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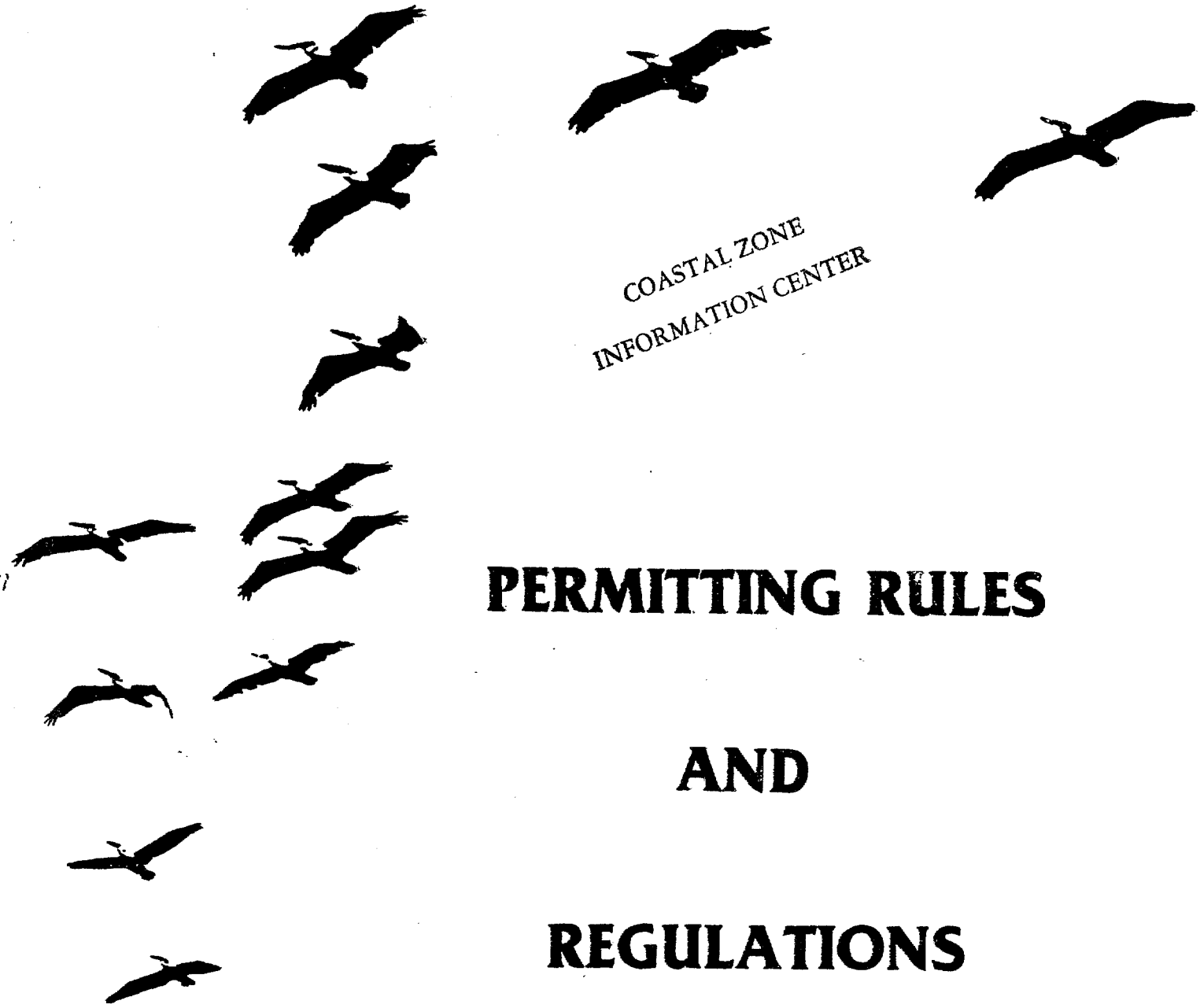
SOUTH CAROLINA COASTAL COUNCIL



COASTAL ZONE
INFORMATION CENTER

PERMITTING RULES

AND

REGULATIONS

(REVISED 6/26/81)

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1981

South Carolina Coastal Council

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

RULES AND REGULATIONS

for Permitting in

Critical Areas of

the Coastal Zone

Property of CSC Library

U.S. DEPARTMENT OF COMMERCE NOAA
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SOUTH CAROLINA COASTAL COUNCIL

(Revised 6/26/81)

South Carolina Coastal Council
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Act 123 of 1977 (hereafter referred to as the Act) was enacted by the General Assembly of South Carolina to provide for the protection and enhancement of the State's coastal resources.

The Act creates the South Carolina Coastal Council, which is given the task of promoting the economic and social welfare of the citizens of this state while protecting the sensitive and fragile areas of the coast. Within a framework of a coastal planning program, the Council will encourage the protection and sound development of coastal resources.

An important part of this program is a coastal permitting system. As mandated in the Act, the Council has direct state authority to deny or issue permits in the critical areas defined in the Act.

The Act states that ninety days after the effective date of the Act no person shall fill, remove, dredge, drain or erect any structure on or in any way alter any critical area without first obtaining a permit from the Council. With the effective date of the Act being July 1, 1977, the effective date of the Council's permitting authority was September 28, 1977.

The Act further provides that on or before August 29, 1977, the Council shall publish and make available the Interim Rules and Regulations that shall be used in evaluating and granting or denying all permit applications. These Interim Rules and Regulations were published in Volume I, No. 9 of the State Register, August 24, 1977.

The Act also mandated the Council to publish Draft Final Rules and Regulations by October 28, 1977, and these were published in Volume 1, No. 13 of the State Register, October 26, 1977. The draft regulations were available for review and comment by federal and state agencies, local and regional governments and interested citizens. In accord with the Act, the Council also held four public hearings on the draft regulations: in Charleston, December

13, 1977; in Myrtle Beach, January 5, 1978; in Columbia, January 6, 1978; and in Beaufort, January 9, 1978.

On February 28, 1978, the Proposed Final Rules and Regulations for permitting in the critical areas of the coastal zone were submitted to the 1978 General Assembly. During the 90-day period of review in the General Assembly, no action was taken on the Proposed Rules and Regulations, and as a result, these Rules and Regulations became final. On June 7, 1978, they were published as Final Rules and Regulations in the State Register, Volume 2, No. 15, June 7, 1978, and are the Rules and Regulations under which the South Carolina Coastal Council presently fulfills its permitting responsibility.

~~The following are draft Rules and Regulations which incorporate proposed revisions now being considered.~~

The Council's principal office of business is the South Carolina Coastal Council, Summerall Center, 19 Hagood Avenue, Suite 802, Charleston, South Carolina 29403. Permit applications are available at this office, and all correspondence with the Council concerning the permit process shall be through this office unless otherwise directed. The Council encourages those wishing to receive general information on permits and alterations in critical areas to contact this office.

Chapter 30, R.30-1-30-13, South Carolina Coastal Council Statutory Authority: Sections 48-39-10 - 48-39-230 Code of Laws of South Carolina, 1976, as amended.

30-1 Statement of Policy.

The South Carolina Coastal Management Act was passed by the 1977 General Assembly of South Carolina to provide for the protection and enhancement of the State's coastal resources. This legislation creates the South Carolina Coastal Council which is given the task of promoting the economic and social welfare of the citizens of this State while protecting the sensitive and fragile areas in the coastal counties and promoting sound development of coastal resources.

Through the efforts of an overall coastal zone management program and permitting process, the Coastal Council seeks to guide the wise preservation and utilization of coastal resources. These rules and regulations are intended to:

(1) aid developers and others in taking advantage of state-of-the-art techniques in developing projects compatible with the natural environment;

(2) insure consistent permit evaluations by Council and staff; and

(3) serve as a stimulus for implementation of better and more consistent management efforts for the coastal area.

These regulations are Coastal Council statements of general public applicability that implement and prescribe policy and practice requirements of the Coastal Council. They are to be read as part of, and to be construed with, the policies set forth in the South Carolina Coastal Management Program.

A. The Value of Tidelands and Coastal Waters.

The tidelands and coastal waters of the South Carolina coast are a very dynamic ecosystem and an extremely valuable natural resource for the

people of the State. The tides regularly ebb and flood through the coastal inlets, bays and marshes which constitute a fragile area, vulnerable to the impacts of many of man's activities. Tidelands and coastal waters are identified as "critical areas" over which the Coastal Council has direct permitting authority.

The saline marshes are highly productive components of the marine food web of coastal waters and estuaries. Decaying plant materials, called detritus, serve as the basis of the food web and are the major biological contribution of the saline marshes. Many commercially and recreationally important fish and shellfish species depend on the marshlands and estuaries for all or part of their life cycle. In addition, many birds and other forms of wildlife utilize wetlands as habitat as well as a source of food. Tidelands and coastal waters also have become increasingly important in recent years for the purposes of aquaculture.

