

State of North Carolina Coastal Management Program and Final Environmental Impact Statement

U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Office of Coastal Zone Management



APPENDICES

STATE OF NORTH CAROLINA COASTAL MANAGEMENT PROGRAM
AND DRAFT ENVIRONMENTAL IMPACT STATEMENT

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APPENDICES

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APPENDIX A

ARTICLE 7.

Coastal Area Management.

Part 1. Organization and Goals.

§ 113A-100. **Short title.** — This Article shall be known as the Coastal Area Management Act of 1974. (1973, c. 1284, s. 1.)

Editor's Note. — Session Laws 1973, c. 1284, s. 3, provides: "This act shall become effective July 1, 1974, except that the provisions of this act relating to the selection of the initial Commission shall become effective upon ratification, and the entire act shall expire on June 30, 1981." The act was ratified April 12, 1974.

Session Laws 1975, c. 452, s. 5, amends Session

Laws 1973, c. 1284, s. 3, so as to change the expiration date of the 1973 act from June 30, 1981, to June 30, 1983.

The basic thrust of this Article is directed toward protecting areas of environmental concern by requiring permits for development in those areas. *Rankin v. Coleman*, 894 F. Supp. 647 (E.D.N.C. 1975).

§ 113A-101. **Cooperative State-local program.** — This Article establishes a cooperative program of coastal area management between local and State governments. Local government shall have the initiative for planning. State government shall establish areas of environmental concern. With regard to planning, State government shall act primarily in a supportive standard-setting and review capacity, except where local governments do not elect to exercise their initiative. Enforcement shall be a concurrent State-local responsibility. (1973, c. 1284, s. 1.)

§ 113A-102. **Legislative findings and goals.** — (a) Findings. — It is hereby determined and declared as a matter of legislative finding that among North Carolina's most valuable resources are its coastal lands and waters. The coastal area, and in particular the estuaries, are among the most biologically productive

2/1/84 - Various changes to this Act prompted a
RPI submission & approval effective today.

regions of this State and of the nation. Coastal and estuarine waters and marshlands provide almost ninety percent (90%) of the most productive sport fisheries on the east coast of the United States. North Carolina's coastal area has an extremely high recreational and esthetic value which should be preserved and enhanced.

In recent years the coastal area has been subjected to increasing pressures which are the result of the often-conflicting needs of a society expanding in industrial development, in population, and in the recreational aspirations of its citizens. Unless these pressures are controlled by coordinated management, the very features of the coast which make it economically, esthetically, and ecologically rich will be destroyed. The General Assembly therefore finds that an immediate and pressing need exists to establish a comprehensive plan for the protection, preservation, orderly development, and management of the coastal area of North Carolina.

In the implementation of the coastal area management plan, the public's opportunity to enjoy the physical, esthetic, cultural, and recreational qualities of the natural shorelines of the State shall be preserved to the greatest extent feasible; water resources shall be managed in order to preserve and enhance water quality and to provide optimum utilization of water resources; land resources shall be managed in order to guide growth and development and to minimize damage to the natural environment; and private property rights shall be preserved in accord with the Constitution of this State and of the United States.

(b) Goals. — The goals of the coastal area management system to be created pursuant to this Article are as follows:

- (1) To provide a management system capable of preserving and managing the natural ecological conditions of the estuarine system, the barrier dune system, and the beaches, so as to safeguard and perpetuate their natural productivity and their biological, economic and esthetic values;
- (2) To insure that the development or preservation of the land and water resources of the coastal area proceeds in a manner consistent with the capability of the land and water for development, use, or preservation based on ecological considerations;
- (3) To insure the orderly and balanced use and preservation of our coastal resources on behalf of the people of North Carolina and the nation;
- (4) To establish policies, guidelines and standards for:
 - a. Protection, preservation, and conservation of natural resources including but not limited to water use, scenic vistas, and fish and wildlife; and management of transitional or intensely developed areas and areas especially suited to intensive use or development, as well as areas of significant natural value;
 - b. The economic development of the coastal area, including but not limited to construction, location and design of industries, port facilities, commercial establishments and other developments;
 - c. Recreation and tourist facilities and parklands;
 - d. Transportation and circulation patterns for the coastal area including major thoroughfares, transportation routes, navigation channels and harbors, and other public utilities and facilities;
 - e. Preservation and enhancement of the historic, cultural, and scientific aspects of the coastal area;
 - f. Protection of present common-law and statutory public rights in the lands and waters of the coastal area;

g. Any other purposes deemed necessary or appropriate to effectuate the policy of this Article. (1973, c. 1284, s. 1.)

