

**Your guide to
important coastal
programs, featuring**



- **Wetland Master Planning**
- **Dock Master Plans**
- **Storm Water Management Guidelines**
- **Mitigation Guidelines**
- **Special Area Management Plans**
- **Appeal Process for Consistency Certifications**

Coastal Zone Management Program

Program Refinements

August 2, 1993

South Carolina Coastal Council

● Charleston: 803-744-5838 ● Myrtle Beach: 803-626-7217 ● Beaufort: 803-524-6885 ●



State of South Carolina

Office of the Governor

CARROLL A. CAMPBELL, JR.
GOVERNOR

August 2, 1993

POST OFFICE BOX 11369
COLUMBIA 29211


The Honorable William W. Jones, Jr.
Chairman
South Carolina Coastal Council
4130 Faber Place, Suite 300
Charleston, SC 29405

Dear Chairman Jones:

Pursuant to Section 48-39-90(E) of the Code of Laws of South Carolina, I have reviewed the 1993 Refinements to the Coastal Management Program Document heretofore reviewed and approved by the General Assembly. After careful review, I hereby approve these refinements. For your records, I enclose a copy of the 1993 Refinement documents that I have reviewed and hereby approve.

If I may be of further assistance, please do not hesitate to contact me.

Yours sincerely,


Carroll A. Campbell, Jr.
Governor

CACjr/rb

FINAL REFINEMENTS

SOUTH CAROLINA COASTAL COUNCIL CHAPTER 30

Statutory Authority: 1976 Code Section 48-39-90

Chapter III Management of Coastal Resources

C. Uses of Management Concern

3. Resource Policies

XII. Activities in Areas of Special Resource Significance

E. Wetlands (Page III-73)

Background

The South Carolina Coastal Council is required by both State and Federal law to review projects in the State's coastal zone which require State and Federal permits to determine if the project is consistent with the Coastal Zone Management Program. To provide incentive for developers to approach wetland management on a comprehensive basis, and to provide some flexibility when developing adjacent to wetlands, the Coastal Council uses a wetland master planning concept as stated below. The concept is simple and effective and has greatly reduced wetland conflicts in the coastal zone. Wetland master planning is applied to all projects undergoing consistency certification in the coastal zone, including Section 404 wetland permits issued by the U.S. Army Corps of Engineers. The Corps of Engineers is mandated by Federal law to delineate wetlands. Once delineated by the Corps of Engineers, Coastal Council manages the wetlands through the policies contained in Chapter III of the State's Coastal Zone Management Program document.

Wetland Master Planning

The Coastal Council encourages a comprehensive approach to wetland management. To promote such an approach, the Council utilizes a "wetland master planning" concept.

If a pre-development wetland master plan is prepared for a project, identifying all wetlands, drainage patterns and conceptual development, isolated freshwater wetlands of one (1) acre or less in total size may be incorporated into the project development without restrictions provided:

1. The wetlands contain no endangered species or critical habitat,
and;

2. The wetland losses are adequately mitigated.

The wetland master plan must be certified by the Coastal Council with input from other reviewing agencies. In the absence of a wetland master plan, the Resource Policies, Chapter III, Coastal Zone Management Program, will be utilized to guide project certification.

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VI. Marine-related Facilities

D. Dock Master Plans (Page III-50)

Pursuant to the Coastal Zone Management Act, the Council is charged with the responsibility of developing a comprehensive coastal management program. The waters and marshes of the coast below mean high water are held in trust for all the people of the State, and are therefore public waters and marshes. Docks and piers support an important form of water dependent recreation and boating demand continues to increase. It is imperative that consideration is given to all competing uses of this resource. While individual permitting of private docks, piers, and boat ramps have been a primary tool in managing such projects and alterations in the coastal zone, this piecemeal approach is no longer sufficient to deal with competing interests and new development along the coast. In addition to the policies of the Act, Section R.30-11(C) of the rules and regulations requires the Council to consider the extent to which long-range, cumulative effects of any project that may result within the context of other possible development and the general character of the area. Additionally, the Council is charged with considering overall plans and designs for a project that can be submitted together and evaluated as a whole, rather than piecemeal and in a fragmented fashion.

To the end of providing more comprehensive review of coastal impacts, the Council will require the development of dock master plans along the shoreline of properties undergoing development. This is necessary to protect sensitive coastal waters, to avoid future conflicts over dock alignment and/or water access between adjacent landowners, and to assist in comprehensive management of the coast.