Among the more important functions of the salt and brackish marshes is their role in protecting adjacent highlands from erosion and storm damage. Marsh vegetation absorbs and dissipates wave energy and establishes a root system which stabilizes the soils. Its effectiveness as a buffer depends on the surface area available which, combined with the composition of the underlying substrate, allows tidelands to act as "sponges," absorbing and releasing waters during storms or times of heavy riverine discharge.

Marshes also perform a valuable waste treatment function since the dense vegetation acts as a filter, trapping sediments and pollutants which enter as run-off from the upland areas. The trapping of sediments helps maintain water clarity, a factor important to clam, oyster, and phytoplankton productivity. The marshes also assimilate pollutants and recycle nutrients through various biochemical processes.

Coastal waters and the adjacent marshes are also significant as aesthetic, recreational and educational resources. Much of the expenditure for recreation and tourism in the South Carolina coastal zone is for purposes of enjoying outdoor activities and the aesthetic pleasures of undisturbed tideland areas. These natural areas lend themselves to meaningful and important academic pursuits such as bird-watching and wildlife population and nutrient recycling studies.

These same unique natural resource areas face increasing land development pressure and negative impacts from man's activities in and around them. The marshes constitute a fragile ecosystem; consequently, indiscriminate dredging and filling, degradation of water quality or unsound building and development practices can have long-term detrimental effects. All development need not be prohibited; rather, the range of favorable and unfavorable results needs to be realized, and analysis made to determine priorities, evaluate alternatives, anticipate impacts, and suggest the best methods and designs to carry out wise development of these resources.

B. The Value of Beaches and Dunes.

The Atlantic Ocean shoreline of South Carolina, including its barrier islands, is an extremely dynamic system composed of the sands of the beaches and dunes. The beach is the gently sloping shore washed by waves, extending from below the low tide line to the point above high tide at which non-littoral vegetation is established. Above this beach area is the dune system, the ridges of windblown sand which are normally vegetated. These comprise a very dynamic system, constantly shifting (eroding and accreting) with the effects of waves and wind. These fragile resources are incorporated in the 1977 South Carolina Coastal Management Act as "critical areas."

Each year millions of South Carolina citizens and visitors enjoy the

natural setting of the state's shoreline. Aesthetically, the beaches are a unique experience; and recreationally, these areas are increasingly needed for boating, swimming, sunning, and fishing, as leisure time and mobility continue to increase.

Beaches and dunes are nesting grounds for sea turtles and numerous bird species, several of which are endangered. The beaches and adjacent coastal waters are also habitat for many marine species.

Probably the most vitally important aspect of the beach and dune system is its contribution to storage of sand and shoreline stability. This system serves as a barrier which protects adjacent inland areas, dissipating the energy of storm waves. The dunes are a source of sand to aid in the natural renourishment of the beach from the landward side.

The beach itself is relatively tolerant to normal recreational use such as walking or fishing. It is important, however, that enough room be allotted between structures and the shoreline so that if natural erosion occurs, natural deposition can restore the beach without the occurrence of property damage.

Above the berm of the beach, beyond the reach of normal wave action, the winds carry the dry sand particles of the dunes. Where vegetation is established, the wind speed decreases and sand is deposited and begins to accumulate. As long as the sand is available and dune vegetation is maintained, the dunes will remain or grow, protecting landward areas behind them. If these fragile dunes and their naturally shifting sands are unduly disturbed, upland property can be exposed to direct erosion, harmful salt spray intrusion and the full impact of storm surges.

These same resources of beaches and dunes are desirable locations for habitation and recreation and are subject to intense development pressure. It

should be noted, however, that housing and commercial activity may not be compatible with the rapid changes which occur naturally on some beaches and dune areas due to erosion and the effect of hurricanes. Therefore, regulations to ensure sound development in these critical areas are essential to protecting the resources as well as protecting lives and property.

C. Definitions:

1.) Barrier Islands - There is a listing of all barrier islands in South Carolina on page III-70 of the South Carolina Coastal Management Program.

2.) Beaches - those lands subject to periodic inundation by tidal and wave action so that no nonlittoral vegetation is established.

3.) Coastal Waters - the navigable waters of the United States subject to the ebb and flood of the tide and which are saline waters, shoreward to their mean high-water mark.

4.) Coastal Zone - all coastal waters and submerged lands seaward to the State's jurisdictional limits and all lands and waters in the counties of the State which contain any one or more of the critical areas. These counties are Beaufort, Berkeley, Charleston, Colleton, Dorchester, Horry, Jasper, and Georgetown.

5.) Critical Areas - any of the following: (1) coastal waters, (2) tidelands, (3) beaches, and (4) primary ocean front sand dunes.

6.) Erosion Control Structures and Beach Nourishment:

(a) Seawall - a special type of retaining wall that is specifically designed to withstand wave forces.

(b) Bulkhead - a retaining wall designed to retain fill, but not to withstand wave forces on an exposed shoreline.

(c) Revetment - a structure designed to protect a shoreline from erosion caused by currents or wave action.

(d) Groin - a shore protection structure designed to build a protective beach or to retard erosion of an existing or restored beach by trapping littoral drift. Groins are usually perpendicular to the shore and extend from the shoreline into the water far enough to accomplish their purpose. Groins are narrow and vary in length from less than 100 feet to several hundred feet.

(e) Jetty - a structure extending into the water to direct and confine river or tidal flow into a channel and to prevent or reduce shoaling of the channel by littoral material. Jetties also stabilize inlet location.

(f) Minor Development Activity - the construction, maintenance, repair or alteration of any private pier or erosion control structure, the construction of which does not involve dredging.

(g) Offshore Breakwater - a structure designed to protect an area from wave action. Breakwaters interfere with natural wave action and wave induced currents; therefore, their construction may cause harmful side effects.

(h) Beach Nourishment (artificial beach nourishment) - the artificial establishment and periodic replenishment of a beach.

7.) Feasible (feasibility) - As used within these rules and regulations (e.g., "unless no feasible alternative exists"), feasibility is determined by the Coastal Council with respect to individual project proposals. Feasibility in each case is based on the best available information, including, but not limited to, technical input from relevant agencies with expertise in the subject area, and consideration of factors of environmental, economic, social, legal and technological suitability of the proposed activity and its alternatives. Use of this word includes, but is not limited to, the concept of reasonableness and likelihood of success in achieving the project goal or purpose. "Feasible alternatives" applies both to locations or sites and to methods of design or construction, and includes a "no action" alternative.

8.) GAPC (Geographic Areas of Particular Concern) - areas within South Carolina's coastal zone which have been identified in the State's Coastal Management Program as being of such importance as to merit special consideration during Council review of permit applications. GAPC's consist of: (1) areas of unique natural resource value; (2) areas where activities, development, or facilities depend on proximity to coastal waters, in terms of use or access; and (3) areas of special historical, archeological or cultural significance.

9.) Joint Public Notice - a permit application public notice issued jointly between the South Carolina Coastal Council and the United States Army Corps of Engineers or the United States Coast Guard and processed independently by the Coastal Council.

10.) Nonwater-dependent - a facility which cannot demonstrate that dependence on, use of, or access to coastal waters is vital to the functioning of its primary activity.

11.) Previously Undisturbed Wetlands - those wetlands having no visible, physical evidence of previous impoundment; that is, separation from adjacent rivers or estuaries by artificial diking.

12.) Primary Ocean Front Sand Dunes - those dunes which constitute the front row of dunes adjacent to the Atlantic Ocean. (The critical area boundary is further defined in these Rules and Regulations for Permitting as follows: If the crest of a primary front row sand dune is not reached within 200 feet landward from mean high water, that sand dune is not considered adjacent to the Atlantic Ocean. Council permitting authority shall extend: (1) to the landward trough of the primary front row sand dune if the crest of this dune is reached within 200 feet landward from mean high water, (2) to the seaward side of any maritime forest or upland vegetation if reached before the primary front

row sand dune, and (3) to the seaward side of any permanent man-made structure which was functional in its present form on September 28, 1977, where such structure is located seaward of any primary dune.)

13.) Public Interest - As used within these Rules and Regulations, public interest refers to the beneficial and adverse impacts and effects of a project upon members of the general public, especially residents of South Carolina who are not the owners and/or developers of the project. To the extent that, in the opinion of the Council, the value of such public benefits is greater than the public costs embodied in adverse environmental, economic and fiscal effects, a proposed project may be credited with net public benefits.