§ 113A-103. Definitions. — As used in this Article:

- (1) "Advisory Council" means the Coastal Resources Advisory Council created by G.S. 113A-105.
- (2) "Coastal area" means the counties that (in whole or in part) are adjacent to, adjoining, intersected by or bounded by the Atlantic Ocean (extending offshore to the limits of State jurisdiction, as may be identified by rule of the Commission for purposes of this Article, but in no event less than three geographical miles offshore) or any coastal sound. The Governor, in accordance with the standards set forth in this subdivision and in subdivision (3) of this section, shall designate the counties that constitute the "coastal area," as defined by this section, and his designation shall be final and conclusive. On or before May 1, 1974, the Governor shall file copies of a list of said coastal-area counties with the chairmen of the boards of commissioners of each county in the coastal area, with the mayors of each incorporated city within the coastal area (as so defined) having a population of 2,000 or more and of each incorporated city having a population of less than 2,000 whose corporate boundaries are contiguous with the Atlantic Ocean, and with the Secretary of State. The said coastal-area counties and cities shall thereafter transmit nominations to the Governor of members of the Coastal Resources Commission as provided in G.S. 113A-104(d).
- (3) "Coastal sound" means Albemarle, Bogue, Core, Croatan, Currituck, Pamlico and Roanoke Sounds. For purposes of this Article, the inland limits of a sound on a tributary river shall be defined as the limits of seawater encroachment on said tributary river under normal conditions. "Normal conditions" shall be understood to include regularly occurring conditions of low stream flow and high tide, but shall not include unusual conditions such as those associated with hurricane and other storm tides. Unless otherwise determined by the Commission, the limits of seawater encroachment shall be considered to be the confluence of a sound's tributary river with the river or creek entering it nearest to the farthest inland movement of oceanic salt water under normal conditions. For purposes of this Article, the aforementioned points of confluence with tributary rivers shall include the following:
 - a. On the Chowan River, its confluence with the Meherrin River;
 - b. On the Roanoke River, its confluence with the northeast branch of the Cashie River;
 - c. On the Tar River, its confluence with Tranter's Creek;
 - d. On the Neuse River, its confluence with Swift Creek;
 - e. On the Trent River, its confluence with Ready Branch.Provided, however, that no county shall be considered to be within the coastal area which: (i) is adjacent to, adjoining or bounded by any of the above points of confluence and lies entirely west of said point of confluence; or (ii) is not bounded by the Atlantic Ocean and lies entirely west of the westernmost of the above points of confluence.
- (4) "Commission" means the Coastal Resources Commission created by G.S. 113A-104.
- (5) a. "Development" means any activity in a duly designated area of environmental concern (except as provided in paragraph b of this

subdivision) involving, requiring, or consisting of the construction or enlargement of a structure; excavation; dredging; filling; dumping; removal of clay, silt, sand, gravel or minerals; bulkheading, driving of pilings; clearing or alteration of land as an adjunct of construction; alteration or removal of sand dunes; alteration of the shore, bank, or bottom of the Atlantic Ocean or any sound, bay, river, creek, stream, lake, or canal.

