

Regulation 30-14

Administrative Procedures

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SC DEPARTMENT of
**ENVIRONMENTAL
SERVICES**

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A. Procedures for Local Beach Management Plan Approval and Amendments [Section 48-39-350(A)].

(1) South Carolina local governments with jurisdiction fronting the Atlantic Ocean shall submit to the Department by no later than July 1, 1990, a local beach management plan after the local government has afforded the opportunity for adequate public review.

(2) Upon receipt of the local plan, the Department shall:

(a) Afford the public a thirty day comment period;

(b) Afford the opportunity for a public hearing on the local beachfront management plan;

(c) After considering all comments, approve, modify or remand the local beachfront management plan.

(3) The Department shall issue a public notice of the approval of any local beach management plan or amendment thereto. The implementation date of the local beach management plan or amendment thereto will be specified in such public notice.

B. Procedures for State Implementation of Local Responsibilities [Section 48-39-350(B)].

(1) If a local government fails to develop and implement a local beach management plan as required by Section 48-39-350, the Department shall implement the local government's responsibilities by:

(a) Issuing public notice that the Department has found that the local government has failed to develop and implement a local beach management plan as required;

(b) Carrying out the tasks enumerated in Section 48-39-350(A)(1-10);

(c) Providing a thirty day public comment period for public review of the Department's proposed local beach management plan;

(d) Affording the opportunity for a public hearing;

(e) After reviewing all public comments, modify and/or adopt and implement the local plan.

(2) The Department may delegate responsibility for the implementation of the Department sponsored and approved local beach management plan to the local government, but the Department shall have the right to assume responsibility for administering and enforcing the plan if the local government fails to do so.

C. Procedures for State/Local Coordination During and in Response to Emergency Situations (Section 48-39-320 & 350). The issuance of the Department emergency order automatically supersedes any local emergency order for the same emergency situation.

D. Procedures for Determining Destroyed Beyond Repair (Section 48-39-290(B)).

(1) The Department shall be required to make a determination as to whether or not a structure is destroyed beyond repair under Section 48-39-290 in any of the following cases:

(a) Upon the written request of an owner of the structure or local government official;

(b) Upon its own election;

(c) As part of a damage assessment effort conducted solely by the Department or in cooperation with a local government in response to an emergency situation.

(2) The Department shall provide a copy of its determination of whether a structure is destroyed beyond repair to the property owner and the local government with jurisdiction over such structure.

(3) The Department shall employ the following procedures in determining whether a structure is destroyed beyond repair: See also R.30-14(D)(4) and (5).

(a) Habitable Structure:

(i) Following a natural disaster, the Department shall coordinate a post-storm damage appraisal with the affected unit of local governments. Pursuant to Section 48-39-270(11) the Department staff shall make the initial damage appraisal. When appropriate, the Department may use the property owner's insurance adjustor's figures to determine the damage.

(ii) If an owner disagrees with the appraisal of the Department, he may obtain a second appraisal to evaluate the damage to the building. An owner who disagrees with the appraisal of the Department must notify the Department in writing, within 90 days of receipt of the Department's determination that he intends to obtain an appraisal. If the two appraisals differ, then the two appraisers must select a third appraiser. If the two appraisers are unable to select a third appraiser, the Clerk of Court of the county in which the structure lies must make the selection. All third appraisers must be registered, professional engineers, registered architects or licensed adjustors. All third appraisers must not have been involved in either the insurance adjustment of the property or the first or second appraisal and the cost of the third appraisal will be divided equally between the Department and the property owner. In no event may the property owner begin rebuilding or repairing (other than emergency repairs) a structure until the appraisal process described herein has been completed. Nothing in this section prevents a court of competent jurisdiction from reviewing, de novo, the appraisal upon the petition of the property owner.

(b) Pools:

(i) Following a natural disaster, the Department shall coordinate a post-storm damage assessment with the affected unit of local government. Pursuant to Section 48-39-270(11) the Department shall make the initial assessment.

