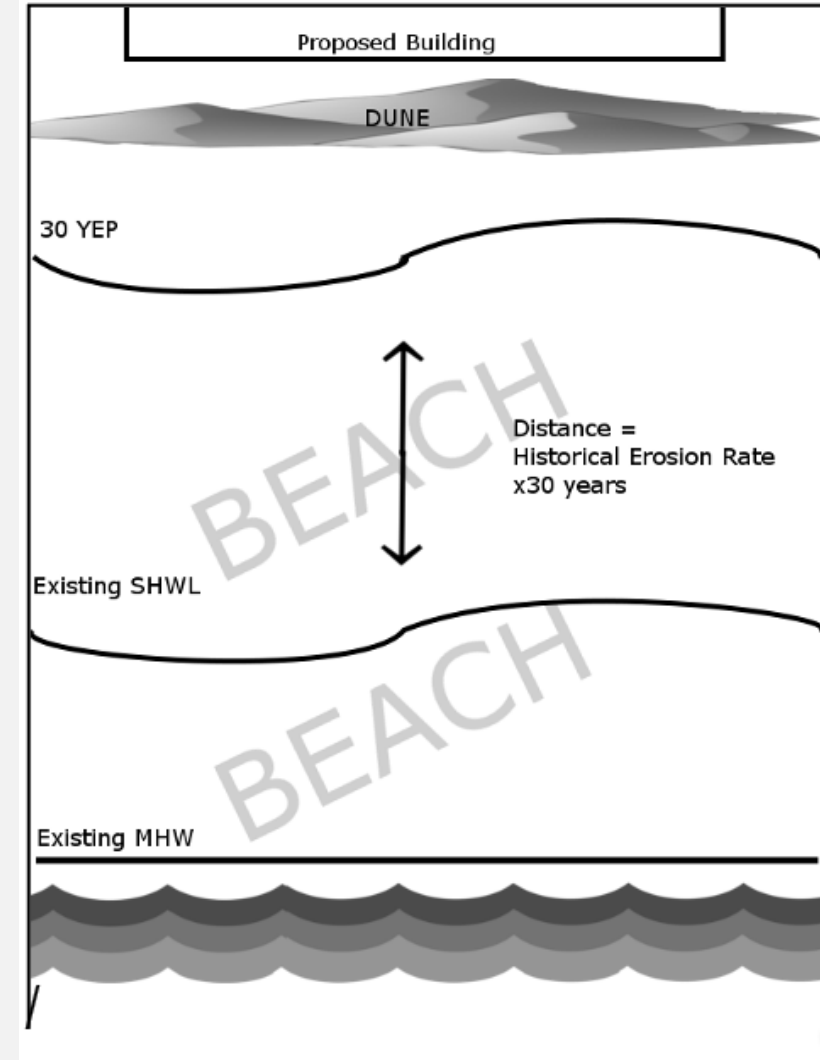
- Fixed Setback lines: Alabama, Georgia, Maryland and Delaware
- Erosion Rates: Florida and South Carolina
- Hybrid Approaches: North Carolina and Virginia
- Required Review of Erosion Rates:
  - North Carolina: 5 years
  - South Carolina: 7-10 years
  - Florida: After lines have been rendered “ineffective”





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Florida 30-Year Erosion Projection (30-YEP) for a Non-Restored Beach

## 2. BACKSLIDING ON RETREAT AND ARMORING POLICIES

- 2016: North Carolina allows local governments to establish their own “development lines” to “delineate the most oceanward location for new development”



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- 2016: North Carolina allows local governments to establish their own “development lines” to “delineate the most oceanward location for new development”
- 2018: South Carolina reversed the existing statutory policy of managed “retreat” and replaced it with a policy of “beach preservation,” including fixed baselines for development





### 3. POLICIES ENCOURAGING “ALIGNMENT” OR FILLING GAPS BETWEEN ARMORING

- Florida: Streamlines the process of permitting armoring 250 feet in length or less “where such installation is between and adjoins at both ends rigid coastal armoring structures”
- Delaware: Bulkheads must be “aligned” with existing structures and one consideration for permit approval is whether the proposed structure “fits in” with neighboring structures
- North Carolina: Requires replacement bulkheads to “tie into a like structure on the adjacent property”



## ENHANCED FEDERAL PERMITTING, GUIDANCE, AND FUNDING

- **Permitting**

- Revise or eliminate Nationwide Permit 13
- Federal permitting under Section 404 should require consistency with long-term planning for coastal management and migration and discourage armoring

- **Planning**

- Support the development of long-term planning for the survival and landward migration of beaches through the Coastal Zone Management Act and others

- **Funding**

- Focus disaster funding on buyout programs and discourage rebuilding in storm-damaged coastal areas
- Eliminate federal flood insurance for new development in coastal areas