- b. The following activities including the normal and incidental operations associated therewith shall not be deemed to be development under this section:
1. Work by a highway or road agency for the maintenance of an existing road, if the work is carried out on land within the boundaries of the existing right-of-way;
 2. Work by any railroad company or by any utility and other persons engaged in the distribution and transmission of petroleum products, water, telephone or telegraph messages, or electricity for the purpose of inspecting, repairing, maintaining, or upgrading any existing substations, sewers, mains, pipes, cables, utility tunnels, lines, towers, poles, tracks, and the like on any of its existing railroad or utility property or rights-of-way, or the extension of any of the above distribution-related facilities to serve development approved pursuant to G.S. 113A-121 or 113A-122;
 3. Work by any utility and other persons for the purpose of construction of facilities for the development, generation, and transmission of energy to the extent that such activities are regulated by other law or by present or future rules of the State Utilities Commission regulating the siting of such facilities (including environmental aspects of such siting), and work on facilities used directly in connection with the above facilities;
 4. The use of any land for the purpose of planting, growing, or harvesting plants, crops, trees, or other agricultural or forestry products, including normal private road construction, raising livestock or poultry, or for other agricultural purposes except where excavation or filling affecting estuarine waters (as defined in G.S. 113-229) or navigable waters is involved;
 5. Emergency maintenance or repairs;
 6. The construction of any accessory building customarily incident to an existing structure if the work does not involve filling, excavation, or the alteration of any sand dune or beach;
 7. Completion of any development, not otherwise in violation of law, for which a valid building or zoning permit was issued prior to ratification of this Article and which development was initiated prior to the ratification of this Article;
 8. Completion of installation of any utilities or roads or related facilities not otherwise in violation of law, within a subdivision that was duly approved and recorded prior to the ratification of this Article and which installation was initiated prior to the ratification of this Article;
 9. Construction or installation of any development, not otherwise in violation of law, for which an application for a building or zoning permit was pending prior to the ratification of this

Article and for which a loan commitment (evidenced by a notarized document signed by both parties) had been made prior to the ratification of this Article; provided, said building or zoning application is granted by July 1, 1974;

10. It is the intention of the General Assembly that if the provisions of any of the foregoing subparagraphs 1 to 10 of this paragraph are held invalid as a grant of an exclusive or separate emolument or privilege or as a denial of the equal protection of the laws, within the meaning of Article I, Secs. 19 and 32 of the North Carolina Constitution, the remainder of this Article shall be given effect without the invalid provision or provisions.
- c. The Commission shall define by rule (and may revise from time to time) certain classes of minor maintenance and improvements which shall be exempted from the permit requirements of this Article, in addition to the exclusions set forth in paragraph b of this subdivision. In developing such rules the Commission shall consider, with regard to the class or classes of units to be exempted:
 1. The size of the improvement or scope of the maintenance work;
 2. The location of the improvement or work in proximity to dunes, waters, marshlands, areas of high seismic activity, areas of unstable soils or geologic formations, and areas enumerated in G.S. 113A-113(b)(3); and
 3. Whether or not dredging or filling is involved in the maintenance or improvement.
- (6) "Key facilities" include the site location and the location of major improvement and major access features of key facilities, and mean:
 - a. Public facilities, as determined by the Commission, on nonfederal lands which tend to induce development and urbanization of more than local impact, including but not limited to:
 1. Any major airport designed to serve as a terminal for regularly scheduled air passenger service or one of State concern;
 2. Major interchanges between the interstate highway system and frontage-access streets or highways; major interchanges between other limited-access highways and frontage-access streets or highways;
 3. Major frontage-access streets and highways, both of State concern; and
 4. Major recreational lands and facilities;
 - b. Major facilities on nonfederal lands for the development, generation, and transmission of energy.
- (7) "Lead regional organizations" mean the regional planning agencies created by and representative of the local governments of a multi-county region, and designated as lead regional organizations by the Governor
- (8) "Local government" means the governing body of any county or city which contains within its boundaries any lands or waters subject to this Article.
- (9) "Person" means any individual, citizen, partnership, corporation, association, organization, business trust, estate, trust, public or municipal corporation, or agency of the State or local government unit, or any other legal entity however designated.

- (10) "Rule" means any policy, regulation or requirement of general application adopted pursuant to this Article. (1973, c. 1284, s. 1.)

§ 113A-104. Coastal Resources Commission. — (a) The General Assembly hereby establishes within the Department of Natural and Economic Resources a commission to be designated the Coastal Resources Commission.

