

# Regulation 30-5

## Exceptions

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**Statutory Authority:**

S.C. Code Sections 48-39-10 et seq.

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A. List of Exceptions: Section 48-39-130(D) lists several exceptions which do not require a permit. These are as follows:

(1) The accomplishment of emergency orders issued by the Department or by an appointed official of a county or municipality or of the state acting to protect the public health and safety. With regard to the beach/dune critical area, only the use of sandbags, sand scraping, renourishment, or a combination of them is allowed, in accordance with R.30-5.B and R.30-15.H.

(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 Department 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 Department shall have authority to review and certify all such proposed dredge and fill activities.

(5) Construction of walkways over sand dunes in accordance with R.30-13(B).

(6) Emergency repairs to an existing bank, dike, fishing pier, or structure other than oceanfront erosion control structures or devices which have been erected in accordance with federal and state laws or provided for by general law acts passed by the General Assembly, if notice is given in writing to the Department within 72 hours of the onset of needed repairs.

(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 through 58-33-430 of the 1976 Code). Provided, however, that the South Carolina Public Service Commission shall make the Department a party to certification proceedings for utility facilities within the coastal zone.

(10) Habitable structures and pools determined to be damaged less than sixty-six and two-thirds percent pursuant to R.30-14(D)(3)(a) and (b) may be repaired after acceptable documentation is provided to the Department.

(11) Erosion control structures or devices determined to be damaged less than eighty percent above grade through June 30, 1995, sixty-six and two-thirds percent above grade from July 1, 1995, through June 30, 2005, or fifty percent above grade after June 30, 2005, pursuant to R.30-14(D)(3)(c) and (d) may be repaired after acceptable documentation is provided to the Department.

B. Notification of Emergency Orders to the Department:

(1) As required in R.30-5.A(1) and R.30-15.H, emergency orders for sandbags, sand scraping or renourishment may be issued by an appointed official of a county or municipality or of the state provided:

(a) the emergency conditions conform with the definition of emergency in Section 48-39-10(U);

(b) the order is issued to protect health, safety or resources of the residents of the State as provided in Section 48-39-10(U); and

(c) the order is issued in accordance with R.30-15.H.

(2) The Department must be notified of the issuance of an emergency order by an appointed official of a county or municipality or of the state. Notification to the Department must be made in writing prior to commencement of the activity, if possible, 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.

(3) The Department shall be notified within seventy-two hours of the issuance of the emergency order. If the Department is not notified 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 issuance of the emergency order, the official ordering the emergency action shall put the elements under R.30-5.B(2)(a)-(f) in writing and file them with the Department.

(4) 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 48-39-10(U).

C. Emergency Repairs to any Existing Bank and Dike or Fishing Pier: As in A(6) above, notice by telephone, telegram or radio of emergency repairs to any existing bank, dike or fishing pier must be given to the Department 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 Department. 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: Normal maintenance and repair 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 either a Department permit or documentation to and written approval from the Department.