

Regulation 30-11

General Guidelines for all Critical Areas

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SC DEPARTMENT of
**ENVIRONMENTAL
SERVICES**

Statutory Authority:

1976 Code Sections 48-6-10 et seq., 48-39-10 et seq., and 2023 Act No. 60, effective July 1, 2024

Regulation History as Published in State Register

Date	Document Number	Volume	Issue
June 7, 1978	-	2	15
June 26, 1981	-	5	13
May 25, 1990	1183	14	5
May 24, 1991	1341	15	5
June 23, 1995	1826	19	6
June 25, 1999	2341	23	6
June 23, 2006	3006	30	6
May 24, 2024	5200	48	5
May 23, 2025	5327	49	5

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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 Department has established these rules and regulations for permit applications in an effort to reduce the irreversible 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 Department will be guided by the policy statements in Sections 48-39-20 and 48-39-30 and the following ten considerations in Section 48-39-150:

(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 Department 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 48-39-150, the Department must in part base its decisions regarding permit applications on the policies specified in Sections 48-39-20 and 48-39-30, 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 Department 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.

D. General Guidelines for Beaches and the Beach/Dune System: In addition to the provisions of the South Carolina Coastal Management Act of 1977, the policies of the South Carolina Coastal Management Program, and applicable rules and regulations, the Department shall base its decisions on activities in the beaches and beach/dune system critical areas on the findings and policies specified in S.C. Code Section 48-39-250 and Section 48-39-260 of the 1977 Coastal Zone Management Act, as amended, and the following:

(1) The Department shall discourage new construction in the beaches and beach/dune system critical areas and encourage beach preservation to maintain the natural processes and functionality and benefits of the beaches and the beach/dune system critical areas as defined in R.30-1(D) and S.C. Code Section 48-39-10.

(2) According to S.C. Code Section 48-39-250, the use of armoring in the form of hard erosion control devices to protect erosion-threatened structures adjacent to the beach has not proven effective and, in many instances, contributes to the deterioration and loss of the dry sand beach. The Department shall promote soft-solutions to erosion within the context of a policy of beach preservation and prevent the strengthening, enlargement and/or rebuilding of existing erosion control structures. Erosion control structures may be repaired if not destroyed more than the percentage allowed in S.C. Code Section 48-39-290(B)(2)(b)(iii). Repairs must be made with materials similar to those of the structure or device being repaired.

(3) The Department shall promote public access to the beaches of this state.

(4) The Department shall consider state and local comprehensive plans. No permit shall be issued which is inconsistent with the state plan, and all permits issued shall be consistent with local plans to the maximum extent practicable.

(5) The Department shall be guided by the prohibitions against construction contained in S.C. Code Section 48-39-290 and Section 48-39-300 which are based upon the conclusion that ill-planned development, whether habitable structures, recreational amenities, erosion control devices, or other manmade structures, will now and in the future adversely impact the fragile beaches and beach/dune system critical areas. These structures interfere with the natural system and impact the highest and best uses of the system. In order to protect the highest and best uses of the beaches and beach/dune system critical areas, the Department, in its management capacity, shall encourage minimal development therein.

(6) The destruction of beach or dune vegetation within the beaches and/or beach/dune system critical areas is prohibited unless there is no feasible alternative. When there is destruction of vegetation permitted seaward of the setback line, mitigation, in the form of planting new vegetation to rectify the destruction, is required as a permit condition. In no event shall any part of a building be constructed on a primary oceanfront sand dune.

E. Abandoned Vessels and Structures. Abandoned vessels and structures, as defined in R.30-1(D) have the potential to harm critical area environments through their physical presence and the release of contaminants

that may be associated with them. In addition, they may also be a hazard to navigation, public access and sources of unsightly and dangerous floating debris as they deteriorate and break apart. Specific standards for abandoned vessels and structures are as follows:

(1) Vessels or structures determined to be abandoned by the Department may be required to be removed from the critical area.

(2) Upon notification by the Department, the owner of the abandoned vessel or structure will have 30 days from date of notification to remove it from the critical area at his or her expense.

(3) Abandoned boats, barges, or other watercraft whose ownership cannot be established may be removed from the critical area by any person, at their expense, and in accordance with Section 50-23-135 of the SC Code of Laws, 1976.

(4) Structures, other than watercraft, whose ownership cannot be established may be removed by any person, at their expense, provided notification is provided to the Department prior to removal. Such notification shall include date and method of removal.

(5) The Department may require a permit for removal of any vessel or structure if it is deemed that the removal process will significantly impact the surrounding marsh environment.