(b) Composition. — The Coastal Resources Commission shall consist of 15 members appointed by the Governor, as follows:

- (1) One who shall at the time of appointment be actively connected with or have experience in commercial fishing.
- (2) One who shall at the time of appointment be actively connected with or have experience in-wildlife or sports fishing.
- (3) One who shall at the time of appointment be actively connected with or have experience in marine ecology.
- (4) One who shall at the time of appointment be actively connected with or have experience in coastal agriculture.
- (5) One who shall at the time of appointment be actively connected with or have experience in coastal forestry.
- (6) One who shall at the time of appointment be actively connected with or have experience in coastal land development.
- (7) One who shall at the time of appointment be actively connected with or have experience in marine-related business (other than fishing and wildlife).
- (8) One who shall at the time of appointment be actively connected with or have experience in engineering in the coastal area.
- (9) One who shall at the time of appointment be actively associated with a State or national conservation organization.
- (10) One who shall at the time of appointment be actively connected with or have experience in financing of coastal land development.
- (11) Two who shall at the time of appointment be actively connected with or have experience in local government within the coastal area.
- (12) Three at-large members.

(c) The Governor shall appoint in his sole discretion those members of the Commission whose qualifications are described in subdivisions (6) and (10), and one of the three members described in subdivision (12) of subsection (b) of this section. The remaining members of the Commission shall be appointed by the Governor after completion of the nominating procedures prescribed by subsection (d) of this section.

(d) On or before May 1 in every even-numbered year the Governor shall designate and transmit to the board of commissioners in each county in the coastal area four nominating categories applicable to that county for that year. Said nominating categories shall be selected by the Governor from among the categories represented, respectively by subdivisions (1), (2), (3), (4), (5), (7), (8), (9), (11) — two persons, and (12) — two persons, of subsection (b) of this section (or so many of the above-listed paragraphs as may correspond to vacancies by expiration of term that are subject to being filled in that year). On or before June 1 in every even-numbered year the board of commissioners of each county in the coastal area shall nominate (and transmit to the Governor the names of) one qualified person in each of the four nominating categories that was designated by the Governor for that county for that year. In designating nominating categories from biennium to biennium, the Governor shall equitably rotate said categories among the several counties of the coastal area as in his judgment he deems best; and he shall assign, as near as may be, an even number of nominees

to each nominating category and shall assign in his best judgment any excess above such even number of nominees. On or before June 1 in every even-numbered year the governing body of each incorporated city within the coastal area having a population of 2,000 or more, and of each incorporated city having a population of less than 2,000 whose corporate boundaries are contiguous with the Atlantic Ocean, shall nominate (and transmit to the Governor the name of) one person as a nominee to the Commission. The Governor shall appoint 12 persons from among said city and county nominees to the Commission. The several boards of county commissioners and city governing bodies shall transmit the names, addresses, and a brief summary of the qualifications of their nominees to the Governor on or before June 1 in each even-numbered year, beginning in 1974; provided, that the Governor, by registered or certified mail, shall notify the chairmen or the mayors of the said local governing boards by May 20 in each such even-numbered year of the duties of local governing boards under this sentence. If any board of commissioners or city governing body fails to transmit its list of nominations to the Governor by June 1, the Governor may add to the nominations a list of qualified nominees in lieu of those that were not transmitted by the board of commissioners or city governing body. Within the meaning of this section, the "governing body" is the mayor and council of a city as defined in G.S. 160A-66. The population of cities shall be determined according to the most recent annual estimates of population as certified to the Secretary of Revenue by the Secretary of Administration.

(e) All nominees of the several boards of county commissioners and city governing bodies must reside within the coastal area, but need not reside in the county from which they were nominated. No more than one of those members appointed by the Governor from among said nominees may reside in a particular county. No more than two members of the entire Commission, at any time, may reside in a particular county. No more than two members of the entire Commission, at any time, may reside outside the coastal area.

(f) Membership on the Coastal Resources Commission is hereby declared to be an office that may be held concurrently with other elective or appointive offices in addition to the maximum number of offices permitted to be held by one person under G.S. 128-1.1.

