



SC Beach Preservation Stakeholder Workgroup Meeting Summary October 25, 2022

OVERVIEW

The SC Department of Health and Environmental Control's (DHEC) Office of Ocean and Coastal Resource Management (OCRM) convened the SC Beach Preservation Stakeholder Workgroup on Tuesday, October 25th at James Island Town Hall in Charleston, SC to discuss the state's regulatory authority and role in the beaches critical area, new technology, and revisit the definitions and recommendations that the Workgroup has created thus far in the process.

This workgroup brings together representatives of diverse stakeholder groups including residents of coastal communities, state and federal government agency representatives, academic professionals, conservation organizations, consulting engineers and policy experts with a commitment to actively participating in this process. Meetings scheduled in the coming months will present resources and information to promote further dialogue and solution-based discussions. The group is encouraged to maintain the perspective of the full SC coastline and to strive for consensus. DHEC OCRM staff will value all perspectives and take all discussions consideration in determining the agency's recommendations which will be outlined in a final report as the stakeholder process concludes.

There will be opportunities for broader stakeholder and members of the public to provide comment throughout the process and a webpage will be established to provide updates and seek additional feedback. The public participation process and opportunities to comment would extend into any subsequent process of drafting regulations related to the issues discussed by the workgroup.

WELCOME & INTRODUCTIONS

At 9:30 a.m., S.C. DHEC OCRM Chief Elizabeth von Kolnitz welcomed the Workgroup members and noted the importance of this process and the perspectives they bring.

Adam Bode, Coastal Planner for DHEC's OCRM and Kristy Ellenberg, Director of Collaborative Partnerships & Strategic Initiatives in DHEC's Office of Environmental Affairs

introduced themselves and noted they would be serving as co-facilitators throughout the meeting.

The following Stakeholder Workgroup members were in attendance:

Alex Butler, SC Office of Resilience
Emily Cedzo, Coastal Conservation League
Steven Traynum, Coastal Science & Engineering
Don Thomas, Peace Sotheby's International Realty
Amy Armstrong, South Carolina Environmental Law Project
Blanche Brown, DeBordieu Colony Community Association, Inc.
Nicole Elko, SC Beach Advocates

A full list of stakeholder workgroup members is included as an appendix to this meeting summary. DHEC facilitators and staff will follow-up with those unable to attend to gather perspectives to be shared with the group.

Also in attendance were members of the DHEC's OCRM staff Jessica Boynton, Coastal Services Section Manager; and Matt Slagel, Beachfront Management Section Manager; and Liz Hartje, Project Manager.