The dock master plan will take one of two forms to be decided by the applicant: (1) the application for a dock master plan general permit for the construction of all future dock, piers, and boat ramps in the development, or (2) the preparation of a conceptual dock master plan which will guide the individual permitting of all future docks, piers, and boat ramps in the development. In both cases, a master plan must be prepared pursuant to rules and regulations of the Coastal Council and the requirements contained herein. If the applicant decides to pursue option (1) above, normal Coastal Council permitting procedures must be followed. If the applicant decides to pursue option (2) above, the following procedures must be followed.

If lands adjacent to navigable coastal waters are developed and such development requires coastal zone consistency certification, the landowner or developer must submit a dock master plan which will provide basic information, as required herein, about the property and proposed uses of the adjacent State waters and marshes. If a development is to proceed in two or more phases, the level of detail outlined in this document is only required for the phase seeking consistency determination. Only a master plan depicting the phases and the estimated number of docks for each phase will be required for the remainder of the entire development, to be updated as dock master plans are prepared for consistency determination in future phases. It is understood that phases not undergoing development may be subject to change.

The conceptual dock master plan document will be annotated by the Coastal Council staff to reflect coastal management and environmental concerns, to include recommended revisions to the conceptual dock master plan to address or alleviate those concerns; if no concerns are identified, the Coastal Council will find the dock master plan conceptually consistent with the Coastal Zone Management Program, subject to any site specific concerns identified through any future permit applicants. The Coastal Council review comments will be transmitted to the applicant with a copy placed on file at the Council. If any facts are disputed, the applicant may submit further comments and information which will be made part of the file; Council staff will attempt to reconcile the disputed facts. No further action is required by the applicant.

A dock master plan which is conceptually consistent does not guarantee issuance of any dock permits. The conceptual dock master plan will be used as a guideline and an additional consideration when dock permitting applications are made. As with all applications reviewed by the Council, the project will be judged on its own merits as well as compliance with the Coastal Management Act permitting regulations and the Coastal Management Program Document.

A dock master plan, either as a general permit or as a conceptual master plan to guide individual dock permitting, must be submitted for all projects subject to Coastal Council consistency certification. The Coastal Council will deny certification of a project if no master plan or inadequate information is submitted. However, in the case of the conceptual master plan to guide individual dock permitting, once the plan with all required information is submitted by the applicant, the requirements are considered met. The proposed dock master plan shall be filed with the permitting section together with the recommended changes by staff or Council. Appeals of decisions on conceptual Dock Master Plans are inappropriate inasmuch as the decision is advisory to the permitting section. Appeals can only be taken once a decision on a permit is made by the Council.

1) Goals and Objectives

- a) To determine whether a given property is suitable for water access.
- b) To establish guidelines for extending property lines to define corridors in which dock construction will take place.
- c) To establish guidelines for determining the appropriate spacing of docks in order to control congestion.
- d) To maintain the accessibility and navigability of coastal waters.
- e) To establish guidelines for determining the appropriate length of docks.
- f) To maximize public access to the water.
- g) To protect geographic areas of particular concern (GAPCs) as well as the values of a water body and protected critical areas as set forth in Section 48-39-20 and Section 48-39-30 of South Carolina's Coastal Zone Management Act.
- h) To encourage the use of community docking facilities.
- i) To prevent degradation of water quality.

2) Submittal Requirements

Dock master plans must be submitted on a site plan prepared by an engineer, surveyor, or landscape architect licensed and registered in the State of South Carolina. The plan may be shown in conjunction with any other site drawings, i.e., storm water, wetlands, etc., but must contain the following:

- a) Property lines, both existing and proposed.
- b) The critical area line which has been approved by Coastal Council.
- c) The adjoining water bodies, accurately portrayed as to location and size. The channelward edge of marsh vegetation and the location, width and depth of the main creek channel must be depicted, as well as any other creeks, inlets, or sloughs in excess of 20 feet in width.
- d) The proposed dock corridors must be shown on the site plan as property line extensions. The corridors must be referenced to a recoverable reference point. The dock corridor is defined as a pair or more of recoverable lines extending from the property lines toward open water between which a dock may be constructed. The extended lines should normally be a straight extension of the property line but may vary to accommodate site specific conditions.
- e) All docks existing on the water body in the vicinity of the proposed docks must be accurately shown on the plat, both as to size and location. On smaller creeks of less than 50 feet in width, existing docks on the opposite bank must be shown.
- f) All proposed community docks, boat ramps and other Coastal Council permitted structures must be shown on the plat.
- g) If the plat is of an area covered by an existing dock plan prepared by the Coastal Council or another governmental body, the dock corridor plan shown on this plat must reflect this plan.