(g) The members shall serve staggered terms of office of four years. At the expiration of each member's term, the Governor shall reappoint or replace the member with a new member of like qualification (as specified in subsection (b) of this section), in the manner provided by subsections (c) and (d) of this section. The initial term shall be determined by the Governor in accordance with customary practice but eight of the initial members shall be appointed for two years and seven for four years.

(h) In the event of a vacancy arising otherwise than by expiration of term, the Governor shall appoint a successor of like qualification (as specified in subsection (b) of this section) who shall then serve the remainder of his predecessor's term. When any such vacancy arises, the Governor shall immediately notify the board of commissioners of each county in the coastal area and the governing body of each incorporated city within the coastal area having a population of 2,000 or more and of each incorporated city having a population of less than 2,000 whose corporate boundaries are contiguous with the Atlantic Ocean. Within 30 days after receipt of such notification each such county board and city governing body shall nominate and transmit to the Governor the name and address of one person who is qualified in the category represented by the position to be filled, together with a brief summary of the qualifications of the

nominee. The Governor shall make the appointment from among said city and county nominees. If any county board or city governing body fails to make a timely transmittal of its nominee, the Governor may add to the nominations a qualified person in lieu of said nominee.

(i) The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at the pleasure of the Governor. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of his regularly appointed term.

(j) Compensation. — The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. (1973, c. 1284, s. 1.)

Cross Reference. — As to the effective date of the provisions of this section relating to the selection of the initial Commission, see note to § 113A-100

§ 113A-105. Coastal Resources Advisory Council. — (a) Creation. — There is hereby created and established a council to be known as the Coastal Resources Advisory Council.

(b) The Coastal Resources Advisory Council shall consist of not more than 47 members appointed or designated as follows:

- (1) Three individuals designated by the Secretary of Natural and Economic Resources from among the employees of his Department;
- (2) The Secretary of the Department of Administration or his designee;
- (3) The Secretary of the Department of Transportation and Highway Safety or his designee, and one additional member selected by him from his Department;
- (4) The Secretary of the Department of Human Resources or his designee;
- (5) The Commissioner of Agriculture or his designee;
- (6) The Secretary of the Department of Cultural Resources or his designee;
- (7) One member from each of the four multi-county planning districts of the coastal area to be appointed by the lead regional agency of each district;
- (8) One representative from each of the counties in the coastal area to be designated by the respective boards of county commissioners;
- (9) No more than eight additional members representative of cities in the coastal area and to be designated by the Commission;
- (10) Three members selected by the Commission who are marine scientists or technologists;
- (11) One member who is a local health director selected by the Commission upon the recommendation of the Secretary of Human Resources.

(c) Functions and Duties. — The Advisory Council shall assist the Secretaries of Administration and of Natural and Economic Resources in an advisory capacity:

- (1) On matters which may be submitted to it by either of them or by the Commission, including technical questions relating to the development of rules and regulations, and
- (2) On such other matters arising under this Article as the Council considers appropriate.

(d) Multiple Offices. — Membership on the Coastal Resources Advisory Council is hereby declared to be an office that may be held concurrently with other elective or appointive offices (except the office of Commission member)

in addition to the maximum number of offices permitted to be held by one person under G.S. 128-1.1:

(e) Chairman and Vice-Chairman. — A chairman and vice-chairman shall be elected annually by the Council.

(f) Compensation. — The members of the Advisory Council who are not State employees shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. (1973, c. 1284, s. 1.)

Part 2. Planning Processes.

§ 113A-106. **Scope of planning processes.** — Planning processes covered by this Article include the development and adoption of State guidelines for the coastal area and the development and adoption of a land-use plan for each county within the coastal area, which plans shall serve as criteria for the issuance or denial of development permits under Part 4 (1973, c. 1284, s. 1.)