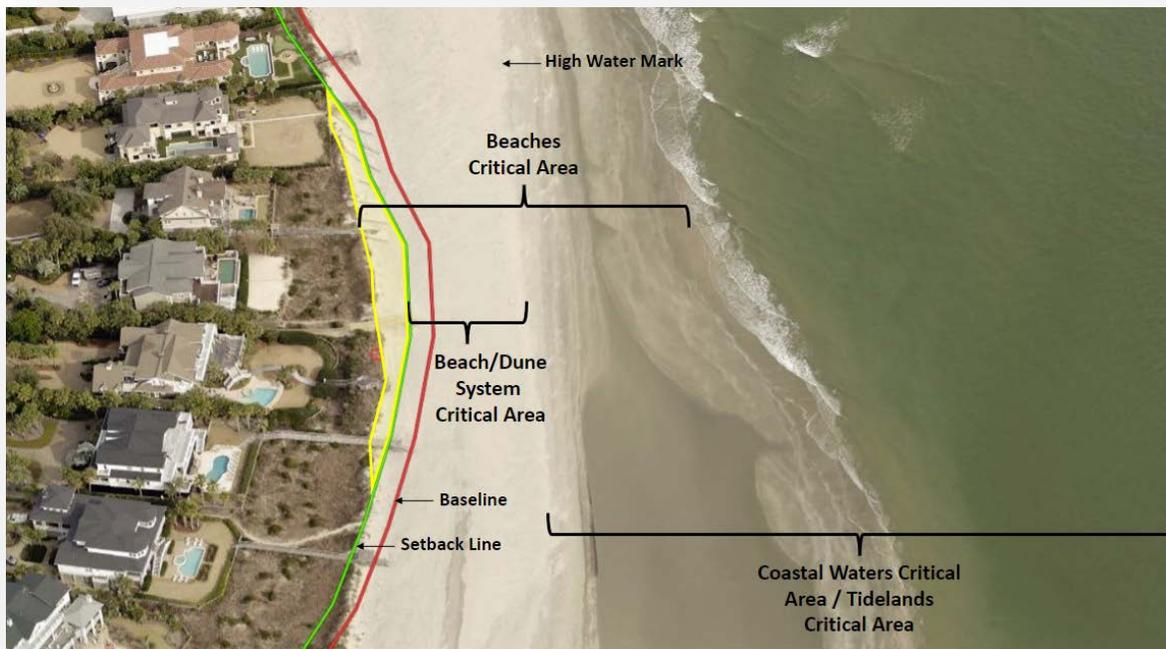
SOUTH CAROLINA BEACHES CRITICAL AREA

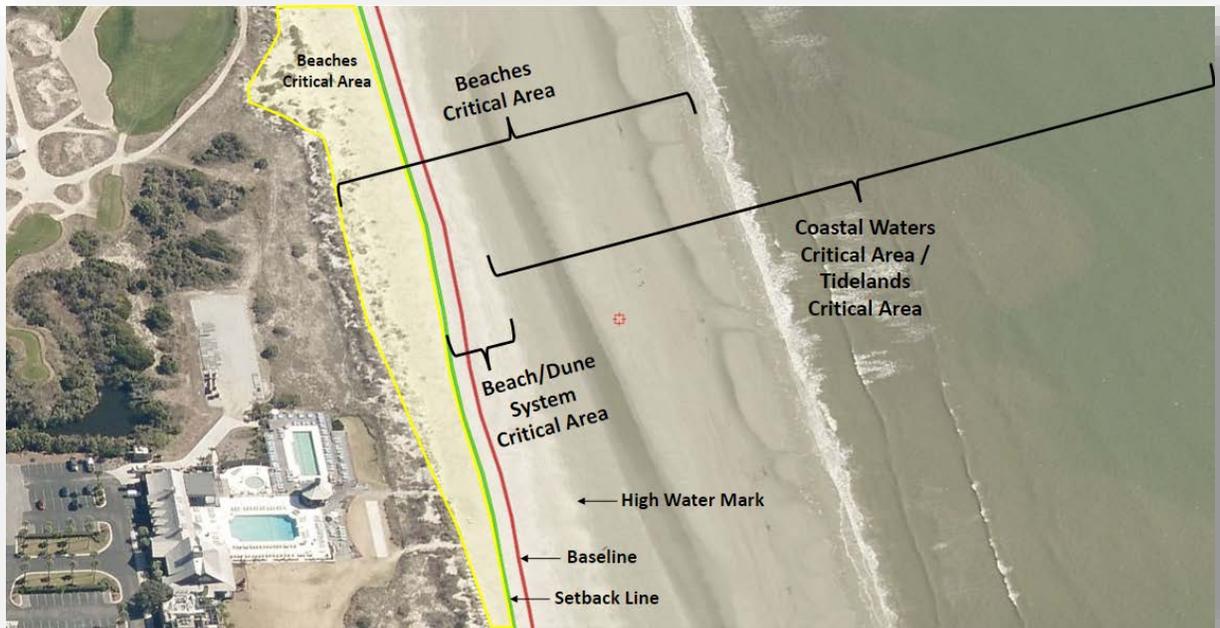
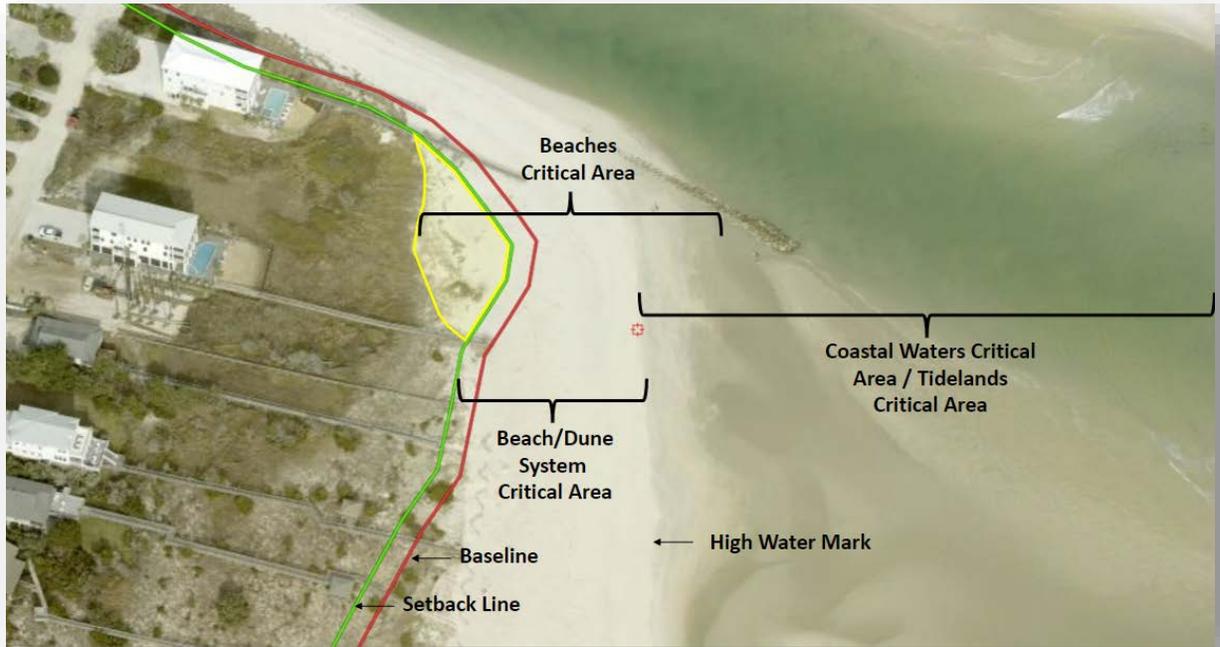
Prior to a facilitated group discussion on defining the state's regulatory authority and role in the beaches critical area, Elizabeth von Kolnitz provided summary level information on the following (see meeting slides for more information):

