



South Carolina's 401 Water Quality and Coastal Zone Consistency Certification Programs

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Chuck Hightower and Chris Stout

South Carolina Department of Health and Environmental Control

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Overview

- What is a 401 Water Quality Certification?
 - What activities require a 401 Water Quality Certification?
 - What is the scope of our review?
- What is Coastal Zone Consistency Certification?
 - What activities require a CZC Certification?
 - What is the scope of our review?
- How do we coordinate with other agencies?





What is a 401 Water Quality Certification?

- Section 401 of the Clean Water Act states that, “Any applicant for a Federal license or permit to conduct any activity...which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates.”
- Certification of federal licenses and permits.

Section 404 Permits

- Section 404 of the Clean Water Act requires a permit for the discharge of dredge or fill material in waters of the US.
- 404 permit cannot be issued unless the state issues a 401.





Scope of Review

- R. 61-101, provides very broad authority to review applications for 401 Water Quality Certifications.
- R.61-101.F.3.(b) requires the Department to consider whether there are feasible alternatives to the activity.
- R.61-101.F.3.(c) requires the Department to consider all potential water quality impacts, both direct and indirect, over the life of the project including:
 - Impact on existing and classified uses;
 - Physical, chemical, and biological impacts including cumulative impacts;
 - The effect on circulation patterns and water movement;
 - The cumulative impacts of the proposed activity and reasonably foreseeable similar activities of the applicant and others.



Scope of Review

- R. 61-101.F.5 requires the Department to deny certification if:
 - Proposed activity permanently alters aquatic ecosystem in vicinity of project such that its functions and values are eliminated or impaired;
 - There is a feasible alternative which reduces impacts on water quality and classified uses;
 - Proposed activity adversely impacts waters containing rare, threatened or endangered species;
 - Proposed activity adversely impacts special or unique habitats.



401 Certification Process

- Joint permit with the Corps.
- No separate application to DHEC.
- Corps issues the public notice which serves as application to DHEC.
- Outside of the coastal zone only a DHEC 401 certification is required.
- 401 certifications are coordinated with OCRM in the coastal counties.



What is Coastal Zone Consistency Certification?

- The Coastal Zone Management Act (CZMA) requires that all federal actions that may have reasonably foreseeable effects on the uses or resources of the state's coastal zone be consistent with the enforceable policies of the state's coastal management program. CZMA § 307 (16 U.S. Code § 1456)
- Federal Actions:
 - Federal Agency Activities
 - Federal Permit or License
 - Outer Continental Shelf Plans
 - Federal Funding Assistance to Local or State Governments



SC Legislative Milestones

- 1972 Federal Coastal Zone Management Act
- 1977 South Carolina Coastal Management Act
- 1979 South Carolina Coastal Management Plan Approved
- 1988 South Carolina Beachfront Management Amendments
 - Revised in 1990
- 1993 Amendments to the SC Coastal Management Plan

