

Purpose:

- Provide adequate environmental safeguards with respect to the construction of facilities within the critical areas of the eight coastal counties. Critical areas include:
 - Coastal waters,
 - Tidelands,
 - Beaches, and
 - Beach/dune systems.

Authority:

- S.C. Code Ann. Section 48-39-10, *et seq.* (supp. 2001), SC Coastal Zone Management Act
- 23A S.C. Code Ann. Regulations 30-1, *et seq.* (supp. 2001)

Regulated activities and impacted public:

All proposed alterations of the critical areas are regulated. Those impacted include anyone seeking to alter critical areas, those who utilize the critical areas for commercial purposes such as shell fishermen, and the general public who also utilizes and enjoys these areas.

Geographic Jurisdiction:

Those areas within the eight coastal counties that are at or below mean high tide and those areas periodically inundated by saline waters and those areas that are normally characterized by the prevalence of saline water vegetation capable of growth and reproduction. (See attached map that generally describes the area.) DHEC-OCRM staff identifies the precise location of the critical area for any project where alterations are proposed.

Description:

- In 2002, 1018 permits applications were received, 776 (76%) of these were for docks. Other types of activities permitted include dredging, bulkhead construction, and beach renourishment.
- Some of these activities may also require federal permits through the US Army Corps of Engineers (USACOE) via a joint public notice process.
- Certain activities, such as those requiring dredging or filling, or docks for commercial use, also require water quality certification under Section 401 of the Clean Water Act. This certification is performed by DHEC's Bureau of Water and is issued together with the critical area permit to streamline the process.
- Applications are placed on public notice for either 15 or 30 days, depending on the activity, during which comments from agencies, adjacent property owners, and other interested parties are solicited.
- A public hearing is required with receipt of 20 letters requesting such or if an elected official makes a request.
- Decisions are required within either 30 or 90 days after a file is complete.
- Staff site visits are made, decision documents prepared for the file, and applications are approved, approved with conditions, or denied.

- Applicants must notify DHEC-OCRM at the start of construction.

Coordination:

- Notice of applications are routinely submitted to other state and federal agencies such as SC Department of Natural Resources, SC State Ports Authority, SC Department of Archives and History, US Fish and Wildlife Service, National Marine Fisheries Service, and US Environmental Protection Agency. These agencies provide comments that are considered in determining the final DHEC-OCRM decision.
- If a USACOE permit is also required, a single public notice process jointly administered with DHEC-OCRM is implemented.
- Likewise, for permits needing 401 certification through DHEC Bureau of Water the process simplified by issuance of a single DHEC approval from DHEC-OCRM that incorporates the 401 water quality certification.
- Local governments are also notified and included in the review.

Appeal Process:

- In 2002, 42 permits, 4%, were appealed; 38 (90%)
- Permit decisions must be appealed within 15 days.
- The Administrative Law Judge (ALJ) Division hears appeals. They are typically heard within 4-6 months, depending on complexity.
- The ALJ decision may be appealed to Coastal Zone Management Appellate Panel (CZMAP). They are typically heard within 3-4 months
- CZMAP decision must be appealed within 30 days.
- Circuit Court review typically takes 12 months or more.

Strengths:

- Open public review process via easily available public notices.
- Codified, published, easily available regulations as a “road map.”
- Regulated community familiar with program.

Shortcomings:

- The regulatory revision process is cumbersome and time-consuming.
- Applicants can be delayed by incomplete submittals, use of public hearings as a delaying tactic, and frivolous appeals.
- The Clean Water Act allows up to 1 year for DHEC’s issuance of a water quality certification.

Coastal Zone Critical Area of South Carolina