h) Any deed restrictions of the property that would affect dock size or placement must be shown on the plat.

i) Individual docks on lots should not be shown on the plan; but rather, the estimated total project number of docks along a specified shoreline of common ownership, along with information concerning the typical size of proposed docks and floats. The size of the proposed docks will be used as indication of the approximate size of vessels which would use the proposed docking facilities.

j) The spacing, location, and length of dock corridors must be in accordance with Coastal Council Regulation for general permits for Dock Master Plans.

3) Specific Review

To reduce negative impacts, all dock master plans will be evaluated as to the suitability of providing individual docks for every waterfront lot. Although in some situations single family docks are appropriate, more favorable consideration will be given to the use of community docks and joint use docks. In making this evaluation the following factors will be considered:

a) Proximity to alternative access (boat ramps, marinas, community docks and others).

b) Size of a navigable channel.

c) Size of lots (water frontage).

d) Distance to open water.

e) Environmental sensitivity of adjacent waters and coastal resources.

f) Impact of proposed docks on GAPCs, including access to those GAPCs.

g) Other possible development and the general character of the area, including impacts to adjacent property owners.

h) The degree to which construction of a dock or docks will affect public access to public waters and the traditional recreational uses of the water body including fishing, crabbing, and oystering.

4) Implementation

a) Reference must be given to the dock master plan in all contracts for sale of affected lots.

b) Dock master plans will be filed with the permitting division of Coastal Council, available for public review and used for consideration of future permit decisions.

c) The dock master plan shall be presumed to take precedence over applications inconsistent with such plan unless new information is revealed in the application to address and overcome concerns identified in the Dock Master Plan.

d) Revisions to dock master plans will follow the same agency review procedure as outlined for new plans.

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XIII. Storm Water Management

Guidelines (Page III-74)

Most land disturbing activities in South Carolina must comply with the requirements and applicable regulations of the Erosion and Sediment Reduction Act of 1983 (48-18-10, et. seq.), or the Storm Water Management and Sediment Reduction Act of 1991 (48-14-10, et. seq.). The final regulations, effective on June 26, 1992, pursuant to the Storm Water Management and Sediment Reduction Act of 1991, establish the procedure and minimum standards for a statewide storm water program. Section R.72-304F of the regulations states that "the S.C. Coastal Council, in coordination with the Commission, will serve as the implementing agency for these regulations in the jurisdictions of the local governments which do not seek delegation of program elements in the counties of Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry and Jasper." In addition, Section R.72-307C(5)(g) states that "For activities in the eight coastal counties, additional water quality requirements may be imposed to comply with the S.C. Coastal Council Storm Water Management Guidelines. If conflicting requirements exist for activities in the eight coastal counties, the S.C. Coastal Council guidelines will apply."

Pursuant to the Coastal Zone Management Act, the Coastal Council is responsible for protecting the environmentally sensitive areas of our coast. While the regulations of the Storm Water Management and Sediment Reduction Act adequately address most nonpoint source pollution problems, the need exists for establishing additional criteria to protect sensitive coastal waters.

A. Storm Water Runoff Storage Requirements

The regulations of the Storm Water Management and Sediment Reduction Act require that "permanent water quality ponds having a permanent pool shall be designed to store and release the first 1/2 inch of runoff from the site over a 24-hour period. The storage volume shall be designed to accommodate, at least, 1/2 inch of runoff from the entire site." For all projects, regardless of size, which are located within one-half (1/2) mile of a receiving water body in the coastal zone, this criteria shall be storage of the first 1/2 inch of runoff from the entire site or storage of the first one (1) inch of runoff from the built-upon portion of the property, whichever is greater. Storage may be accomplished through retention, detention or infiltration systems, as appropriate for the specific site. In addition, for those projects which are located within 1,000 (one thousand) feet of shellfish beds, the first one and one half (1 1/2) inches of runoff from the built-upon portion of the property must be retained on site.