§ 113A-107. **State guidelines for the coastal area.** — (a) State guidelines for the coastal area shall consist of statements of objectives, policies, and standards to be followed in public and private use of land and water areas within the coastal area. Such guidelines shall be consistent with the goals of the coastal area management system as set forth in G.S. 113A-102. They shall give particular attention to the nature of development which shall be appropriate within the various types of areas of environmental concern that may be designated by the Commission under Part 3. Such guidelines shall be adopted, and may be amended from time to time, in accordance with the procedures set forth in this section.

(b) The Commission shall be responsible for the preparation, adoption, and amendment of the State guidelines. In exercising this function it shall be furnished such staff assistance as it requires by the Secretary of Natural and Economic Resources and the Secretary of the Department of Administration, together with such incidental assistance as may be requested of any other State department or agency.

(c) Within 90 days after July 1, 1974, the Commission shall submit proposed State guidelines to all cities and counties and lead regional organizations within the coastal area for their comments and recommendations. In addition, it shall submit such guidelines to all State, private, federal, regional, and local agencies which it deems to have special expertise with respect to any environmental, social, economic, esthetic, cultural, or historical aspect of development in the coastal area. It shall make copies of the proposed guidelines available to the public through the Department of Administration.

(d) Cities, counties, and lead regional organizations and such other agencies or individuals as desire to do so shall have 60 days from receipt of such proposed guidelines within which to submit to the Commission their written comments and recommendations concerning the proposed guidelines.

(e) The Commission shall review and consider all such written comments and recommendations. Within 210 days after the effective date of this Article, the Commission shall by rule adopt State guidelines for the coastal area. Certified copies of such guidelines shall be filed with the Attorney General and the principal clerks of the Senate and House, and the guidelines shall be mailed to each city, county, and lead regional organization in the coastal area and to such other agencies or individuals as the Commission deems appropriate. Copies shall be made available to the public through the Department of Administration.

(f) The Commission may from time to time amend the State guidelines as it deems necessary. In addition, it shall review such guidelines each five years after July 1, 1974, in accordance with the procedures for adoption of the original guidelines, to determine whether further amendments are desirable. Any proposed amendments shall be submitted to all cities, counties, members of the General Assembly and lead regional organizations in the coastal area, and may be distributed to such other agencies and individuals as the Commission deems appropriate. All comments and recommendations of such governments, agencies, and individuals shall be submitted to the Commission in writing within 30 days of receipt of the proposed amendments. The Commission shall review and consider these written comments and thereupon may by rule reject or adopt the proposed amendments or modify and adopt the amendments. Certified copies of all amendments shall be filed with the Attorney General and the principal clerks of the Senate and House. Amendments shall thereupon be mailed to each city, county, members of the General Assembly and lead regional organization in the coastal area and to such other agencies and individuals as the Commission deems appropriate. Copies shall be made available to the public through the Department of Administration. (1973, c. 1284, s. 1; 1975, 2nd Sess., c. 983, ss. 75, 76.)

Editor's Note. — The 1975, 2nd Sess., amendment substituted "Attorney General" for "Secretary of State" in the third sentence of subsection (e) and in the sixth sentence of subsection (f).

The 1975, 2nd Sess., amendment directed that the change in subsection (f) be made in the

eighth line of the subsection. The words "Secretary of State" appear only in the thirteenth line of subsection (f) as set out in the 1975 Replacement Volume. Notwithstanding this discrepancy, the amendment has been given effect according to its obvious intent.

§ 113A-108. Effect of State guidelines. — All local land-use plans adopted pursuant to this Article within the coastal area shall be consistent with the State guidelines. No permit shall be issued under Part 4 of this Article which is inconsistent with the State guidelines. Any State land policies governing the acquisition, use and disposition of land by State departments and agencies shall take account of and be consistent with the State guidelines adopted under this Article, insofar as lands within the coastal area are concerned. Any State land classification system which shall be promulgated shall take account of and be consistent with the State guidelines adopted under this Article, insofar as it applies to lands within the coastal area. (1973, c. 1284, s. 1.)

