



SC Beach Preservation Stakeholder Workgroup Meeting Summary November 17, 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 Thursday, November 17th via Microsoft Teams to further discuss the state's regulatory authority and role in the beaches critical area and define success criteria and other pilot project specifications.

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 9:00 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
Rob Young, Western Carolina University
Keith Bowers, Biohabitats
Rod Tyler, Green Horizons Environmental
Amy Armstrong, South Carolina Environmental Law Project
Blanche Brown, DeBordieu Colony Community Association, Inc.
Nicole Elko, SC Beach Advocates
Iris Hill, Town of Edisto Beach
Tiarra Pitts, South Carolina Realtors Association
Jenny Brennan, Southern Environmental Law Center

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.

PILOT PROJECTS

Elizabeth von Kolnitz reintroduced the topic of pilot projects, specifically highlighting the statutory language that relates to addressing an erosional issue and whether the project is successful.

[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.

A summary of input gathered during the previous meeting was provided to the Workgroup to highlight major takeaways from the focused discussion on the process and project specifications currently used to evaluate pilot projects.

Pilot Project Process

Process	Current	Workgroup
Submittal of Study Proposal	Internal Review	Internal Review; Ad Hoc Technical Committee Review
Public Notice	No Public Notice	Provide opportunity to comment; Notify adjacent property owners
Resource Agency Coordination	Discretionary	Resource Agency participation in Ad Hoc Technical Committee
Authorization	OCRM Written Acknowledgement	Align Authorization with Permitting Process
Appeal	RFR to DHEC Board	At a minimum maintain current process

Pilot Project Specifics

Specifics	Current	Workgroup
Sponsor	State Agency or University	Unbiased Institution
Study Design Specifics	Undefined	Timeline and other high-level details should be required
Bonding	Required if considered a Pilot Project under 48-39-320(C); Cost of removal	Require for removal and restoration
Project Standards	No material harm to flora, fauna, physical or aesthetic resources; Reasonably anticipated that the use will be successful in addressing an erosional issue	Reviewed by Ad Hoc Committee. Criteria for monitoring. Control site and comparisons analysis. No adverse impacts and non-invasive species
Success Criteria	Undefined	Demonstrate how study/project addresses an erosional issue and how success will be determined.
Reporting / Determination of Meeting Success Criteria	OCRM; resource agency input	Report(s) and determination of meeting success criteria should be sent to OCRM and the Ad Hoc Committee
Public Comment on Final Results and Department Determinations	Undefined	OCRM website; gather public comment at end of study timeframe

As it relates to addressing an erosional issue in a beach or dune area, Workgroup members were asked to consider the following questions:

- What is the erosional issue being addressed and how is the issue defined?
- How do we determine when and if a pilot project has been successful?
- What measures determine if a project is successful in addressing an erosional issue and how are success criteria established?

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

- Need to better understand the intent and implications of the statutory language “notwithstanding any other provision.”
- In addition to notwithstanding any other provision, how far could a potential pilot project go in violating the law (i.e., existing regulations)? Could a pilot project propose a new seawall that is similar to a rock revetment even though new seawalls are prohibited? The language doesn’t specifically say new technology, just any technology.
- How do we evaluate if it addresses the erosional issue? What if the technology is causing more erosion in one place but preventing erosion where it is sited?
- One possible solution would be to remove, modify, or at a minimum clarify the statutory language. As it stands now, it creates a giant hole in how we manage the coast as erosion is dependent on the reference point. Whole passage needs clarification.
- Pilot projects could serve as an opportunity to investigate new technologies but that’s not what the current statute says.
- As it relates to addressing an erosional issue, we need to be clear that we are talking about the dry sand beach, not the property behind the dry sand beach.
- Although not comprehensive, the pilot project proposals should include:
 - Review to evaluate project(s) against existing or similar technology
 - Purpose, hypothesis, methodology, target goals, reasonable level of success, and timeframe
 - Provide sufficient proof of concept, supporting data and/or research information
 - Control sites for comparison
 - Plan for monitoring locations adjacent to and neighboring the technology being deployed
 - Consideration for the scale of potential impacts
 - Plan for local government coordination
- Need to discuss what happens if a pilot project proves to be ineffective and the applicants wants or needs to add a traditional option (sandbags, for example) for stabilization. If there is evidence that the system isn’t working, it needs to be removed.