- OCRM Beachfront Critical Areas
 - Coastal Waters/Tidelands
 - Beach/Dune System
 - Beaches
- Statute
 - Section 48-39-10 Definitions
 - Tidelands
 - Coastal Waters
 - Beaches
 - Beach/Dune System
 - Section 48-39-80 Development of Coastal Management Program
 - The department shall develop a comprehensive coastal management program, and thereafter have the responsibility for enforcing and administering the program in accordance with the provisions of this chapter and any rules and regulations promulgated under this chapter. In developing the program the department shall:
 - (A) Provide a regulatory system which the department shall use in providing for the orderly and beneficial use of the critical areas.

- Regulations Related to Beachfront Critical Area(s)
 - R.30-10 Critical Area Boundaries
 - B. Beaches and Beach/Dune System: The Department has permitting authority over beaches and the beach/dune system. In determining the boundaries of this critical area, the Department will be guided by Section 48-39-270, Section 48-39-280 and Section 48-39-360*.
- *48-39-270 references Definitions. 48-39-280 references the policy of beach preservation and the setting of the baseline and setback line. 48-39-360 references the inland limit from an inlet for jurisdictional lines.*
- R.30-13 Specific Project Standards for Beaches and the Beach/Dune System
 - Language in this section addresses habitable structures, pools, erosion control structures, and other activities.
 - Only refers to areas seaward of the setback line (the beach/dune system critical area).
 - No specific indications for 'Beaches' Critical Area.