14.) Tidelands - all areas which are at or below mean high tide and coastal wetlands, mudflats, and similar areas that are contiguous or adjacent to coastal waters and are an integral part of the estuarine systems involved. Coastal wetlands include marshes, mudflats, and shallows and means those areas periodically inundated by saline waters whether or not the saline waters reach the area naturally or through artificial water courses and those areas that are normally characterized by the prevalence of saline water vegetation capable of growth and reproduction. Provided, however, nothing in this definition shall apply to wetland areas that are not an integral part of an estuarine system. Further, until such time as the exact geographic extent of this definition can be scientifically determined, the Council shall have the authority to designate its approximate geographic extent.

15.) Water-dependent - a facility which can demonstrate that dependence on, use of, or access to coastal waters is vital to the functioning of its primary activity.

30-2 Applying for a Permit.

A. Preliminary Review: The Council encourages the submission of development plans for preliminary review. If a permit is necessary, the Council will make every effort to assist the applicant in expediting the administrative aspects of filing an application.

B. Permit Application: Except for those exemptions as specified in Section 13(D) of the Act (see R.30-5 below), any person wishing to alter a critical area must receive a permit from the Coastal Council. Section 14(B) of the Act directs that certain information be included in the permit application submitted to the Council. The following minimum information shall ordinarily be required before a permit application is considered complete:

(1) Name and address of the applicant;

(2) A plan or drawing showing the applicant's proposal and the manner or method by which the proposal shall be accomplished;

(3) A plat or a copy of a plat of the area in which the proposed work will take place;

(4) A certified copy of the deed, lease or other instrument under which the applicant claims title, possession or permission from the owner of the property to carry out the proposal;

(5) A list of all adjoining landowners and their addresses or a sworn affidavit that with due diligence such information is not ascertainable. When considered appropriate by the Council or its staff, additional information may be required concerning affected landowners;

(6) A brief description of the proposed alteration, its purpose and intended use, including a drawing of the type of structure, a description of the method of construction, and identification of materials and equipment to be used;

(7) A copy of the newspaper public notice:

(a) Minor developments (See R.30-2(G).): In the case of applications for minor development permits, the applicant shall publish notice at least once in a newspaper of local circulation in the county of the proposed activity. The newspaper notice should be published within 15 days of the date of Public Notice (See R.30-2(C).) No permit shall be issued by the Council until at least 10 days following the date of newspaper publication. The following form shall be used for newspaper publication:

PUBLIC NOTICE

SOUTH CAROLINA COASTAL COUNCIL

(Name of applicant) will apply (has applied) to the South Carolina Coastal Council for a permit to (description of work) for (public/private) use, at/in (location and name of waterway). Comments will be received by the South Carolina Coastal Council, Summerall Center, 19 Hagood Avenue, Suite 802, Charleston, South Carolina 29403 until (insert date, 10 days after date of this newspaper notice).

(b) Other activities: In the case of applications for other than minor development permits, the applicant shall publish notice at least once in both a newspaper of general statewide circulation (The State, News and Courier, or The Greenville News) and a newspaper of local circulation in the county of the proposed activity. The newspaper notices should be published within 15 days of the date of Public Notice. (See R.30-2(C).) No permit shall be issued by the Council until at least 15 days following the date of the last published newspaper publication. The following form shall be used for newspaper publication:

PUBLIC NOTICE

SOUTH CAROLINA COASTAL COUNCIL

(Name of applicant) will apply (has applied) to the South Carolina Coastal Council for a permit to (description of work) for (public/private) use, at/in (location and name of waterway). Comments will be received by the South Carolina Coastal Council, Summerall Center, 19 Hagood Avenue, Suite 802, Charleston, South Carolina 29403 until (insert date, 15 days after date of this newspaper notice);

(8) When considered appropriate by the Council or its staff, additional information may be required.

C. Notification: The Council is directed in Section 14(C) of the Act and shall, within thirty days of receiving either a Joint Public Notice or South Carolina Coastal Council permit application, notify in writing interested agencies, all adjoining landowners, local government units in which the land is located and other interested persons. This notice shall indicate the nature and extent of the applicant's proposal.

D. Permit Processing: Permit processing shall commence immediately on receipt of either a Joint Public Notice or a South Carolina Coastal Council permit application and shall proceed concurrently but separately from any federal authorization.

E. Comments on Application: Section 14(C) of the Act allows all interested federal and state agencies, all adjoining landowners, local government units and other interested persons to have thirty days after the receipt of Public Notice of permit application from the Council to file written comments pertaining to the application. Only those comments received within the thirty-day period must be considered in the Council's decision on a permit

application. Any persons wishing to receive notice of the initial decision on a permit application shall notify the Council within this comment period. Provided, comments on permit applications for minor development activities, as defined in Section 3(N) of the Act, must be received within fifteen days after receipt of Public Notice of permit application.

F. Public Information: The complete file on each permit application, including all comments received, will be available for inspection by any member of the general public during regular business hours at the principal Council office.

G. State Comment: Issuance or denial of the permit by the Coastal Council shall be the State comment on the corresponding federal permit application.

H. Water Quality Certificate: If a water quality certificate is not required by a federal permitting agency under Section 401 of P.L. 92-500, the Coastal Council may require a statement of water quality certification from the South Carolina Department of Health and Environmental Control.

30-3 Public Hearings.

Section 14(C) of the Act directs the Council to hold public hearings on permit applications if it is deemed necessary. Section 15(B) of the Act requires the Council to convene a public hearing before acting on an application if twenty or more citizens or residents of the affected county or counties request such a hearing. Each request must be in writing and on a separate sheet of paper and be received within thirty days after publication of a Public Notice of the permit application. In all cases, the public hearing shall be held in the county where the land is located, and if in more than one county, the Council shall determine in which county to hold the hearing or may hold hearings in

more than one county. When applicable and practical, joint public hearings will be held with the United States Army Corps of Engineers and/or other agencies.

30-4 Decisions on a Permit.

A. Permit Approval: The Council is allowed, under Section 15(B) of the Act, to issue a conditional permit approval. Under this provision, the Council may direct the applicant to amend his proposal to take specific measures necessary to protect the public interest. The Council, at its discretion, may seek additional public comment on major modifications to a permit application.

If the Council has approved an application, Section 15(B) of the Act also allows the Council, at its discretion, to support the applicant in a Federal permitting process for the same activity.

B. Permit Denial: A permit denial shall cite facts upon which the denial was based and the reasons for denial.

C. Action Upon a Permit: The Council, according to Section 15(C) of the Act shall act upon an application for a permit within ninety days. This ninety day period shall begin when the application is complete and filed in approved form. Exceptions to the 90-day deadline are applications for minor developments on which action must be taken in thirty days.

D. Completion of Work: Section 15(F) of the Act requires a permit holder to complete work within three years from the date of permit issuance. The Council may extend this three-year period upon showing of good cause indicating that due diligence toward completion of the work has been made, evidenced by significant work progress. Work shall be continuous and expeditious whenever possible.

E. Property Rights Not Affected, No State Liability, Other Permit Requirements: No permit shall convey, nor be interpreted to convey, a property right in the land or water in which the permitted activity is located. No permit shall be construed as alienating public property for private use or as alienating private property for public use. In no way shall the State be liable for any damage as a result of the erection of permitted works. A South Carolina Coastal Council permit in no way relieves the holder from responsibility for compliance with other applicable Federal, State, or local permit requirements.

F. Legally Commenced Use: Section 13(C) of the Act reads as follows, "Ninety days after the effective date of this act no person shall fill, remove, dredge, drain or erect any structure on or in any way alter any critical area without first obtaining a permit from the Council. Provided, however, that a person who has legally commenced a use such as those evidenced by a state permit, as issued by the Budget and Control Board, or a project loan approved by the rural electrification administration or a local building permit or has received a United States Corps of Engineers or Coast Guard permit, where applicable, may continue such use without obtaining a permit. Any person may request the Council to review any project or activity to determine if he is exempt under this section from the provisions of this act. The Council shall make such determinations within forty-five days from the receipt of any such request."

30-5 Exceptions.

A. List of Exceptions: Section 13(D) of the Act lists several exceptions which do not require a permit. These are as follows:

(1) The accomplishment of emergency orders of any duly appointed

official of a county, municipality or of the state, acting to protect the public health and safety, upon notification to the Council. (See R.30-5(B).)

(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.

(3) The discharge of treated effluent as permitted by law; provided, however, that the Council shall have the authority to review and comment on all proposed permits that would affect critical areas.

(4) Dredge and fill performed by the United States Corps of Engineers for the maintenance of harbor channels and the collection and disposal of the materials so dredged; provided, however, that the Council shall have authority to review and certify all such proposed dredge and fill activities.

(5) Construction of walkways over sand dunes in accordance with Section 12 of the Act. (See R.30-13(B).)