Receiving water bodies include all regularly tidally influenced salt and freshwater marsh areas, all lakes or ponds which are used primarily for public recreation or a public drinking water supply, and other water bodies within the coastal zone, excluding wetlands, swamps, ditches and storm water management ponds which are not contiguous via an outfall or similar structure with a tidal water body.

B. Project Size Requiring Storm Water Management Permits

Section R.72-305B(1) states that "for land disturbing activities involving two (2) acres or less of actual land disturbance which are not part of a larger common plan of development or sale, the person responsible for the land disturbing activity shall submit a simplified storm water management and sediment control plan meeting the requirements of R.72-307H. This plan does not require preparation or certification by the designers specified in R.72-305H and R.72-305I." Due to the potentially damaging effect of certain projects of less than two (2) acres of land disturbance, storm water management and sediment reduction plan submittal and regulatory approval shall be required for those smaller projects located within 1/2 mile of a receiving water body. Single family homes that are not part of a subdivision development are exempt from this requirement.

C. Storm Water Management Requirements for Bridge Runoff

The following is the criteria used to address storm water management for bridges traversing saltwater and/or critical areas.

1) No treatment is necessary for runoff from bridge surfaces spanning SB or SA waters. This runoff can be discharged through scupper drains directly into surface waters. However, the use of scupper drains should be limited as much as feasibly possible.

2) If the receiving water is either ORW or SFH then the storm water management requirements shall be based on projected traffic volumes and the presence of any nearby shellfish beds. The following matrix lists the necessary treatment practices over the different classes of receiving waters.

3) The Average Daily Traffic Volume (ADT) is based upon the design carrying capacity of the bridge.

Average Daily Traffic Volume(ADT)

		0-30,000	G.T. 30,000
	ORW (within 1000 ft of shellfish beds)	***	***
	ORW (not within 1000 ft of shellfish beds)	**	**
Water	SFH (within 1000 ft of shellfish beds)	**	***
Quality	SFH (not within 1000 ft of shellfish beds)	**	**
Class.	SA	*	*
	SB	*	*

*** The first one (1) inch of runoff from the bridge surface must be collected and routed to an appropriate storm water management system or routed so that maximum overland flow occurs encouraging exfiltration before reaching the receiving body. Periodic vacuuming of the bridge surface should be considered.

** A storm water management plan must be implemented which may require the overtreatment of runoff from associated roadways to compensate for the lack of direct treatment of runoff from the bridge surface itself. Periodic vacuuming should be considered. The use of scupper drains should be limited as much as feasibly possible.

* No treatment is required. The use of scupper drains should be limited as much as feasibly possible.

D. Golf Courses Adjacent to Receiving Water Bodies

Golf course construction and maintenance practices result in the potential for significant negative impacts from the runoff of sediments, pesticides, herbicides and other pollutants. For this reason, when golf courses are constructed adjacent to receiving water bodies then the following practices are to be incorporated.

1) Minimum setbacks from the receiving water body of 20 feet for all manicured portions of the golf course (fairways, greens and tees) are required unless other acceptable management techniques are approved and implemented to mitigate any adverse impacts.

2) All drainage from greens and tees must be routed to interior lagoons or an equivalent storm water management system.

3) To prevent the conversion of the storm water system to critical area and to maintain positive drainage at high tides, all outfalls from the lagoon system must be located at an elevation above the critical area (if the discharge is to critical area) AND above the normal water elevation a distance to allow for storage of the first one inch of runoff. The volume which must be stored shall be calculated by multiplying the area of all the greens and tees by one inch. (Previously constructed storm water management systems which meet all current and future storage requirements will not be required to modify outfalls.)

4) No greens or tees shall be located on marsh hummocks or islands unless all drainage can be conveyed to the interior lagoon system or to an equivalent onsite storm water management system.

5) Storm water impacts to freshwater wetlands shall be limited by providing minimum 20 foot buffers, or an accepted alternative, between manicured areas (fairways, greens and tees) and the wetlands. This minimum buffer must be increased if land application of treated effluent is utilized in the area.

6) An integrated pest management system designed in accordance with current best technology practices must be employed on the course to limit the application of chemicals which, if over applied, may leach into the ground and adjacent surface waters.

7) In accordance with S.C. Department of Health and Environmental Control requirements, a two (2) foot separation must be maintained between the surface of the golf course and the ground water table where spray effluent is applied.

8) The normal ground water elevation must be established by a registered engineer or soil scientist.

9) All projects which are within 1000 feet of shellfish beds must retain the first 1 1/2 inches of runoff as otherwise described in c above.