Workgroup members were presented with several maps (below) depicting examples where the Beaches Critical Area is landward of the Beach/Dune System Critical Area.





Members were asked to consider the following as it relates to the state's authority in advancing beach preservation within these areas:

- Location
- Specific Activities
- Project Standards

The following summarizes the input and information gathered during the large group discussion:

- In reference to the statute, there is already a provision for requiring a permit for activities in all critical areas (i.e., docks, walkovers) so if the area is "beaches" critical area, a permit should be required. The statute already gives Department the authority to regulate the beaches critical area even if the regulations are unclear.
- Currently, there are no specific details about the rules and/or project standards for critical area landward of the setback. Need to start with what specific activities need to be regulated in this area.
- Concerned about having a single rule that applies everywhere along the coast given dynamic and varied nature of the coast.
 - The current jurisdictional lines (baseline, setback) differ along the whole coast.
- OCRM should be able to assert jurisdiction in beaches critical area, but detail and specificity is needed in the regulation to support their statutory authority.
- The current definition of beach/dune system is arbitrary and in many places, it does not capture the entire beach/dune system as there are dunes landward of the setback line.
- One option would be to delineate beach/dune system based on topography.
- Another option would be to delineate so that the backside of primary oceanfront dune would be the end of the beach/dune system.
- Determine if changing the project standards to apply to the most landward of either the beach/dune system or the beaches critical area line would be effective.
- How does beach renourishment come into play or effect these scenarios?
 - The baseline and setback line are established through the jurisdictional line process and review every 7-10 years. From a renourishment standpoint, it would not affect the baseline as it cannot move further seaward. Renourishment could move the wet/dry line further seaward.
 - Depending on the renourishment project scope, the beaches critical area could move seaward. With respect to beach renourishment and vegetation growing over time, if communities renourished and created or reestablished a dune that then became vegetated, this could move the beaches critical area seaward.

- Agreement that OCRM should be involved in the area landward of the setback line. The same activities that are currently regulated on the beachfront should be in the beach/dune system (i.e., beaches critical area).
 - Another option would be to allow local communities to establish zones on their own. In some instances (Pawleys Island, for example), local municipalities may be more restrictive than the current setback line.
 - Concern that this then puts pressure on the local governments who often end up in court because of these more restrictive lines and ordinances.
 - These recommendations for beaches will not impact most properties but would solve important issues at the minority of areas.
 - **Recommendation** - Change definition of beach/dune system or include “beaches critical area” in the existing project standards.
-
- Still need more defined guidance on timeframes (pools, nourishment and revegetation, etc.)
 - Suggest requiring communities to have a clearly identified and defined renourishment program or beach management program. Communities that set aside funds for renourishment demonstrates that a renourishment project is not just a one-off.
 - Communities are advised that it often takes two years for a vegetated dune to look natural or become more established following a renourishment project.
 - As it relates to storm impacts, OCRM could continue to determine whether a structure (house, pool, erosion control structure) has been damaged beyond repair (DBR). If a structure is not damaged beyond repair, a property owner would continue to be allowed to make repairs. If a structure is deemed damaged beyond repair, it would need to be removed and could not be rebuilt within the beaches critical area.
 - Suggest considering 18 months as the period to evaluate a project, both when there has been negative (storm damage) or positive (dune restoration) impacts.
 - Suggest considering 3 years as the period to evaluate whether a pool could be rebuilt in the beaches critical area.
 - Agreement that erosion control structures should also be prohibited in the beaches critical area. Since there is clear prohibition seaward of setback line, this should also apply to beaches critical area.

NEW TECHNOLOGY

Elizabeth von Kolnitz introduced the topic and provided an overview of current statutes (below) regarding pilot projects.