(6) Emergency repairs to any existing bank, dike, or structure which has been erected in accordance with federal and state laws, including fishing piers which are provided for by general law or acts passed by the General Assembly of South Carolina; provided, however, that notice shall be given to the Council within seventy-two hours from the onset of needed repairs. (See R.30-5-(B).)

(7) Maintenance and repair of drainage and sewer facilities constructed in accordance with federal or state laws, and normal maintenance and repair of any utility or railroad.

(8) Normal maintenance or repair to any pier or walkway, provided that such maintenance or repair shall not involve dredge or fill.

(9) Construction or maintenance of a major utility facility where the utility has obtained a certificate for such facility under "The Utility Facility Siting and Environmental Protection Act" (Sections 58-33-10 though 58-33-430 of the 1976 Code). Provided, however, that the South Carolina Public Service Commission shall make the Council a party to certification proceedings for utility facilities within the coastal zone.

B. Notification to Council, Emergency Orders:

(1) As in A(1) above, the Council must be notified of emergency orders that normally would require a Council permit. Notification to the Council must be made prior to commencement of the activity and must state the following:

(a) the nature of the emergency;

(b) the substance of the emergency order;

(c) the time the order will be issued, or if circumstances preclude prior notice, when the order was issued;

(d) the name of the local official executing the order and the authority under which that person is acting;

(e) the location of the activity ordered;

(f) the estimate of when such order shall be withdrawn.

(2) If the Council is not notified within seventy-two hours of the issuance of the emergency action taken, the official issuing such order or ordering such emergency action shall be in violation of the Act and these rules and regulations. Within seventy-two hours after the emergency order, the official ordering the emergency action shall put the above six elements in writing and file them with the Council.

(3) The official issuing the emergency order shall be deemed in violation of the Act if the emergency conditions do not conform with the definition of emergency in Section 3 of the Act.

C. Emergency Repairs to Banks and Dikes: As in A(6) above, notice by telephone, telegram or radio of emergency repairs to any existing bank, dike or structure must be given to the Council within seventy-two hours from the onset of needed repairs. Within five days after the commencement of repairs, written notification must be filed with the Council. If such notification is not received, the person(s) performing the work will be in violation of the Act and these rules and regulations.

D. Normal Maintenance and Repair: For purposes of this section, "normal maintenance and repair" (R.30-5(A)(6), (7), and (8)) applies only to work on a structure which has been previously permitted or is grandfathered or exempted and is still generally intact and functional in its present condition. The work may only extend to the original dimensions of the structure, and any expansion, additions, or major rebuilding will require a Coastal Council permit.

30-6 Council Appeals.

A. Notice of Intention to Appeal: Any person adversely affected by the Council's initial action has the right of direct appeal to the Council. Notice of Intention to Appeal an initial permit application decision must be filed in writing within fifteen days of the date of notification to the applicant and other persons who requested notification of the initial Council action. (See R.30-2(E).)

B. Filing of Appeal: Within fifteen days of filing the Notice of Intention to Appeal, appellant must file in writing an appeal with the grounds

for appeal clearly stated. The grounds for appeal must contain a statement showing how the party seeking review is adversely affected by the Council's action. Appellant will be limited to the grounds as stated. The Appeal may be filed simultaneously with the Notice of Intention to Appeal (and in the same document) if done so within fifteen days of the date of notification to the applicant and other interested persons of the initial Council decision.

C. Public Notice: The Council, within ten days of receiving the Appeal, shall notify in writing interested agencies, all adjoining landowners, local government units and other interested persons. This notice shall indicate the nature and extent of the Appeal.

D. Intervenors: Affected parties, if they wish to intervene, must give Notice of Intent to Intervene and grounds for intervention within twenty days of the date of the Appeals Public Notice ((C) above). The Notice of Intent to Intervene and accompanying statements must be in writing with grounds clearly stated. The Notice of Intent to Intervene and grounds for intervention must contain a statement indicating that the party seeking to intervene has standing to do so by way of being a person affected by the Council's initial decision. Intervenors will be limited to the grounds as stated. All intervenors shall become parties to the action.

E. Comments: Written comments for Council consideration regarding an Appeal will be accepted for thirty days after the date of the Appeals Public Notice.

F. Notification of Hearing: The Council shall notify parties to the action of the date, time and place of the Appeals hearing. The Appeal shall be heard within 65 days of the date of the Appeals Public Notice but not less than thirty days after the date of Appeals Public Notice. By agreement of all parties to the Appeal, the hearings and/or oral presentations before the

Council may be waived.

G. Hearing of Appeal: If a hearing is to be held, the Council may appoint a hearing officer to conduct all or part of the hearing. The hearing officer shall hear all relevant evidence offered from all parties and shall be responsible for compiling the complete record of the Appeal. Written statements for the record shall be welcomed. The transcript of the Appeal shall be distributed to all Council members before the Council meets on the Appeal. After receipt of the transcript, parties to the Appeal shall be provided an opportunity to present oral arguments to the Council. Each party shall be given an allotted period of time to present oral arguments. Questions from Council members within the allotted period of time shall be within a time frame prescribed by the Council. The Council shall notify each party of the hearing schedule at least ten days in advance.

H. Record of Appeal: A Record of Appeal shall be kept and filed in the Council's office. Oral proceedings or any part thereof shall be transcribed upon the request of a party. The Council may, in its discretion, require persons requesting a transcript to pay reasonable printing costs.

I. Decision on Appeal: A decision on the Appeal may be made by the Council immediately after the presentation of oral arguments but, in any case, no later than 35-days after the presentation. Each party shall be notified in writing of the decision.

J. Final Order: The final Council decision shall be in the form of written Findings of Fact and Conclusions of Law. The Findings of Fact and Conclusions of Law must be approved by a vote of the full Council after which they are signed by the Chairman of the Council. The Findings of Fact and Conclusions of Law shall be served on each party to the appeal.

30-7 Judicial Appeal.

A. Exhaustion of Administrative Remedies: Section 18 of the Act allows judicial review of Council action. Before seeking judicial relief from a Council permit application decision, a person must seek relief through the Council appeal process in 30-6 above.

B. Time Period for Filing: The 20-day time period for filing an appeal in the circuit court will commence to run from date of receipt of the Council's Findings of Fact and Conclusions of Law.

30-8 Enforcement.

A. Permit Revocation and Modification: One of the needs in administering a permit system to manage coastal resources is the enforcement of the provisions of the system and the identification of unpermitted and unauthorized activities. The Council has initiated a routine aerial surveillance program for the coastal counties which identifies and reports illegal dredging, filling, or other alterations in the critical areas.

As the state agency responsible for managing the critical areas, the Council is adamant in its enforcement of terms of an approved permit. Section 15(E) of the Act empowers the Council to revoke a permit for noncompliance with or violation of its terms after written notice of intention to do so has been given the holder, and the holder, in return, has been given an opportunity to present an explanation to the Council. Financial hardship on the part of a holder shall not be a defense to the revocation of a permit. The Council may also revoke a permit if it finds that the holder or his agent submitted false information to the Council.

B. Cease and Desist Directive: When any person is found altering a critical area without a permit and such activity is not exempted by Section

13(D) of the Act, has not been authorized by a permit, is in violation of the terms of a Council permit or is violating provisions of the Coastal Management Act in any manner, the Council, or its duly appointed agent, may issue a cease and desist directive. This directive shall inform the person that he is in violation of the Act and that such person should cease unauthorized activity. The Council may then request the person to restore the area to its original condition. If the person responsible for the unauthorized activity refuses to comply with the Council directive, the Council may then file suit in the appropriate circuit court as outlined in Section 16 of the Act.

C. Arrest Warrants: When a person is found altering a critical area without a permit and such activity is not exempted by Section 13(D) of the Act, has not been authorized by a permit, is in violation of the terms of a Council permit or is violating provisions of the Coastal Management Act in any manner, the Council may cause to be issued a warrant for the arrest of the violator.

D. Penalties: As stated in Section 17 of the Act, any person found guilty of violation of the Act shall be punished by imprisonment of not more than six months or by a fine of not more than five thousand dollars, or both for the first offense; and by imprisonment of not more than one year or by a fine of not more than ten thousand dollars, or both for each subsequent offense.

E. Judicial Enforcement: Section 16 of the Act provides the Council, the Attorney General or any person adversely affected with a remedy to restrain violations of the Act.

30-9 Other Provisions.

A. Saving Clause: If any provisions of the Act or of these Rules and Regulations are adjudged invalid or unconstitutional, the remainder of the Act

and these Rules and Regulations and/or the application of their provisions to other persons or circumstances shall not be affected thereby.

B. Bonding by Council: To insure that the holder complies with all limitations and conditions of the permit, the Council may, at its discretion, require a secured bond before issuance of the permit. The Council may also require the applicant to submit proof of financial responsibility.