10) If spray effluent or chemicals are applied to the turf via the irrigation system, all spray heads must be located and set so as to prevent any aerosols from reaching adjacent critical areas.

E. Mines and Landfills

Due to the significant amount of land disturbance involved in the construction of mines and landfills, these types of operations need to strictly adhere to sediment/erosion control requirements particularly when they are located near coastal waterways. When mining or landfill projects are located within 1/2 mile of receiving water bodies, pumping of ground water from sediment basins must be done with floating intakes only. Pumping of these basins must cease whenever the water levels come to within two (2) feet of the pond bottom. In addition, landfill planning must be designed on a comprehensive site basis for storm water management and sediment/erosion control; to include management practices for each separate cell as it is phased into the landfill.

F. Notice of Approval

All notice of approval must be in written form.

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XIV. Mitigation Guidelines (Page III-80)

The avoidance of wetlands is preferable to mitigation. Mitigation of wetlands impacts is considered only after all policies of the S.C. Coastal Council Program Document and the Coastal Zone Management Act have been addressed and the policies are found to allow an alteration to wetlands. A mitigation plan must be submitted by the applicant and approved by the Coastal Council for all projects which (1) require a coastal zone consistency determination, and (2) impact federally defined jurisdictional freshwater wetlands in the coastal zone, unless (3) the Coastal Council determines that the impacts are so minimal as not to warrant mitigation. Mitigation requirements should be consistent with requirements of other regulatory agencies. Coastal zone consistency determination is required for all development projects in the eight county coastal zone of South Carolina which require state or federal permits or are direct federal activities. Activities which are exempted from both state and/or federal permits are not subject to consistency determination.

A. Types of Wetland Impacts Which May Require Mitigation

1) Disposal of fill material. The direct placement of fill material into wetlands thereby changing elevations, flow patterns, and/or vegetative species composition.

2) Dredging or excavation of wetlands. The removal of vegetation and soils to create open water, for mining of resources, or for other purposes.

3) Clearing of wetlands. The removal of vegetation for the construction and maintenance of road rights-of-way (which do not require filling), utility easements, golf course play-throughs, or other purposes. The mitigation is one-time front-end mitigation in accordance with an approved mitigation plan and is not required for, and will not prevent, the continued maintenance of cleared areas. Mitigation is not required for hand clearing (non-mechanized clearing) of wetlands.

4) Ditching of wetlands. The excavation of ditches within federally defined jurisdictional wetlands with the purpose of lowering the water table and eventually causing a permanent alteration to the wetland system's hydrologic regime.

B. Types and Requirements of Mitigation

Applicants can choose the form of mitigation that best meets their site specific needs and opportunities. Options

include (1) protection and enhancement (buffering), (2) restoration, or (3) creation, or a combination thereof. Any other form of mitigation will be evaluated on a case-by-case basis.

1) Protection and enhancement of wetland systems (buffering). The buffering of a wetland system is to provide additional protection to the values and functions of the natural system.

a) Upland buffers. "Upland" buffers are non-jurisdiction areas adjacent to wetland systems which will be left undisturbed. Limited clearing or underbrushing and pathways may be allowable in accordance with an approved mitigation plan. The clearing must be limited to small trees and shrubs less than 4 inches DBH (diameter at breast height). Larger trees must remain undisturbed unless they constitute a safety hazard. The soils must not be disturbed other than the planting of shrubs or trees for landscaping. Pathways must be no greater than four (4) feet in width and must not be paved or boarded. Sod, grassed lawns, gardens, fences or structures will not be allowed within the buffer. Completely undisturbed buffers with adequate assurances of protection can be reduced ten (10) feet in width (reference paragraph (e) below).

b) Open water buffers. Open water systems constructed adjacent to wetlands can be used as buffers provided that the hydrologic regime of the wetland is not altered.

c) Assurances of protection. Assurances for the protection of preserved wetlands, created wetlands, and buffers will be provided by the applicant as part of the application/certification process. This may take the form of deed restrictions, conservation easements, or other assurances of protection.

d) Drawings. A site plan must be submitted showing all wetlands and their associated buffers. Open water buffers must include a cross-section of the system with the seasonal high groundwater elevation and supporting documentation. Buffer areas and their protected wetlands must be platted and recorded, along with a description of the restrictions. This information must be made available to the property owners or potential buyers.