SECTION 48-39-130(D)(2)

It shall not be necessary to apply for a permit for the following activities:

(2) Hunting, erecting duckblinds, fishing, shellfishing and trapping when and where otherwise permitted by law; the conservation, [replenishment] and research activities of state agencies and educational institutions or boating or other recreation provided that such activities cause no material harm to the flora, fauna, physical or aesthetic resources of the area.

SECTION 48-39-320(C)

Notwithstanding any other provision of law contained in this chapter, the board, or the Office of Ocean and Coastal Resource Management, may allow the use in a pilot project of any technology, methodology, or structure, whether or not referenced in this chapter, if it is reasonably anticipated that the use will be successful in addressing an erosional issue in a beach or dune area. If success is demonstrated, the board, or the Office of Ocean and Coastal Resource Management, may allow the continued use of the technology, methodology, or structure used in the pilot project location and additional locations.

Workgroup members were led through a facilitated discussion focused on the process and project specifications currently used to evaluate new technology. The following summarizes the input and information gathered during the large group report out:

PROCESS

Submittal of Study Proposal

- How it's currently handled
 - Internal Review
- How it should be handled
 - Form Ad Hoc Committee
 - 5–7 members
 - Academia, resource agencies (USFWS, DNR), technical experts
 - 3-year term with renewal
 - Appointed via recommendations
 - Evaluate the study proposal, written recommendations with input on success criteria, evaluate the findings of the study
 - Proposal should include - purpose, hypothesis, methodology, criteria, reasonable level of success, defined area and potential impact area(s), timeframe, what happens when study ends

Public Notice

- How it's currently handled
 - No Public Notice
- How it should be handled
 - Placing a structure or altering shoreline should trigger public notice
 - Provide opportunity to comment
 - Notify adjacent property owners

Resource Agency Coordination

- How it's currently handled
 - Discretionary
- How it should be handled
 - Include Resource Agency(ies) to participate and provide input as part of Ad Hoc Committee

Authorization

- How it's currently handled
 - OCRM Written Acknowledgement
- How it should be handled
 - Align authorization with permitting process
 - Authorization should consider and factor in public comments and guidance from Ad Hoc Committee
 - OCRM Written Acknowledgement "May Allow"

Appeal

- How it's currently handled
 - RFR to DHEC Board
- How it should be handled
 - Need to better understand the legislative intent of Board reference in 48-39-320(C)
 - At a minimum, maintain the current process (Agency decision, contested case, RFR to DHEC Board)

PROJECT SPECIFICATIONS

Sponsor

- How it's currently handled – State Agency or University
- How it should be handled
 - Unbiased institution should be involved
 - Consider expanding to include private community / company

Study Design Specifications

- How it's currently handled - Undefined
- How it should be handled
 - Although these are largely dependent on the type of study, timeline (length/duration) and other high-level details should be required.
 - Action – These specifications need to be further discussed to identify common, required elements.

Bonding

- How it's currently handled – Required if considered a Pilot Project under 48-39-320(C); Cost of removal
- How it should be handled
 - Require for removal and restoration

Project Standards

- How it's currently handled – No material harm to flora, fauna, physical or aesthetic resources; Reasonably anticipated that the use will be successful in addressing an erosional issue
- How it should be handled
 - Standards should be reviewed by Ad Hoc Committee
 - Criteria for monitoring
 - Control site and comparisons analysis
 - Need to identify general standards in addition to what is reviewed currently
 - Ensure no adverse impacts and non-invasive species

Success Criteria

- How it's currently handled – Undefined
- How it should be handled
 - Need criteria for monitoring
 - Compare to existing methods (nourishment, for example)
 - Ensure that impacts do not occur to beach dune and critical area

Reporting / Determination of Meeting Success Criteria

- How it's currently handled – OCRM; Resource Agency Input
- How it should be handled
 - Report(s) and determination of meeting success criteria should be sent to OCRM and the Ad Hoc Committee
 - Should address how the study/project addressed erosion or accomplished beach preservation

Public Comment on Final Results and Department Determination

- How it's currently handled – Undefined
- How it should be handled
 - Publish on the OCRM website and gather public comment at the end of the study timeframe

GROUP DISCUSSION: REFINING WORKGROUP RECOMMENDATIONS AND DEFINITIONS

Prior to the meeting, workgroup members provided input on the draft workgroup recommendations and definitions. The meeting concluded with a brief discussion of several revised workgroup recommendations and definitions that required additional discussion to clarify.