(ii) If an owner disagrees with the appraisal of the Department, he may obtain an appraisal to evaluate the damage to the pool. An owner who disagrees with the appraisal of the Department must notify the Department in writing, within 90 days of receipt of the Department's determination, that the owner intends to obtain an appraisal. If the two appraisals differ, then the two appraisers must select a third appraiser. If the two appraisers are unable to select a third appraiser, the Clerk of Court of the county where the pool lies must make the selection. All third appraisers must be registered, professional engineers and the cost of the third appraisal will be equally divided between the Department and the property owner. In no event may the property owner begin rebuilding or repairing a pool (other than emergency repairs) until the appraisal process described herein has been completed. Nothing in this section prevents a court of competent jurisdiction from reviewing, de novo, the appraisal upon the petition of the property owner.

(c) Seawalls and Bulkheads: In determining whether a seawall or bulkhead as defined in Section 48-39-270(1)(a) and (b) is destroyed more than eighty percent above grade through June 30, 1995, more than sixty-six and two thirds percent above grade from July 1, 1995, through June 30, 2005, and more than fifty percent above grade after June 30, 2005, the damage assessment shall be accomplished as follows:

(i) Damage to seawalls and bulkheads will be judged on the percent of the structure remaining intact at the time of damage assessment. The portion of the structure or device above grade parallel to the shoreline must be evaluated. The length of the structure or device parallel to the shoreline still intact must be compared to the length of the structure or device parallel to the shoreline which has been destroyed. The length of the structure or device parallel to the shoreline determined to be destroyed divided by the total length of the original structure or device parallel to the shoreline yields the percent destroyed. Those portions of the structure or device standing, cracked or broken piles, whalers, and panels must be assessed on an individual basis to ascertain if these components are repairable or if replacement is required.

(ii) If the property owner disagrees with the assessment of a registered professional engineer acting on behalf of the Department, he may obtain an assessment by a registered professional engineer to evaluate, in the same manner set forth herein, the damage to the structure or device. An owner who disagrees with the assessment of the Department must notify the Department in writing, within 90 days of receipt of the Department's determination, that he intends to obtain an independent assessment. If the two assessments differ, then the two engineers who performed the assessment must select a registered professional engineer to perform the third assessment. If the first two engineers are unable to select an engineer to perform the third assessment, the Clerk of Court of the county where the structure or device lies must make the selection of a registered professional engineer. The cost of the third engineer will be equally divided between the Department and the property owner. The determination of the percentage of damage by the third engineer is conclusive. In no event may the property owner begin rebuilding or repairing a seawall or bulkhead until the appraisal process described herein has been completed. The determination of the degree of destruction must be made on a lot by lot basis by reference to county tax maps.

(d) Revetments: Revetments must be judged on the extent of displacement of the stone, the effort to return these stones to the pre-storm event configuration of the structure or device, and the ability of the revetment to retain backfill material at the time of the damage assessment. If the property owner disagrees with the assessment of a registered professional engineer acting on behalf of the Department, he may obtain an assessment by a different registered professional engineer to evaluate, as set forth in this item, the damage to the structure or device. An owner who disagrees with the appraisal of the Department must notify the Department in writing, within 90 days of receipt of the Department's determination, that the owner intends to obtain an appraisal. If the two assessments differ, then the two engineers who performed the assessment must select a registered professional engineer to perform the third assessment. If the first two engineers are unable to select an engineer to perform the third assessment, the Clerk of Court of the county where the structure or device lies must make the selection of a registered professional engineer. The cost of the third engineer will be equally divided between the Department and the property owner. The determination of the percentage of damage by the third engineer is conclusive. In no event may the property owner begin rebuilding or repairing a structure until the appraisal process described herein has been completed. The determination of the degree of destruction must be made on a lot by lot basis by reference to county tax maps.

(4) Inventory: The following steps will be taken by the Department in order to insure accurate and expeditious damage appraisals can be conducted when necessary.