e) Sizes of buffers. Buffers in single family residential developments should average 35 feet in width; high density residential and light commercial (total commercial site development less than two acres) must average 50 feet; and heavy commercial and industrial developments must maintain an average 75 feet buffer area. The widths are averages;

consideration will be given to physical and design constraints. Buffer areas must be plainly marked before, during, and after any construction activities to ensure that no encroachment occurs. Permanent signs saying "Protected Natural Area" are preferred. Buffer widths may be reduced by 10 feet in accordance with paragraph (a) above if set aside as completely undisturbed natural areas.

f) Ratio of buffers to impacts. No ratio of the area of buffers compared to the area of impacts will be used. The buffer must be adequate to protect the remaining wetlands in their entirety, generally requiring the buffer to completely circumvent the wetland system. However, consideration will be given to the total area of impacts versus buffer in evaluating the mitigation plan.

2) Creation of wetland systems. The creation of wetland systems involves the conversion of uplands (or non-jurisdictional wetlands) into wetlands. The wetland creation plan must be designed by a qualified professional wetland scientist to ensure a reasonable chance of success.

a) Site selection. Sites suitable for creation are prior converted wetlands, cut-overs, agricultural lands, or very young forest stands.

b) Drawing submittals. Drawings of the creation site should include a general location map; a specific site map plan view of the proposed creation area; cross-sectional drawings showing ground elevations and seasonal high groundwater elevation; and a conceptual vegetation cross-section before and after restoration.

c) Hydrological engineering. Plans must be submitted demonstrating that a long term wetland hydrological regime will be achieved. Creation adjacent to existing wetlands may be beneficial to obtain hydrology.

d) Soils. If at all possible, hydric soils from a wetland area to be filled or excavated should be used for the base soils of the created wetland. The creation site should be excavated below grade and backfilled with the hydric topsoil to a depth of 6 to 16 inches. This will provide a stock of seed and rhizomes to assist in vegetating the creation site. Usable hydric soils should be moved and spread quickly. If hydric soils are not available, non-hydric topsoils must be used. Under no circumstances should bare sub-soil be used as a planting medium.

e) Establishment of vegetation. A planting plan is necessary unless circumstances do not warrant such a plan. A planting schedule and species composition should be included in the plans. Vegetation should match that being altered as to species, density, and diversity.

f) Evaluation of success. A monitoring program must be established to assure compliance with success criteria. Both vegetation and hydrology must be addressed. Any problems detected during monitoring must immediately be evaluated as to the cause and measures must be taken to alleviate the problem and/or readjust the mitigation plan. Normal success criteria is 75% survival of plants over a three year period and/or a predominance of hydrophytic plant species from natural regeneration unless otherwise established in the mitigation plan. In addition, the monitoring must demonstrate a long-term wetland hydrologic regime has been achieved.

g) Contingency plan. A contingency plan must be developed on how detected problems will be corrected.

h) Implementation schedule. An implementation schedule for the mitigation must be submitted.

i) Ratio of created wetlands to impacted wetlands. A normal ratio is 1.5:1 unless the unavoidable loss occurs in extremely high value wetlands, i.e., sensitive habitat or geographical areas of particular concern in which cases mitigation ratios may be higher.

3) Restoration of degraded systems. This includes the restoration of wetland conditions on lands previously altered by man-made changes in vegetation, hydrology, or soils. Areas suitable for restoration include agricultural lands, mining sites, silvicultural lands, industrial sites, and other degraded wetland systems.

a) Documentation. The degraded nature of the system must be documented by the applicant before a restoration plan can be considered.

b) Drawings. Drawings of the proposed restoration site should include a general location map; a specific site map; plan view; the jurisdictional lines of the degraded wetland; cross sectional drawings showing ground elevations, drainage ditches, the seasonal high groundwater elevation; and a conceptual vegetative cross-section before and after restoration.

c) Hydrological modification. Any restoration project of an area that has been hydrologically altered must include a plan to restore the hydrologic regime.

d) Establishment of vegetation. Restoration plans must address the re-establishment of hydrophytic vegetation. In some cases natural re-vegetation will be appropriate. In others, a planting plan may be necessary; the planting plan should include species composition and their sizes, plant spacing and a planting schedule.

e) Success evaluations. Plans should include a monitoring plan to ensure the success of the project. A minimum of 75% survival rate and reasonable growth of planted species must be achieved to be considered successful. Natural regeneration of hydrophytic species may be considered in the evaluation. Failure to meet success criteria will require re-evaluation to correct any problems.

f) Contingency plan. A contingency plan must be developed for any areas that fail to meet the success criteria.

g) Implementation schedule. An implementation schedule for the restoration plan must be submitted.

h) Ratio of restored wetlands to impacted wetlands. The ratio of restored wetlands to impacted wetlands will be established on a case-by-case basis, depending upon the severity of the degraded wetland system. Ratios will generally be greater than 1.5:1.