Recommendation – Establish a Beach Nourishment Technical Advisory Committee

Establish a technical advisory committee to further investigate beach nourishment project specifications, including:

- Sand quality
- Timing windows
- Placement and borrow area refinements and flexibility
- Dredge type
- ***Long-term monitoring (including potential downdrift impacts)***
- ***Impacts to flora/fauna (beach, benthic, threatened & endangered species)***

Based on feedback from the workgroup, the last two bullets (in bold italics) were added. There was no objection from workgroup members on these two additions.

Members would like to ensure that the Beach Nourishment Technical Advisory Committee was separate from the Ad Hoc Committee (as noted in New Technology Section above)

Recommendation – Establish A “South Carolina Beach Preservation Fund”

Establish a dedicated funding source to adequately and reliably fund the “South Carolina Beach Preservation Fund” and expand the purpose, appropriations, and designation of funds to include additional beach management options.

Recommend that Parks, Recreation & Tourism Department codify formal criteria or requirements for state nourishment grants. Minimal requirements should include:

- Approved LCBMP
- Approved comprehensive plan with a section on beachfront management and resilience
- ***Full and Complete Public Access***

- ***Requirement for local oceanfront residents contribute a percentage of match, in addition and outside of accommodations taxes***
- ***Approved Project Permits (i.e., shovel-ready project)***

Workgroup members were asked to provide any additional input on the minimum requirement of “Full and Complete Public Access” as well as the last two bullets (in bold italics), which were added based on feedback received prior to the meeting. The following captures the feedback received:

- Minimum requirements should be:
 - Approved LCBMP
 - Approved comprehensive plan with a section on beachfront management and resilience
 - Full and Complete Public Access
- The last two items (below) could serve as additional review criteria to prioritize and/or incentivize participation.
- Approved Project Permits (i.e., shovel-ready projects)
 - Although this requirement may be difficult for some communities as it relates to long term or future budgeting, the project should be well into the planning and permit application process.
- Oceanfront resident contributing a match.
 - If the oceanfront residents contributed, community could be eligible to receive either a higher percentage of the state match or they could receive additional prioritization points

Recommendation – Expand Use and Flexibility of Local Accommodation Taxes

Based on the varied allocation and utilization of local accommodations taxes across the state, coastal counties, and local communities, the workgroup agreed that this recommendation would be better suited for further investigation with the Department of Revenue and as such, should be removed as a recommendation.

Appendix A – SC Beach Preservation Stakeholder Workgroup Member List

Ross Appel
Attorney & Charleston City Council Member

Amy Armstrong
South Carolina Environmental Law Project

Keith Bowers
Biohabitats, Inc.

Jenny Brennan
Southern Environmental Law Center

Blanche Brown
DeBordieu Colony Community Association, Inc.

Alex Butler
SC Office of Resilience

Emily Cedzo
Coastal Conservation League

Melissa Chaplin
U.S. Fish & Wildlife Service

Nicole Elko
SC Beach Advocates

Paul Gayes
Coastal Carolina University

Justin Hancock
South Carolina Department of Parks, Recreation & Tourism

Iris Hill
Town of Edisto Beach

Lindsey Jackson
SC Realtor's Association

Michelle Pate
SC Department of Natural Resources

Aaron Pope
City of Folly Beach

Queen Quet (or designee)
Gullah/Geechee Nation

Jack Smith
Attorney

Don Thomas
Peace Sotheby's International Realty

Steven Traynum
Coastal Science & Engineering

Rod Tyler
Industry - New technology/Living shoreline products/Property Owner on Marsh in Murrels Inlet

Robert Young
Western Carolina University