(a) Structures which are affected by the setback line will be identified. If the line touches any part of the structure or an attached deck, the structure is considered affected by the destroyed beyond repair provisions of the Act and additional information must be collected. By community (city, county) a list (addresses and tax map numbers) of each structure that touches the baseline and setback line will be prepared.

(b) Staff will prepare an inventory file for all structures subject to the Department regulation within their assigned community. The file will contain information relative to the location, ownership, persons to contact, and assessed value of the property, and a recent photograph of the front and rear sides of the structure. The completion of this task should include an inventory of swimming pools and erosion control devices where possible. An inventory of vertical erosion control devices should include a measurement of the parallel length of the structure and the elevation of the top of the structure. An inventory of a revetment will require that the seaward slope of the structure be determined by pulling a tape from the highest crest stone to the top of a representative toe stone. This is to be referred to as a revetment transect. Revetment transects are to begin at the northern property line and are to be repeated every 20 feet across the revetment to the southern property line. The frequency of these transects may be intensified to every 10 feet to encompass high or low extremes in the rock elevations. A schematic drawing shall depict the revetment by its transects. Beside each transect shall appear the letters (A) for adequate stone amounts, (D) for deficient stone amounts, and (S) for surplus stone amounts. Combinations of these letters on one transect will be separated by a short line that will distinguish one depiction from the other along the transect. The elevation of the top of the revetment must also be included.

(c) For habitable structures, the base value of each affected structure will be determined by consulting the tax appraisal records for each county. The values used by the Department will only be the assessed value for the structures on the lot and will not contain any land values. The Damage Assessment Coordinator will maintain a master list of all impacted structures.

(d) The staff person assigned the assessment responsibility for a particular beach community will periodically review the assessment sheets and coordinate with local communities. Assessments will be updated annually or as staff reassignments are made.

(e) Immediately after a damage incurring situation, the staff person will take the damage assessment file, preliminary damage evaluation forms for one and two story structures, and a camera and make a site visit to each property in their assigned area. The properties will be photographed and a preliminary evaluation completed for each property. This evaluation will be used to separate the properties into three categories: minor damage, possible destroyed beyond repair, and completely destroyed. At this time the person doing the assessment will try and locate any houses missing from foundations, and note any problems with the assessment process. Structures that are identified as having minor damage will be counted, the addresses and tax map numbers verified and a list compiled to be given to the Department offices and the local building official so that authorizations to make repairs can be issued promptly.

(f) The structures that are identified as possibly destroyed beyond repair will be listed, addresses verified and duplicate copies of the assessment sheets sent to the Department offices.

(5) Damage Assessment:

(a) Habitable Structures and Pools:

(i) The Damage Assessment Coordinator will assign properties determined from the preliminary survey to be possibly destroyed beyond repair to an insurance adjuster, or in the case of pools an engineer, who is under contract to the Department. The adjuster/engineer will make arrangements with the owner of the property to visit the site and prepare an estimate of the cost of repairing the structure to its previously existing condition. In the case of pools, the damage estimate will be determined by the sum of the following costs:

(1) The area of damaged walls and floor, multiplied by the unit replacement costs for the walls and floor;

(2) Demolition and removal costs;

(3) Site preparation costs.

This estimate will be based on the amount of damage to various components of the structure, and the unit cost of repairing each component as supplied by a nationally recognized estimating firm.

(ii) The Damage Assessment Coordinator will compare the repair estimates with the base value figures. In the case of habitable structures, the base value is obtained from the tax assessor or other sources deemed credible by the Department. The base value for a pool can be obtained from any of the following sources: 1) Bills and invoices submitted to the pool owner at the time of pool installation; 2) tax assessment figures; 3) estimate based on the size of the pool and the unit cost of pool construction as supplied by a nationally recognized estimating firm; 4) any other information that is determined to be reliable by the Damage Assessment Coordinator. If the repair cost is greater than 66 2/3% of the base value, the structure will be determined to be destroyed beyond repair (DBR).