4) Offsite mitigation. Offsite mitigation proposals will be considered if onsite mitigation is not possible. However, this does not preclude the consideration of offsite mitigation in other circumstances if the mitigation will provide a significant ecological benefit to the State of South Carolina. All mitigation must be within the State.

5) Mitigation banking. Mitigation banking will be considered for publicly constructed linear projects such as highway or pipeline construction and projects where no onsite mitigation is possible. The use of banking for other than the projects above will be considered in concert with other regulatory agencies if and when such mitigation banks or proposed or developed.

C. Monitoring and Compliance

1) Monitoring Reports. A schedule for the submittal of monitoring reports to be prepared by the applicant will be established at the time of project approval. These reports will be used to determine when a project has achieved an acceptable success status.

2) Compliance. All projects involving mitigation will be placed on the Coastal Council's periodic monitoring schedule for compliance. Periodic site inspections will be made by staff of the South Carolina Coastal Council, South Carolina Wildlife and Marine Resources Department, U. S. Army Corps of Engineers or the U. S. Fish and Wildlife Service. Mitigation projects which are not in compliance with the applicant's approved plan will face enforcement procedures.

D. Notice of Approval

All notice of approval must be in written form.

Chapter IV Special Management Areas

F. Special Area Management Plans (SAMPs)

Introduction

Uses of coastal resources are not always mutually compatible and conflicts of use can occur. Where these conflicts are widespread, a Special Area Management Plan (SAMP) is used to collect and examine data, identify potential development trends and enunciate anticipated conflicts between different uses. The SAMP will be used to develop strategies to protect and manage resources in order to implement coastal zone management policy. During the preparation of the SAMP, alternatives which will address and manage conflicts, and policies which will address the implementation of the plan through the existing permitting regulations and certification policies, will be identified. These alternatives include refinement of policy or application of existing policy on a specific geographical area. The following basic policies will govern the conduct and use of SAMPs:

- 1) SAMPs may be requested by state, local, or federal entity, in addition to the Council's inherent authority to develop such plans.
- 2) SAMPs are initiated by a vote of the full Coastal Council.
- 3) The Coastal Council may request cost sharing from the requesting entity for the development of the SAMP.
- 4) SAMPs should reflect a coordinated effort by all involved entities, particularly local governments, and recommended resolutions should reflect an effort by all involved entities.
- 5) SAMPs must be developed with public notice and comment.
- 6) For implementation, the full Council must vote to approve the SAMP.
- 7) The Council may, at its discretion, consider SAMPs developed pursuant to the existing Coastal Management Program Document to be included as a Geographic Area of Particular Concern (GAPC). When the Council seeks to elevate a SAMP to a GAPC the process required by the program document and the Coastal Management Act shall be followed as it relates to GAPCs.
- 8) If the implementation of the SAMP by the Coastal Council involves other than existing Council authorities, such authorities must be approved through the State Administrative Procedures Act process or through CZMP amendment or refinement, as appropriate.

Chapter V Management Authorities and Governmental/Public Involvement

C. Resolution of Conflicts

Appeals Process for Certification (V-9)

Section 48-39-80(B)(11) of the S. C. Code of Laws of 1976, as amended, requires that the Coastal Council review and certify permit applications made to state and federal agencies within the coastal zone. In order to be certain that the full Council retains its responsibilities in reviewing state and federal permits, any decision of the staff or Management Committee as it relates to a state or federal permit, shall be reviewed by the full Council upon appeal filed by any person adversely affected by such decision.