§ 113A-109. County letter of intent; timetable for preparation of land-use plan. — Within 120 days after July 1, 1974, each county within the coastal area shall submit to the Commission a written statement of its intent to develop a land-use plan under this Article or its intent not to develop such a plan. If any county states its intent not to develop a land-use plan or fails to submit a statement of intent within the required period, the Commission shall prepare and adopt a land-use plan for that county. If a county states its intent to develop a land-use plan, it shall complete the preparation and adoption of such plan within 480 days after adoption of the State guidelines. In the event of failure by any county to complete its required plan within this time, the Commission shall promptly prepare and adopt such a plan.

In any case where the Commission has adopted a land-use plan for a county that county may prepare its own land-use plan in accordance with the procedures of this Article, and upon approval of such plan by the Commission it shall

supersede the Commission's plan on a date specified by the Commission. (1973, c. 1284, s. 1; 1975, c. 452, s. 1.)

Editor's Note. — The 1975 amendment substituted "480 days" for "300 days" in the third sentence of the first paragraph.

§ 113A-110. Land-use plans. — (a) A land-use plan for a county shall, for the purpose of this Article, consist of statements of objectives, policies, and standards to be followed in public and private use of land within the county, which shall be supplemented by maps showing the appropriate location of particular types of land or water use and their relationships to each other and to public facilities and by specific criteria for particular types of land or water use in particular areas. The plan shall give special attention to the protection and appropriate development of areas of environmental concern designated under Part 3. The plan shall be consistent with the goals of the coastal area management system as set forth in G.S. 113A-102 and with the State guidelines adopted by the Commission under G.S. 113A-107. The plan shall be adopted, and may be amended from time to time, in accordance with the procedures set forth in this section.

(b) The body charged with preparation and adoption of a county's land-use plan (whether the county government or the Commission) may delegate some or all of its responsibilities to the lead regional organization for the region of which the county is a part. Any such delegation shall become effective upon the acceptance thereof by the lead regional organization. Any county proposing a delegation to the lead regional organization shall give written notice thereof to the Commission at least two weeks prior to the date on which such action is to be taken. Any city or county within the coastal area may also seek the assistance or advice of its lead regional organization in carrying out any planning activity under this Article.

(c) The body charged with preparation and adoption of a county's land-use plan (whether the county or the Commission or a unit delegated such responsibility) may either (i) delegate to a city within the county responsibility for preparing those portions of the land-use plan which affect land within the city's zoning jurisdiction or (ii) receive recommendations from the city concerning those portions of the land-use plan which affect land within the city's zoning jurisdiction, prior to finally adopting the plan or any amendments thereto or (iii) delegate responsibility to some cities and receive recommendations from other cities in the county. The body shall give written notice to the Commission of its election among these alternatives. On written application from a city to the Commission, the Commission shall require the body to delegate plan-making authority to that city for land within the city's zoning jurisdiction if the Commission finds that the city is currently enforcing its zoning ordinance, its subdivision regulations, and the State Building Code within such jurisdiction.

(d) The body charged with adoption of a land-use plan may either adopt it as a whole by a single resolution or adopt it in parts by successive resolutions; said parts may either correspond with major geographical sections or divisions of the county or with functional subdivisions of the subject matters of the plan. Amendments and extensions to the plan may be adopted in the same manner.

(e) Prior to adoption or subsequent amendment of any land-use plan, the body charged with its preparation and adoption (whether the county or the Commission or a unit delegated such responsibility) shall hold a public hearing at which public and private parties shall have the opportunity to present

comments and recommendations. Notice of the hearing shall be given not less than 30 days before the date of the hearing and shall state the date, time, and place of the hearing; the subject of the hearing; the action which is proposed; and that copies of the proposed plan or amendment are available for public inspection at a designated office in the county courthouse during designated hours. Any such notice shall be published at least once in a newspaper of general circulation in the county.

(f) No land-use plan shall become finally effective until it has been approved by the Commission. The county or other unit adopting the plan shall transmit it, when adopted, to the Commission for review. The Commission shall afford interested persons an opportunity to present objections and comments regarding the plan, and shall review and consider each county land-use plan in light of such objections and comments, the State guidelines, the requirements of this Article, and any generally applicable standards of review adopted by rule of the Commission. Within 45 days after receipt of a county land-use plan the Commission shall either approve the plan or notify the county of the specific changes which must be made in order for it to be approved. Following such changes, the plan may be resubmitted in the same manner as the original plan.