- “Products’ or other physical infrastructure need to be tested in a controlled environment before being deployed in an emergency type setting.
- A significant amount of time, effort and resources are required to verify if something works. Control sites are necessary as a means of comparison and monitoring area adjacent to the location where the technology is deployed are needed. Also need to monitor the beach in front of the structure or location where it is located.
- The review and approval process should be rigorous and thorough. It shouldn’t be a low bar for experimenting along and with our coast.

Workgroup Recommendation – Establish Ad Hoc Technical Advisory Committee

The Workgroup recommends establishing an Ad Hoc Technical Advisory Committee to evaluate pilot project study proposals, provide written comments and recommendations on project standards and success criteria, and evaluate the findings of such studies. Appointed via recommendations, this 7-member committee would be comprised of unbiased technical and scientific experts from academia, resource agencies (USFWS, SCDNR) and other coastal engineers.

Workgroup Recommendation – Modify Pilot Project Statutory Language

The Workgroup recommends that the following statement should be removed from pilot project policy statement - *“Notwithstanding any other provision of law contained in this chapter”*. The following revised statute language reflects the Workgroup’s recommendation:

[SECTION 48-39-320\(C\)](#)

The Department 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.

SOUTH CAROLINA BEACHES CRITICAL AREA

The meeting facilitators reintroduced the topic and provided a summary of the discussion and major takeaways from the previous meeting. These include:

- OCRM should be able to assert jurisdiction in the beaches critical area
- Detail and specificity is needed in the regulation to support this authority
- Need to identify activities to be regulated in this area
- Agreement that new erosion control structures should be prohibited in the beaches critical area.

Elizabeth von Kolnitz provided additional background information along with visual aids to guide the discussion. Workgroup members were asked to consider the following:

- Erosion Control Structures
 - Current Law
 - Prohibits new erosion control structures seaward of the setback line.
 - Erosion control structures seaward of the setback line that are destroyed more than 50% (above grade) cannot be repaired and must be removed.
 - Scenarios to Consider within Beaches Critical Area
 - New erosion control structures within the beaches critical area that are landward of the setback line
 - Repairing existing erosion control structures landward of the setback line if destroyed
- Habitable Structures and Pools
 - Current Law
 - Prohibits new habitable structures or pools on dry sand beach or active beach areas seaward of baseline.
 - If a habitable structure is built seaward of the baseline via a Special Permit and is on the dry sand beach or active beach for more than 1 year, it must be removed.
 - Scenarios to Consider within Beaches Critical Area
 - New habitable structure or pool within the beaches critical area that are landward of the setback line
 - Repairing existing habitable structures and pools on dry sand beach or active beach that are landward of the setback line
 - Habitable structure or pool that is on dry sand beach or active beach landward of the setback line for more than 1 year

The following summarizes the input and information gathered during the virtual discussion:

- Erosion Control Structures
 - The same, if not greater, provisions that apply to erosion control structures seaward of the setback line should also apply to those within the beaches critical area. Really more of a clarification of the legislative intent to capture this gap area.
 - Needs to be some considerations for emergency order applications ahead of storms to reduce impacts.

- The focus recommendations on new structures, not the repair of existing structures.
- Consider strengthening the restriction to include no new development within the beaches critical area.
- Need to consider the scenarios where an area is considered beaches critical area, nourishment occurs, but within 6-9 months the area will likely become beaches critical area again. Could request or ask for a letter of agreement from the local municipality that there is a long-term beach preservation project or approach in place that would reduce likelihood of property becoming critical area again.
- The existing damaged beyond repair language allows longer erosion control structures to be repaired.

Workgroup Recommendation

Prohibit new erosion control structures in the beaches critical area. The same, if not greater, provisions that apply to erosion control structures seaward of the setback line should also apply to those within the beaches critical area.

- Habitable Structures and Pools
 - Consider including Special Permit provisions for any beachfront habitable structure to require removal a structure once it's on the active beach
 - Need to have a coordinated effort between local municipalities and DHEC before special permits are issued. There are instances where a local municipality has lost an appeal to a denied variance for a lot that received a special permit from DHEC and the municipality denied a variance. Municipalities are now facing more habitable structures being built where there is no buildable area.
 - OCRM could require local approvals prior to issuing special permits.
 - Need to include a timeframe for review so that a special permit habitable structure is not built on an area that was recently active beach.
 - OCRM should pursue adding beachfront septic system reviews or coordination to its regulatory authority. It's an important issue that OCRM should have the ability to regulate.

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