C. Transfer of Permits: Permits are issued in the name of the applicant and may not be assigned to another without written permission of the Council.

D. Declaratory Rulings: Interested persons may petition the Council for declaratory rulings. The Council shall rule on each petition, in writing, within 45 days of receipt.

30-10 Critical Area Boundaries.

A. Coastal Waters and Tidelands:

(1) The Council has permit authority over the coastal waters and tidelands critical areas defined in Section 3 of the Act as follows:

"'Coastal waters' means the navigable waters of the United States subject to the ebb and flood of the tide and which are saline waters, shoreward to their mean high-water mark. Provided, however, that the Council may designate boundaries which approximate the mean extent of saline waters until such time as the mean extent of saline waters can be determined scientifically. 'Tidelands' means all areas which are at or below mean high tide and coastal wetlands, mudflats, and similar areas that are contiguous or adjacent to coastal waters and are an integral part of the estuarine systems involved. Coastal wetlands include marshes, mudflats, and shallows and means those areas periodically inundated by saline waters whether or not the saline waters reach

the area naturally or through artificial water courses and those areas that are normally characterized by the prevalence of saline water vegetation capable of growth and reproduction. Provided, however, nothing in this definition shall apply to wetland areas that are not an integral part of an estuarine system. Further, until such time as the exact geographic extent of this definition can be scientifically determined, the Council shall have the authority to designate its approximate geographic extent."

Using biological field surveys and aerial photography, the Council has found the point on the upper reaches of the estuarine systems where tideland vegetation changes from predominately brackish to predominately fresh and has established a boundary using the nearest recognizable physical features within this area. This boundary has been posted on an official map in the Coastal Council's principal office of business and is available for public review. An approximate description of this boundary is as follows: on the south at the intersection of the South Carolina-Georgia border and the old track bed of the Seaboard Coastline (SCL), approximately 1.75 miles above the U. S. Highway 17A bridge across the Savannah River; thence, northeastward along the track bed until its intersection with U. S. Highway 278 near Eutaw Creek; thence, northward along U. S. 278 for approximately one mile until its intersection with S. C. 462; thence, north-northwestward along S. C. 462 until its intersection with U. S. Highway 17 near Coosawatchie; thence, northeastward along U. S. 17 until its intersection with S-15-26, approximately two miles east of Green Pond; thence, southward along S-15-26 until its intersection with the old SCL track bed near Airy Hall; thence, east-northeastward along the track bed to its intersection with S. C. 174; thence, northward along S. C. 174 for approximately 1.5 miles until its intersection with S. C. 164; thence, east-northeastward approximately three miles along S. C. 164 until its

intersection with S. C. 165; thence, northward along S. C. 165 until its intersection with S. C. 642; thence, southeastward along S. C. 642 until its intersection with U. S. Interstate 26; thence, southward along I-26 until its intersection with S. C. 7; thence, northeastward on S. C. 7 until its intersection with the SCL track bed adjacent to Spruill Avenue; thence, northward along this track bed until its intersection with the Charleston County/Berkeley County line, approximately one-fifth mile north of Remount Road; thence, east-northeastward along the county line until its intersection with the Cooper River at Goose Creek; thence, eastward by a straight line across the Cooper River and Yellow House Creek to Yellow House Landing on Yellow House Creek; thence, southward along the only dirt road leading from the landing to S-8-33; thence, northeastward along S-8-33 until its intersection with S-8-100; thence, northeastward along S-8-100 until its intersection with S-10-98; thence, southward along S-10-98 until its intersection with U. S. Highway 17; thence, northeastward along U. S. Highway 17 until its intersection with S-27-30 north of the North Santee River; thence, eastward along S-27-30 for approximately five miles; thence, northward along S-27-30 until its intersection with S-27-18; thence, northwestward along S-27-18 until its intersection with U. S. Highway 17; thence, northeastward along U. S. 17 until its intersection with the South Carolina-North Carolina border. In determining the exact location of this boundary, only those lands seaward of the road beds and track beds described shall be included in the tidelands and coastal waters critical areas.

(2) All coastal waters and tidelands seaward from the boundary to the state jurisdictional limit are included within the critical areas.

B. Beaches and Sand Dunes: The Council has permit authority over the beaches and primary ocean front sand dunes. In determining the critical area

boundaries in these areas, the Council will be guided by the definitions in Section 3 of the Act.

(1) "'Beaches' means those lands subject to periodic inundation by tidal and wave action so that no nonlittoral vegetation is established." The boundary of the beach critical area shall extend from the waters landward to a point that is not periodically inundated by tidal or wave action; this point is usually delineated as the landward edge of the beach zone where nonlittoral vegetation begins.

(2) "'Primary ocean front sand dunes' means those dunes which constitute the front row of dunes adjacent to the Atlantic Ocean." The Coastal Council has recognized the primary ocean front sand dunes as a coastal resource in which the whole beach and dune system acts as a buffer for protecting property from erosion and storm damage and serves as a source of beach nourishment. If the crest of a primary front row sand dune is not reached within 200 feet landward from mean high water, that sand dune is not considered adjacent to the Atlantic Ocean. Council permitting authority shall extend: (1) to the landward trough of the primary front row sand dune if the crest of this dune is reached within 200 feet landward of mean high water; (2) to the seaward side of any maritime forest or upland vegetation if reached before the primary front row sand dune; (3) to the seaward side of any permanent man-made structure which was functional in its present form on September 28, 1977, where such structure is located seaward of any primary dune and within 200 feet of mean high water. For the purposes of this section, fences, temporary erosion control structures, walkways and publicly-funded erosion control projects do not constitute permanent man-made structures.

30-11 General Guidelines for all Critical Areas.

A. Preface: The critical areas are of vital importance to the State, and there is strong and growing pressure for the development of these areas. The South Carolina Coastal Council has established these rules and regulations for permit applications in an effort to reduce the loss of productive tidelands, coastal waters, beaches, and dunes while meeting long-range State development needs.

B. General Considerations: In assessing the potential impacts of projects in critical areas, the Council will be guided by the policy statements in Section 1 and 2 of the Act and the following ten considerations in Section 15 of the Act:

"(1) The extent to which the activity requires a waterfront location or is economically enhanced by its proximity to the water;

(2) The extent to which the activity would harmfully obstruct the natural flow of navigable water. If the proposed project is in one or more of the state's harbors, or in a waterway used for commercial navigation and shipping, or in an area set aside for port development in an approved management plan, then a certificate from the South Carolina State Ports Authority declaring that the proposed project or activity would not unreasonably interfere with commercial navigation and shipping must be obtained by the Council prior to issuing a permit;

(3) The extent to which the applicant's completed project would affect the production of fish, shrimp, oysters, crabs, or clams or any marine life or wildlife, or other natural resources in a particular area, including but not limited to water and oxygen supply;

(4) The extent to which the activity could cause erosion, shoaling of channels or creation of stagnant water;

(5) The extent to which the development could affect existing

public access to tidal and submerged lands, navigable waters and beaches, or other recreational coastal resources;

(6) The extent to which the development could affect the habitats for rare and endangered species of wildlife or irreplaceable historic and archeological sites of South Carolina's coastal zone;

(7) The extent of the economic benefits as compared with the benefits from preservation of an area in its unaltered state;

(8) The extent of any adverse environmental impact which cannot be avoided by reasonable safeguards;

(9) The extent to which all feasible safeguards are taken to avoid adverse environmental impact resulting from a project;

(10) The extent to which the proposed use could affect the value and enjoyment of adjacent owners."

C. Further Guidelines: In the fulfilling of its responsibility under Section 15(A) of the Act, the Council must in part base its decisions regarding permit applications on the policies specified in Sections 1 and 2 of the Act, and thus, be guided by the following:

(1) The extent to which long-range, cumulative effects of the project may result within the context of other possible development and the general character of the area.

(2) Where applicable, the extent to which the overall plans and designs of a project can be submitted together and evaluated as a whole, rather than submitted piecemeal and in a fragmented fashion which limits comprehensive evaluation.

(3) The extent and significance of negative impacts on Geographic Areas of Particular Concern (GAPC). The determination of negative impacts will be made by the Coastal Council in each case with reference to the priorities of

use for the particular GAPC. The priorities of use are found in Chapter IV of the Coastal Management Program.

30-12 Specific Project Standards for Tidelands and Coastal Waters.

A. Docks and Piers:

(1) A dock or pier is a structure built over and/or floating on water and is generally used for the mooring of boats. Docks and piers are the most popular method of gaining access to deep water. Although they are the least objectionable from an ecological point of view, docks and piers sometimes pose navigational problems, restrict public use of the water and, under certain circumstances, possess potential for creating environmental problems.