1) Notice of Certification

a) Federal permits or licenses - Within ten days after receipt of the consistency certification (consistency statement, required data and information) the S.C. Coastal Council will insure that a notice of the proposed activity will be published in a newspaper of statewide circulation as well as in a newspaper circulated in the area which is likely to be affected by the proposed activity. Where one newspaper meets both criteria, publication of the public notice in the single newspaper shall be sufficient. The public notice shall include a summary of the proposed activity, announcement that information on the activity is available for public inspection at the Coastal Council office, and a request that comments be submitted to the Coastal Council by a specified date. The Federal agency and the S.C. Coastal Council should issue a joint public notice when applicable to avoid duplication of effort and unnecessary delays (CZMP, p. V-26).

b) Direct federal activities

i) The activities of the Army Corp of Engineers will follow the same process as that set forth above in (1)(a).

ii) With regard to all other federal activities, the notice procedure for state permits set forth in (1)(c) will be followed.

c) State permits - Within ten days after receipt of notification from a State agency of a State permit requiring coastal zone management consistency certification, the S.C. Coastal Council will notify the public of the commencement of the consistency certification determination review through the issuance of a public notice. The public notice will contain the name of the project or activity requiring the permit, the location of the project (county, street or road address), type

of activity (i.e., subdivision development, mine, manufacturing expansion), type of permit, name of agency issuing permit, an announcement that information of the project is available for public inspection at the Coastal Council office, and a request that comments be submitted to the Coastal Council within ten days. Where possible, a joint public notice issued with the issuing agency will meet the above requirements. In those instances where more than one permit is required for a project, as long as no components of the project change, Coastal Council will only place the first permit received on public notice. The Coastal Council will take identical action on all sequential permits.

2) Process of Review

a) Federal permits - The Council shall issue a notice of proposed decision on application for certification, including any proposed conditions. Such notice shall be mailed to:

- i) the applicant;
- ii) agencies having jurisdiction or interest over the certification decision;
- iii) any person commenting upon the project or requesting notification.

b) Direct federal activities

i) The activities of the Army Corps of Engineers will follow the process of review for federal permits set forth in (2)(a).

(ii) With regard to all other federal activities, the process of review for state permits set forth in (2)(c) will be followed.

c) State permits - The Council will issue a conditional letter of consistency certification or non-certification to:

- (i) the applicant;
- (ii) agencies having jurisdiction or interest over the certification of the project;
- (iii) any person commenting upon the project or requesting notification.

d) The notice, in the case of federal permits, and the letter of certification, in the case of state permits and federal activities, shall provide ten days within which to file an objection or notice of intent to appeal the proposed decision or certification. The right of appeal is extended to the applicant and any person or persons adversely affected by the project.

e) Upon receipt of a notice of intent to appeal a certification decision, the Council shall notify the permittee and the affected agency, providing ten days within which to provide a statement in support of the appellant's position, along with supporting data and information. Additionally, the appellant may provide a brief and any documents deemed pertinent to a Council decision.

f) Upon receipt of the grounds for appeal and supporting information, same will be forwarded to all respondent parties including the director of the management section of the Council. These parties must provide data, information, briefs, and any other supporting documents within ten days of receipt of the appellant's grounds for appeal and supporting documents.

g) Thereafter, the Executive Director of the South Carolina Coastal Council shall forward a copy of all appeal documents and a copy of the file and record of any proceedings before the Management Committee or staff to the full Council. Review shall be confined to the foregoing material and record and no additional evidence or testimony shall be allowed. The full Council shall have ten days to review the material and make written demand for oral arguments before the full board pursuant to R.30-6.

h) No extensions shall be granted.

3. Final Decision

a) The decision of the staff or Management Committee shall be deemed a final agency decision in the matter unless three members of the full Council request in writing that oral arguments be had before the full Council.

b) If three members of the full Council make written demand for oral arguments, then oral arguments shall be heard after the ten day comment period by the full Council. Upon review of the decision by the full Council, the written order of the Council affirming, reversing or modifying the decision shall be deemed the final agency action in this matter. A written order shall be served the same as for appeals under R.30-6.

4. Time Constraints

This appeal process is affected by time constraints on review and certification of federal permits and activities. Thus, the agency decision may become final before the appeals process is completed. When a certification decision is made by the Council and is affected by federally imposed time constraints, the Council will adhere to the following procedure:

a) The Council shall seek a maximum extension of time from the appropriate federal agency. Any further extensions shall be the responsibility of the appellant.

b) If the appeal is not concluded two days prior to the final date for Council certification and notice of the decision to the federal agency, the original Council decision shall automatically become the final agency decision and the federal agency shall be notified accordingly.

c) Any stays of the federal time constraints on review and certification aside from extensions requested pursuant to a. above must be obtained by the appellant from the appropriate court.