(iii) A list of those structures that are repairable and those that are DBR will be maintained and distributed daily to the Department field offices. Authorization to repair buildings not DBR can be made as soon as the assessment process is completed. The owners of properties listed as DBR will be notified by letter by the Permitting Staff. All records and files pertaining to the buildings listed as DBR will be turned over to the Department's legal staff as soon as the process is completed. There will be no reassessments by the Department unless there is intervening damage.

(b) Erosion Control Devices

(i) Vertical walls: The following percentages will be used when conducting the destroyed beyond repair assessments for vertical walls: 1) pilings - 20%, 2) whalers - 20%, 3) panels - 60%. On walls with no whalers incorporated into the design, the percentage is to be 25% for the pilings and 75% for the panels. A vertical wall will be considered functional if it is no more than 2 feet out of alignment or 30 degrees, whichever is less. For concrete walls which have only one component, the intact portion above grade, parallel to the shoreline will be compared to the original shore parallel portion of the wall to determine if the structure is damaged beyond repair.

(ii) Revetments: To determine if a revetment is destroyed beyond repair, revetment transects must be conducted as described in the inventory section, R.30-14(D)(4). The post-damage transects will be compared to the original revetment configuration. If the revetment has slumped or stone been lost to the extent that the percentage of damaged revetment exceeds the percentages allowed in R.30-13(N)(3)(e), the structure is destroyed beyond repair.

(iii) Those structures which are a combination of vertical wall fronted by rock revetment will be assessed using both the method for evaluating walls and the method for evaluating revetments. The percent of the wall which is destroyed will be determined then multiplied by 50%. Likewise, the percentage of the revetment which is destroyed will be determined and then multiplied by 50%. The sum of the two damaged percentages is the percent of the complete structure which is destroyed beyond repair.

(iv) The determination of the percent of damage to an erosion control structure must be made on a lot by lot basis as referenced by county tax maps which existed on May 23, 1993.

(v) Effective date of damage appraisals: All appraisals are effective for 90 days from the date all concerned parties agree on the appraisal, unless otherwise determined by the Department. If the structure

sustains additional damage prior to the 90 day time limit, the Department may require a new assessment. If no work has begun during that 90 days, a new damage appraisal may be required before the Department will issue another permit or release letter.

E. Procedures for Adopting Baselines and Setback Lines.

(1) The Department must establish baselines and setback lines for all geographic areas where baselines and setback lines were established on or before January 31, 2012. The baselines and setback lines must be established anew during establishment cycles that are not less than every seven (7) years, but not more than every ten (10) years following a previous establishment cycle and must be based upon the best available data. Until the Department establishes new baselines and setback lines for a geographic area, the existing baselines and setback lines for the geographic area must be used.

(2) In each new establishment cycle of the baselines and setback lines, the Department must:

(a) stagger the establishment of the baselines and setback lines by geographic area and provide a tentative schedule of establishment for each geographic area on the Department's website at least one hundred twenty (120) days prior to beginning a new establishment cycle;

(b) publish proposed locations of baselines and setback lines for a geographic area on the Department's website for public input at least one hundred twenty (120) days prior to establishing the baselines and setback lines for the geographic area;

(c) on the date of the publication of the proposed locations of baselines and setback lines for a geographic area:

(i) provide notice of the publication in a newspaper of general statewide circulation and a newspaper of local circulation in the geographic area; and

(ii) make readily available to the public, including on the Department's website, the information and raw data that the Department used to determine the locations of the proposed baselines and setback lines and explanations for these determinations;

(d) hold at least one (1) public hearing in the county or municipality of a geographic area at least ninety (90) days prior to establishing the baselines and setback lines for the geographic area; and

(e) accept and review data up to thirty (30) days prior to establishing baselines and setback lines for a geographic area to determine if a proposed baseline or setback line for the geographic area should be revised.