(2) The following standards are applicable for construction of docks and piers:

(a) Docks and piers shall not impede navigation or restrict the reasonable public use of State lands and waters;

(b) Docks and piers shall be constructed in a manner that does not restrict waterflow;

(c) The size and extension of a dock or pier must be limited to that which is reasonable for the intended use;

(d) Docks and piers should use the least environmentally damaging alignment;

(e) All applications for docks and piers should accurately illustrate the alignment of property boundaries with adjacent owners;

(f) To preclude the adverse effects of shading marsh vegetation, walkways which are built over vegetated marsh and lead to the dock or pier shall not exceed four feet in width (unless the applicant can justify a

need for a wider structure) and should be elevated at least three feet above mean high water;

(g) Dry storage in uplands will be encouraged in preference to moorage in crowded areas;

(h) Developers of subdivisions, motels, and multiple family dwellings will be encouraged to develop joint-use moorage facilities while their plans are in the development stage;

(i) Project proposals shall include facilities for the proper handling of litter, waste, refuse, and petroleum products, where applicable;

(j) Where docks and piers are to be constructed over tidelands utilized for shellfish culture or other mariculture activity, the Council will consider the rights of the lessee and the public prior to approval or denial.

B. Boat Ramps:

(1) Boat ramps provide access to the water for those who do not have water access by means of docks, piers, or marinas. However, boat ramp construction may require filling or, in some cases, dredging of wetland areas.

(2) Specific standards which shall apply are as follows:

(a) Filling of vegetated wetlands for boat ramp construction is prohibited unless no feasible alternatives exist in non-vegetated wetland areas. In addition, the area to be filled must be limited to that which is reasonable for the intended use;

(b) Boat ramps must consist of environmentally acceptable materials, demonstrate sound design and construction so that they could reasonably be expected to be safe and effective, and minimize adverse effects.

(c) Justification for boat ramp construction in

environmentally sensitive areas shall be considered using the following priorities:

(i) public use - open to all citizens;

(ii) restricted use - open to citizens of a particular area or organization only;

(iii) private use - use for one citizen or family;

(d) In cases where private use is necessary, siting of ramps must, wherever feasible, be located in areas where the least environmental impact will accrue to the area;

(e) Boat ramp location requiring dredging or filling of wetlands to provide deepwater access to the ramp, parking areas for the ramp, or other associated facilities are prohibited unless no feasible alternatives exist and environmental impacts can be minimized;

(f) The siting of "public use" boat ramps is encouraged in easily accessible areas such as bridges and existing, abandoned causeways, provided that these sites comply with other applicable regulations.

C. Bulkheads and Revetments (Riprap) (Other than ocean front, as covered under R.30-13(A)):

(1) In an attempt to mitigate certain environmental losses that can be caused by these structures, the following standards are adopted:

(a) Structures must be designed to conform to the existing shoreline (upland boundary), to the maximum extent feasible, and constructed so that reflective wave energy does not destroy stable marine bottoms or constitute a safety hazard;

(b) Where possible, sloping riprap structures should be used

rather than vertical seawalls;

(c) Where feasible, bulkhead and revetment construction should avoid sharp angle turns that may collect debris or cause shoaling or flushing problems;

(d) Bulkheads and revetments will be discouraged where marshlands are adequately serving as an erosion buffer, where adjacent property could be detrimentally affected by erosion, sedimentation, or obstruction of view, or where public access is adversely affected;

(e) Bulkheads and revetments will not be approved where public access is adversely affected unless no feasible alternative exists.

D. Cables, Pipelines, and Transmission Lines:

(1) Installation of cables, pipelines, and transmission lines is preferred in non-wetland areas; however, excavating activities in critical areas are sometimes required. Excavation and filling also are sometimes required to construct foundation structures attendant to the installation of overhead transmission line crossings. These installations shall be designed to minimize adverse environmental impacts.

(2) In addition to standards for dredging and filling, the following standards are applicable:

(a) To the maximum extent feasible, alignments must avoid crossing the critical areas;

(b) Creation of permanent open water canals to install pipelines is generally prohibited since such projects usually interfere with drainage patterns and may adversely affect water quality through accelerated bank erosion;

(c) Dimensions of excavated canals for cables and pipelines

should be minimal. Silt curtains are recommended for all excavations;

(d) Wherever feasible, all excavations in wetland areas must be backfilled with the excavated material after installation of the appropriate structure, while being careful to maintain the original marsh elevation;

(e) Appropriate erosion control measures shall be employed during the crossing of wetland areas. Where appropriate, revegetation with suitable wetland species will be required;

(f) Alignments of new projects must be designed to utilize existing rights-of-way and topographic features, wherever feasible;

(g) The extension of public services, such as sewer and water facilities, involving the expenditure of public funds or issuance of government revenue bonds to previously undeveloped barrier islands will not be approved unless an overriding public interest can be demonstrated.

E. Marina Location and Design:

(1) Marinas are facilities that provide boat launchings, storage, moorage, supplies, and services. There are three basic types of marinas:

(a) the open structure type where open pile work and/or floating breakwaters are used;

(b) the solid construction type where bulkhead and landfill are used to provide moorings and shelters;

(c) the dry storage type where boats are stored in specially designed warehouses placed entirely on high land.

(2) Commercial docks are also considered a marina type facility. The standards that apply to marinas will also be used as criteria in the evaluation of permit applications for commercial docks.

(3) All marinas affect aquatic habitats to some degree, but adverse effects can be minimized by utilizing proper location and design

features. Application for marinas shall include a comprehensive site plan showing location and number of all water-dependent and upland facilities such as parking and storage facilities.

(4) In addition to standards for bulkheads and seawalls, docks and piers, dredging and filling, and navigation channels and access canals, the following standards are applicable:

(a) Marinas should be located in areas that will have minimal adverse impact on wetlands, water quality, wildlife and marine resources, or other critical habitats;

(b) Where marina construction would affect shellfish areas, the Council must consider the rights of the lessee, if applicable, and the public, and any possible detrimental impacts on shellfish resources;

(c) Marinas should be located in areas where maximum physical advantages exist and where the least initial and maintenance dredging will be required;

(d) Marinas must avoid or minimize the disruption of currents. Dead-end or deep canals without adequate circulation or tidal flushing will not be permitted unless it can be demonstrated that water quality will not be adversely affected;

(e) Marina design must minimize the need for the excavation and filling of shoreline areas;

(f) Open dockage extending to deep water is usually preferable to excavation for boat basins, and it must be considered as an alternative to dredging and bulkheading for marinas;

(g) Turning basins and navigation channels shall be designed to prevent long-term degradation of water quality. In areas where there is

poor water circulation, the depth of boat basins and access canals should not exceed that of the receiving body of water to protect water quality;

(h) Project proposals shall include facilities for the proper handling of petroleum products, sewage, litter, waste, and other refuse with regard to the South Carolina Department of Health and Environmental Control (DHEC) specifications.

The following minimal on-shore restroom and shower facilities will be used as guidelines and where applicable may be required as a condition of any marina permit so as to protect water quality of the affected waters:

No. Slips or Moorings	Toilet (head) Men-----Women	Urinals Men	Lavatories Men--Women	Showers Men-Women
1 - 20	1 - 1	1	1 - 1	1 - 1
21 - 40	1 - 2	1	2 - 2	2 - 2
41 - 60	2 - 3	2	2 - 2	2 - 3
61 - 80	3 - 4	2	3 - 3	3 - 3
81 -100	3 - 5	3	3 - 3	3 - 3

If there are more than 100 slips, there shall be provided one additional toilet (head), lavatory and shower for each sex for each additional 40 slips or fraction thereof and one additional men's urinal for each 100 additional slips or fraction thereof.

Additional facilities are required by DHEC where restaurants, motels, laundries, and other nonwater-dependent structures are provided.

All pump-out and sewage facilities must be included in the public notice and certified by DHEC before permit approval. Also, DHEC can provide advice regarding the necessity of having hose connections from boats to shore-based sewage facilities where these boats are used as residences.

Trash receptacles or similar facilities should be plentiful and

convenient for the proper disposal of trash, waste and noxious materials such as paints, rags and oil cans required for normal boat maintenance and repair.

Where feasible, boat maintenance areas must be designed so that all bottom scraping and painting be accomplished over dry land allowing for proper control and deposition of residues, spills and storm water runoff;

(i) Dry storage type marinas are preferred, wherever feasible;

(j) Applications for construction of marina and commercial dock facilities will be considered by the Council only after adequate demonstration by the applicant of demand for the facilities;

(k) Applications for marinas must include maintenance dredging schedules and dredged material disposal sites when applicable.

F. Transportation:

(1) There is often a strong public need for transportation projects. Unfortunately, such projects can pose a significant risk of environmental degradation. However, careful consideration of environmental factors can guide development toward more favorable results. To the maximum extent possible, environmental considerations shall be harmonious with public safety considerations.