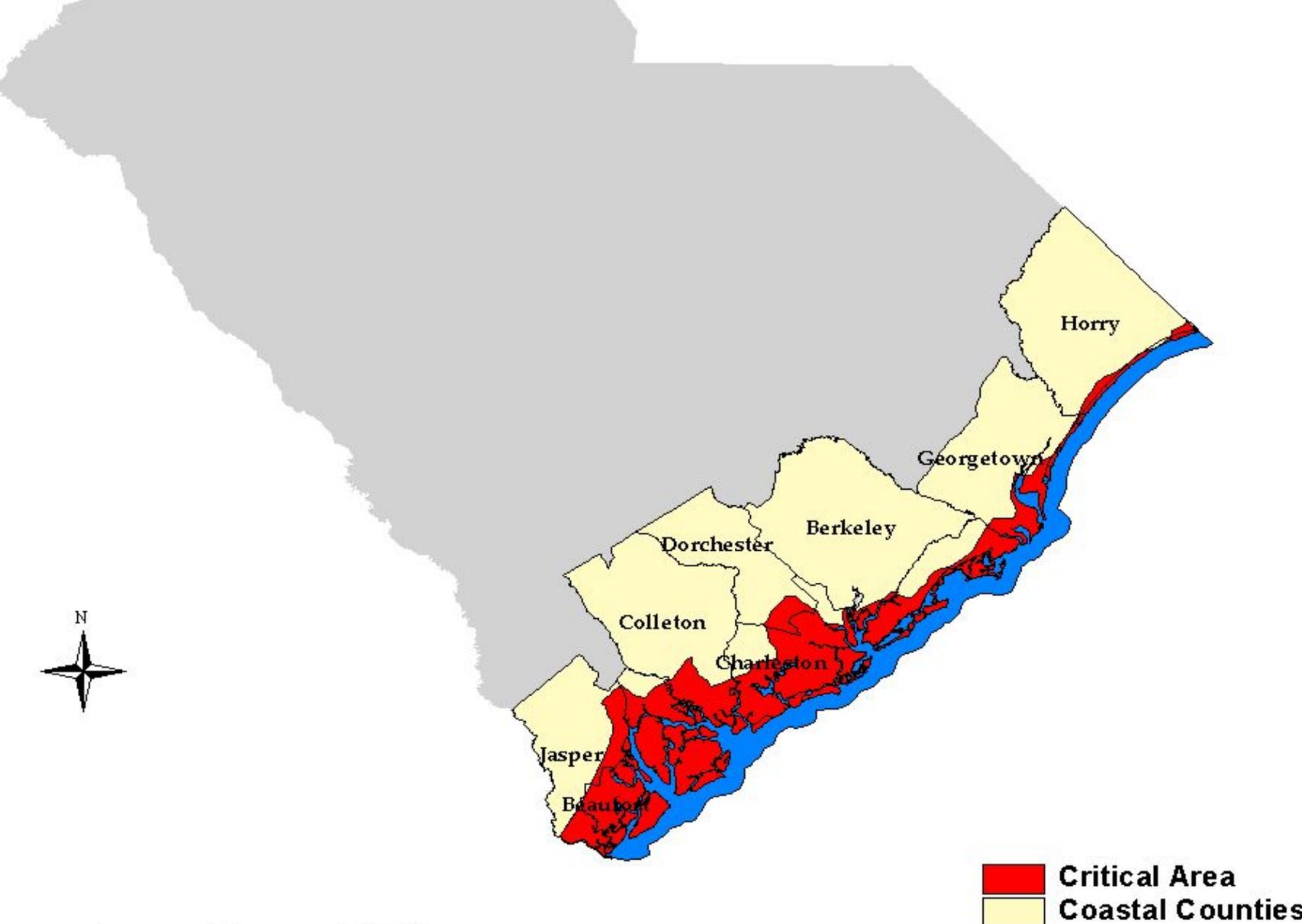


South Carolina Coastal Zone Management Act

- Regulations for Permitting in the Critical Areas of the Coastal Zone.
- R 30-1 through R 30-21.
APA Procedures.

- South Carolina Coastal Management Program
- Policies and Procedures approved by Governor and General Assembly

Coastal Zone Critical Area of South Carolina



Critical Area
Coastal Counties

0 30 60 Miles

Critical Area Permitting

- Critical Area:
 - Coastal Waters
 - Tidelands
 - Beach/Dune System
 - Beaches



Critical Area Permitting

- R.30-2(H) Critical Area Permitting Regulations and R.61-101(A)(8) states, “The Department will not issue a separate 401 water quality certification for an activity which requires a direct permit for alteration of the critical area of the coastal zone...The direct permit will serve as the 401 water quality certification for an associated Federal permit.”



Scope of Review

- Policy based review for the:
 - Project Specific Activity (i.e. Residential Development, Commercial Development, Transportation, etc.)
 - Coastal Resource Impact (i.e. wetlands, archaeological resources,



Critical Area Permit and Coastal Zone Certification

- Outside the Critical Area, but still in the eight coastal counties, DHEC-BOW issues the 401 certification and incorporates DHEC-OCRM's Coastal Zone Consistency certification (CZC).





Coastal Zone Consistency Certification

- R.61-101(A)(7) states, “For Federal permits that require both a water quality certification and a coastal zone consistency certification, the coastal zone consistency certification determination shall be issued as a component of...the water quality certification. In these instances, the water quality certification will serve also as the coastal zone consistency certification.”



Coordination

- During public notice, reviews are coordinated with State and Federal resource agencies.
 - SCDNR
 - US FWS
 - NOAA NMFS
 - SCDAH
- Information needs and responses are coordinated between 401 and CZC staff.
- Reviews are processed according to Regulation
 - Outside CA – CZC to 401
 - Inside CA – 401 to CAP/CZC



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Questions?





CONTACT US

Chuck Hightower

Water Quality Certification and Wetlands Section Manager

hightocw@dhec.sc.gov 803-898-0369

Chris Stout

Coastal Zone Consistency Section Manager

stoutcm@dhec.sc.gov 843-953-0691

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