(3) Upon the publication of the tentative schedule established under R.30-14.E(2)(a), a municipality, county, agency, or organization undertaking a beach renourishment project may submit a request to the Department, within the one hundred twenty (120)-day notice period, to revise the establishment date for the baseline and setback line in its geographical area. The Department may revise the establishment schedule if submitted information demonstrates the following:

(a) the municipality, county, agency, or organization has an issued Department permit in effect for a beach renourishment project, or an issued Department coastal zone consistency certification associated with a federal beach renourishment project;

(b) the request does not extend the establishment date outside of the establishment cycle timeframe set forth by R.30-14.E(1);

(c) the municipality, county, agency, or organization has encumbered funds to complete the beach renourishment project; and

(d) the municipality, county, agency, or organization will start construction of the beach renourishment project within one (1) year of the initiation of the new establishment cycle.

(4) If the construction of the qualifying beach renourishment project under R.30-14.E(3)(d) has not started within one (1) year of the initiation of the new establishment cycle, the Department must establish the baselines and setback lines using the best available scientific and historical data within the required timeframes under R.30-14.E(1).

F. [Reserved]

G. [Reserved]

H. Damage Assessment. Notwithstanding Sections R.30-14(A)-(G), Section 8 of 1990 Amendments to the 1977 Coastal Zone Management Act, states as follows. Except as otherwise specifically provided in this act, the provisions of this act shall be applied only prospectively and shall not affect any legal action commenced or any cause of action accruing as a result of an event or events which occurred before the effective date of this act. Any such action must be governed by the provisions of Sections 48-39-10 through 48-39-360, as amended by Act 634 of 1988, and in existence before the effective date of this Act.

(1) Assessment of damage to seawalls and bulkheads that occurred between July 1, 1988, and July 1, 1990, will be judged by the following criteria which shall be used to determine the percentage of damage to the erosion control device:

(a) Seventy-five percent (75%) multiplied by the length of structure remaining plus twenty-five percent (25%) multiplied by the amount of backfill remaining equals the percentage of structure not destroyed.

(2) The following portions of the structure shall not be included:

(a) Wingwalls;

(b) Deadmen;

(c) Tiebacks.

(3) Assessment of damage to swimming pools that occurred between July 1, 1988, and July 1, 1990, will be judged by the following criteria. Swimming pools shall be considered destroyed beyond repair if either of the following exists:

(a) Undermining of the pool support which causes severe cracks in the pool walls and floors.

(i) Severe cracks shall be those which produce a loss of structural integrity causing a portion of a structural element (i.e. wall or floor) of the pool to be replaced rather than repaired.

(ii) Greater than ten percent (10%) of any one structural element (i.e. wall or floor) shall render the pool destroyed beyond repair.

(iii) If the addition of an insert is required to make the pool functional, then the crack shall be considered severe and the pool shall be declared destroyed beyond repair.

(iv) If a pool has been assessed and repair procedures require the removal of ten percent (10%) of any one structural element, then the pool shall be declared destroyed beyond repair at the time of the removal of the element.

(b) Hydrostatic pressure beneath the pool which causes the pool to be lifted up more than six inches. Hydrostatic pressure beneath the side of the pool produces severe cracks as delineated in (a)(iv) above shall mean that the pool is destroyed beyond repair.

I. Procedure for Removal of Structures Located on the Active Beach: The Department shall employ the following procedures for determining when a structure located on the active beach must be removed: (Note: This section only applies to those structures approved by the Department via special permit.)

(1) If a major storm event or chronic, long-term beach erosion causes a structure to become located on the active beach, as defined in R. 30-1(D)(2), the Department will monitor the beach fronting the structure for a minimum of one year.

(2) Monitoring of the beach will include the collection and analysis of beach profile data, and visual inspections.

(3) The Department will consider all available information including pending renourishment projects, long-term erosion/accretion trends for the area, and shoal attachment cycles prior to determining whether a structure will be permanently located on the active beach.

(4) Upon determining that a structure is permanently located on the active beach, the Department will notify the property owner and require that the structure be removed or relocated landward by the owner.