(2) The specific standards are as follows:

(a) In the planning of major transportation routes and airports, these projects should be sited for location inland from the critical areas;

(b) The location and design of public and private transportation projects must avoid the critical areas to the maximum extent feasible. Where coastal waters and tidelands cannot be avoided, bridging rather than filling of these areas will be required to the maximum extent

feasible;

(c) Where wetlands will be destroyed, their value as wetlands will be assessed by the Council and weighed against public need for their destruction;

(d) To the maximum extent feasible, transportation structures must be designed so as not to alter the natural waterflow and circulation regimes or create excessive shoaling or erosion. Where applicable, adequate clearance for commercial and pleasure craft must be provided;

(e) Where feasible, maximum care shall be taken to prevent the direct drainage of runoff water from transportation routes and associated facilities from entering adjacent water bodies;

(f) Where appropriate, bridges and approaches should be designed to provide for the enhancement of public access by the utilization of fishermen catwalks, boat launching ramps, and other structural features;

(g) During the planning of a multi-lane widening or improvement project, it is preferable to follow the existing alignment in wetland areas. Existing causeway and fill areas must be utilized wherever possible. The degree to which any existing causeway through wetlands can be widened must be reasonably proportionate to the expected traffic load of the causeway in the near future and the size and use of the area being provided access. The width of medians of divided highways must be reduced as much as possible wherever they cross wetland areas;

(h) Roadway embankments and fill areas shall be stabilized by utilizing appropriate erosion devices and/or techniques in order to minimize erosion and water quality degradation problems. Culverts shall be required, where appropriate, in order to maintain normal tidal influence and minimize disruption of drainage patterns;

(i) The Council will require applicants for transportation project permits to consider the accommodation of other public utilities in facility design, thus avoiding unnecessary future alteration such as that caused by the laying of cables or transmission lines in wetlands adjacent to an existing roadway;

(j) New road or bridge projects involving the expenditure of public funds to provide access to previously undeveloped barrier islands will not be approved unless an overriding public interest can be demonstrated.

G. Dredging and Filling:

(1) Development of wetland areas often has been considered synonymous with dredging and filling activities. Dredging and filling in wetlands can be expected to have adverse environmental consequences; therefore, the Council discourages dredging and filling. There are cases, however, where such unavoidable environmental effects are justified if legitimate public needs are to be met.

(2) The specific standards are as follows:

(a) The creation of commercial and residential lots strictly for private gain is not a legitimate justification for the filling of wetlands. Permit applications for the filling of wetlands and submerged lands for these purposes shall be denied, except for erosion control, see R.30-12(C), or boat ramps, see R.30-12(B). All other dredge and fill activities not in the public interest will be discouraged;

(b) Dredging and filling in wetland areas shall be undertaken only if the proposed activity is water-dependent and there are no feasible alternatives;

(c) To the maximum extent feasible, dredging and filling activities should be restricted in nursery areas and shellfish grounds and

during periods of migration, spawning, and early development of important sport and commercial species;

(d) Dredging and excavation shall not create stagnant water conditions, lethal fish entrapments, or deposit sumps or otherwise contribute to water quality degradation;

(e) Designs for dredging and excavation projects shall, where feasible, include protective measures such as silt curtains, diapers, and weirs to protect water quality in adjacent areas during construction by preventing the dispersal of silt materials;

(f) Dredged materials shall be deposited and contained in such a manner so as to prevent dispersal into adjacent wetland areas;

(g) Applications for dredging in submerged and wetland areas for purposes other than access, navigation, mining, or drainage shall be denied, unless an overriding public interest can be demonstrated. Dredging permits for mining will be issued only as specified in (2)(h) below. Drainage permits must be consistent with the provisions in R.30-12(L);

(h) Applications for dredging for mining activities within the critical areas will be denied unless a significant portion of the resource is located in the critical area, extraction of the resource is clearly necessary, and benefits derived from extraction would outweigh resultant detrimental impacts on coastal ecosystems. For any permit issued to allow dredging for mining operations in the critical areas, a complete site reclamation plan shall be required;

(i) Wetlands shall not be utilized as depositories for waste materials except as discussed in R.30-12(I);

(j) In all cases, dredging activities shall not be approved until satisfactory disposal sites have been acquired.

H. Navigation Channels and Access Canals:

(1) Certain dredging activities involve the creation and maintenance of navigation channels and access canals. These activities have a potential for severe environmental impacts and should meet a demonstrated public need.

(2) Where the Council determines that such activities are justified, the following standards will be applied:

(a) Dredging for establishment of new canals which involves permanent alteration of wetland habitats will be prohibited unless no feasible alternative exists. Establishment of canals for purposes of creating waterfront lots from inland property will be prohibited unless it can be demonstrated that there will be no significant environmental impacts on critical areas;

(b) To the extent feasible, project plans must utilize piers or catwalks, rather than channels or canals, to reach deeper water areas;

(c) Access canals shall be designed to insure adequate flushing and shall not create dead-end or stagnant water pockets. Open-ended, U-shaped, or semicircular canals are generally preferred over dead-end canals since they usually provide better water circulation;

(d) Highland waterway construction that is slated to be tied into wetland areas shall be constructed in the dry, if feasible, so that sloping and stabilization of the banks can be completed before the plug is removed for the connection to open waters. Where dry construction is not possible, temporary plugs or silt curtains at the end of canals connected to waterways should be maintained until all sediment settles out;

(e) The sides of navigation channels and access canals should be gently sloping rather than vertical to facilitate biological as well

as physical stabilization of the canal banks;

(f) When several landowners are to be served by a project, dredging for navigation channels and access canals should be well planned to prevent unnecessary excavation. Tributary canals in the highlands leading to a central navigation channel should be utilized rather than separate channels for each waterfront landowner;

(g) The berm of access canals should be raised so that there is a gradual slope away from the canal edge. This will help prevent introduction of contaminants into adjacent wetland areas;

(h) Alignment of channels and canals must make maximum use of natural or existing channels. Alignment of channels and canals should avoid shellfish beds, nursery areas, and spawning areas in wetlands.

I. Deposition of Dredged Material:

(1) The deposition of dredged materials resulting from numerous dredging activities along the coast has serious environmental effects separate from the original dredging activity. Thousands of acres of productive wetland habitat have been destroyed by such deposition. Recognizing that additional disposal sites will be required, it is important that site acquisition proposals include plans for mitigating any adverse impacts upon the environment.

(2) The following standards are to be utilized:

(a) Upland disposal of dredged material shall always be sought in preference to disposal in wetlands. Vegetated wetlands and mudflats shall not be utilized for disposal of dredged materials unless there are no feasible alternatives. Any other wetlands should not be utilized for disposal of dredged materials when other alternatives exist;

(b) Open water and deep water disposal should be considered

as an alternative if highland alternatives are not feasible. However, open and deep water disposal sites should be seriously considered only after careful consultation with the Council and other relevant state and federal agencies;

(c) Dredged materials containing hazardous levels of toxic material must be disposed of with extraordinary caution. These materials shall never be disposed of in wetland areas and only in highland areas which are lined and diked with impervious materials. These materials will only be disposed in open water ocean dumping sites when maximum safety has been demonstrated after thorough review by the Coastal Council and other appropriate state and federal agencies;

(d) Dikes surrounding disposal areas should be shaped and vegetated immediately to minimize erosion, with outfalls positioned to empty into non-wetland areas;

(e) Future disposal sites shall be reviewed on a case-by-case basis;

(f) Wherever feasible, existing disposal areas shall be utilized to the fullest extent possible; this would include raising the height of embankments to increase the holding capacity of the disposal area;

(g) Consideration must be given to the temporal aspects of spoil deposition--for example, impacts on spawning, fish migrations, shellfish harvesting, waterfowl nesting and wintering areas, and mosquito control. Attention must be given to possible adverse impacts of various alternative sites on the public health and welfare as well as on critical fish and wildlife areas;

(h) In all cases, dredging activities shall not be approved until satisfactory disposal sites have been acquired.

J. Waste Treatment Systems:

(1) Several agencies regulate the installation and operation of waste water treatment facilities, septic tanks, and landfills. Council permits will be coordinated with these relevant agencies. Normal maintenance and repair of sewer facilities are exempted from Council permit requirements by Section 13(D) of the Act. The discharge of treated effluent is also exempted; provided, however, that the Council shall review and comment on these discharges. The Council is concerned primarily with wetland degradation problems which could involve commercially important shellfish, recreational fisheries, and critical wildlife habitats.

(2) Standards applicable to these installations are as follows:

(a) Applications for the construction of lagoons or impoundments for waste treatment facilities, solid waste disposal sites and similar activities in the critical areas shall be denied unless there are no feasible alternatives and it can be demonstrated that there will be no significant environmental impacts;

(b) Wherever feasible, construction and design of waste treatment facilities shall be accomplished in such a manner that no effluent will be discharged into areas where shellfish and other marine resources would be adversely affected. Where waste treatment facilities would affect open, productive shellfish harvesting areas, the Council must consider the rights of the lessee, if applicable, or the public in the case of public oyster grounds, as well as impacts on shellfish resources;

(c) The siting of sewage treatment systems should avoid the critical areas. The location of structures other than actual pipelines, such as pump or lift stations, in critical areas will be prohibited unless no feasible alternatives exist;

(d) The construction of sewage treatment facilities and

associated discharge pipes should be located and designed so as not to have adverse impacts upon areas of significant public use.

K. Marsh Impoundments for Recreational and Commercial Activities:

(1) Marsh impoundments totalling nearly 69,000 acres comprise a significant portion (approximately 16 percent) of our coastal wetlands. An additional acreage, perhaps equaling this figure, has been impounded in the past but consists today of tidally influenced areas where embankments are no longer maintained. Once important rice growing areas, the majority of these impoundments are managed primarily for recreational waterfowl hunting, wildlife sanctuaries, and other commercial, agricultural, and preservation uses.

(2) Proposals will be reviewed on a case-by-case basis according to the following standards:

(a) Impoundment of previously undisturbed saline and brackish marshes shall be denied unless an overriding public interest can be demonstrated;

(b) Permit applications for the rediking and embankment repair of former impoundments must include details describing intent and use as well as management plans which will be subject to Council review. Upon approval, an impoundment management plan will become a condition of the permit.

L. Drainage Canals or Ditches:

(1) Drainage canals or ditches should follow the least damaging alignment and must meet one or more of the following needs:

(a) insect or vector control as a public health necessity;

(b) other public health purposes;

(c) the control of runoff as part of a comprehensive floodplain management plan.

(2) In addition to the application standards for dredging and

filling and navigation channels and access canals, the following standards shall apply:

(a) Drainage canals and ditches shall not create dead water or stagnant pockets;

(b) To the extent feasible, the alignment of drainage canals shall avoid productive wetlands;

(c) To the extent feasible, alignments of canals shall make maximum use of existing deep water channels to avoid unnecessary excavation;

(d) To the extent feasible, the quantity and quality of any discharged waters shall not result in extensive alteration of wetlands or the quality of coastal waters;

(e) All dredged material must be disposed of in accordance with the regulations under R.30-12(I).

M. Nonwater-dependent Structures: Nonwater-dependent structures, as defined in Section R.30-1(C), have been built in the past on pilings over coastal waters and tidelands critical areas. Nonwater-dependent structures shall be prohibited from being constructed over or in tidelands and coastal waters critical areas unless there is no significant environmental impact, an overriding public need can be demonstrated and no feasible alternatives exist.

30-13 Specific Project Standards for Beaches and Dunes.

A. Erosion Control:

(1) The following regulations apply to all erosion control projects:

(a) In review of erosion control projects, the Council will consider the best available data. Data to be considered includes, but is not limited to, sediment and sand budget in the project area and the extent of

possible updrift or downdrift damage from the project, particularly adverse effects on adjoining property owners, accelerated erosion of the beach area, and public access;

(b) The Council will promote the use of natural features of the dune and beach system rather than artificial protection;

(c) The Council will consider the extent to which the project is consistent with a comprehensive shore protection program for that particular stretch of beach;

(d) Erosion control structures must not interfere with existing or planned public access unless other adequate access can be provided;

(e) Public funds can be expended for beach or shore erosion control only in areas to which the public has full and complete access (as defined in Chapter IV(D), S. C. Coastal Management Program);

(f) All erosion control projects must consist of environmentally acceptable materials, demonstrate sound design and construction so that they could reasonably be expected to be safe and effective, and minimize adverse effects to the beach. All structures placed in the beach and sand dune critical areas must be maintained in an intact, useable condition, or removal may be sought at the owner's expense;

(g) Erosion control structures should not normally be approved except when erosion imminently threatens permanent improvments, including but not limited to buildings, paved parking lots, swimming pools, etc., which existed on the subject property 90 days after adoption of this regulation; or, in the case of protecting property adjacent to existing erosion control structures; or, in the case of structures specifically called for in an approved erosion control plan.

(2) Seawalls, Bulkheads, and Revetments:

(a) These structures can protect features behind them, but they will not protect the beach on their seaward side. If such structures are constructed on an eroding beach, the erosion will in most cases continue, and the dry beach area will diminish and eventually disappear. In many cases, seawalls contribute to erosion of the beach to their front as well as to the property on either side.

(b) Specific standards for seawalls, bulkheads, and revetments include the following:

(i) All applications for construction of a seawall/bulkhead/revetment in the beach or sand dune critical areas for purposes of filling behind these structures for the creation of land for private or public developments shall be denied by the Council, unless there is no feasible alternative;

(ii) To the maximum extent feasible, sand shall not be removed from the beach critical area for use as fill behind seawalls or bulkheads as the loss of this sand to the system could contribute to increased erosion;

(iii) Seawalls, bulkheads, and revetments shall not be placed in front of sand dunes unless there is no feasible alternative.

(3) Groins and Jetties:

(a) Groins and jetties interfere with the natural system of currents and sediment, and their effect is not always beneficial. For this reason, applications for these structures shall be carefully reviewed to determine their overall effect.

(b) The following standards shall apply:

(i) Groins should be constructed so that they can be altered or removed if they cause undesirable effects;

(ii) Where feasible, jetties shall be designed to provide recreational fishing opportunities;

(iii) Construction activities should be scheduled so as not to interfere with nesting and brood-rearing activities of sea birds, sea turtles, or other wildlife species.

(4) Offshore Breakwaters: Offshore breakwaters should only be constructed after careful review and when there are provisions, including total removal if necessary, to mitigate any harmful effects.

(5) Protection of Beaches and Artificial Beach Nourishment:

(a) Since a beach is very effective in dissipating wave action, a wide beach is a form of shore protection. To be effective the nourishment material must be of a compatible grain size with the natural beach.

(b) The following guidelines apply to projects for the nourishment or other management of beaches:

(i) Careful study must be given to the type (grain size, quality, etc.) of material most suitable for nourishment in a particular beach area;

(ii) Borrow areas and sand for artificial nourishment should be carefully selected to minimize adverse effects. Where possible, consideration should be given to performing artificial beach nourishment in concert with inlet stabilization or navigation projects;

(iii) Dredging in the borrow areas should not be in conflict with spawning seasons or migratory movements of significant estuarine or marine species. Nourishment of beach areas should be scheduled so as not to interfere with nesting and brood-rearing activities of sea birds, sea turtles, or other wildlife species;

(iv) All policies concerning dredging and filling (R.30-

will be applied to beach nourishment proposals;

(v) Sand from the beach critical area should not be ɜntly removed from the system.

(6) Other Erosion Control Structures: Before permitting any n control structures, the Council will consider the possible harmful side s and may require removal of structures at the owners' expense if such s occur. These structures must also conform to other applicable ɪtions of this section.

B. Sand Dune Management:

(1) Walkways: Walkways over dunes, as provided in Section 13(D) ɜ Act, shall meet the following requirements:

(a) be constructed of wood;

(b) have a maximum width of six feet;

(c) conform with the contour of the dunes;

(d) not displace any sand in a critical area;

(e) be constructed with as little environmental damage as ɜible.

(2) Protection, Restoration or Building of Dunes: Projects to tect, restore, or build dunes shall conform to the following standards:

(a) Except for walkways over sand dunes, as provided in ɪtion 13(D) of the Act, alteration to a primary sand dune shall be rmitted unless it can be demonstrated that there will be no permanent ɜleterious effects. (See 30-13(C));

(b) The use of natural beach vegetation to trap blowing sand ɪs encouraged. Where traffic has destroyed natural vegetation, the use of temporary sand fencing or its equivalent may be permitted;

(c) The construction of a dune by using beach sand and

mechanical equipment should be permitted only for restoration after unusual damage, such as that caused by a hurricane;

(d) Bulkheads, seawalls, and revetments shall not be placed in front of sand dunes unless there is no feasible alternative;

(e) Artificial dunes should not be constructed seaward of the normal spring high-tide line;

(f) Any artificially constructed dunes shall be aligned to the greatest extent possible with existing dune ridges and shall be of the same general configuration as adjacent dunes.

C. Nonwater-dependent Structures: Nonwater-dependent structures, including but not limited to residences, restaurants, motel/hotel facilities, other commercial activities, and parking facilities, have been constructed in the past on primary sand dunes and beaches. The siting of such nonwater-dependent structures on or over the primary sand dunes and beaches will be prohibited where other feasible alternatives exist.