(g) Copies of each county land-use plan which has been approved, and as it may have been amended from time to time, shall be maintained in a form available for public inspection by (i) the county, (ii) the Commission, and (iii) the lead regional organization of the region which includes the county. (1973, c. 1284, s. 1.)

§ 113A-111. Effect of land-use plan. — No permit shall be issued under Part 4 of this Article for development which is inconsistent with the approved land-use plan for the county in which it is proposed. No local ordinance or other local regulation shall be adopted which, within an area of environmental concern, is inconsistent with the land-use plan of the county or city in which it is effective; any existing local ordinances and regulations within areas of environmental concern shall be reviewed in light of the applicable local land-use plan and modified as may be necessary to make them consistent therewith. All local ordinances and other local regulations affecting a county within the coastal area, but not affecting an area of environmental concern, shall be reviewed by the Commission for consistency with the applicable county and city land-use plans and, if the Commission finds any such ordinance or regulation to be inconsistent with the applicable land-use plan, it shall transmit recommendations for modification to the adopting local government. (1973, c. 1284, s. 1.)

§ 113A-112. Planning grants. — The Secretary of Natural and Economic Resources is authorized to make annual grants to local governmental units for the purpose of assisting in the development of local plans and management programs under this Article. The Secretary shall develop and administer generally applicable criteria under which local governments may qualify for such assistance. (1973, c. 1284, s. 1.)

Part 3. Areas of Environmental Concern.

§ 113A-113. Areas of environmental concern; in general. — (a) The Coastal Resources Commission shall by rule designate geographic areas of the coastal area as areas of environmental concern and specify the boundaries thereof, in the manner provided in this Part.

(b) The Commission may designate as areas of environmental concern any one or more of the following, singly or in combination:

- (1) Coastal wetlands as defined in G.S. 113-230(a);

- (2) Estuarine waters as defined in G.S. 113-229(n)(2), that is, all the water of the Atlantic Ocean within the boundary of North Carolina and all the waters of the bays, sounds, rivers, and tributaries thereto seaward of the dividing line between coastal fishing waters and inland fishing waters, as set forth in an agreement adopted by the Wildlife Resources Commission and the Department of Natural and Economic Resources filed with the Secretary of State, entitled "Boundary Lines, North Carolina Commercial Fishing — Inland Fishing Waters, Revised to March 1, 1965";
- (3) Renewable resource areas where uncontrolled or incompatible development which results in the loss or reduction of continued long-range productivity could jeopardize future water, food or fiber requirements of more than local concern, which may include:
 - a. Watersheds or aquifers that are present sources of public water supply, as identified by the Department of Human Resources or Environmental Management Commission, or that are classified for water-supply use pursuant to G.S. 143-214.1;
 - b. Capacity use areas that have been declared by the Environmental Management Commission pursuant to G.S. 143-215.13(c) and areas wherein said Environmental Management Commission (pursuant to G.S. 143-215.3(d) or 143-215.3(a)(8)) has determined that a generalized condition of water depletion or water or air pollution exists;
 - c. Prime forestry land (sites capable of producing 85 cubic feet per acre-year, or more, of marketable timber), as identified by the Department of Natural and Economic Resources.
- (4) Fragile or historic areas, and other areas containing environmental or natural resources of more than local significance, where uncontrolled or incompatible development could result in major or irreversible damage to important historic, cultural, scientific or scenic values or natural systems, which may include:
 - a. Existing national or State parks or forests, wilderness areas, the State Nature and Historic Preserve, or public recreation areas; existing sites that have been acquired for any of the same, as identified by the Secretary of Natural and Economic Resources; and proposed sites for any of the same, as identified by the Secretary of Natural and Economic Resources, provided that the proposed site has been formally designated for acquisition by the governmental agency having jurisdiction;
 - b. Present sections of the natural and scenic rivers system;
 - c. Stream segments that have been classified for scientific or research uses by the Environmental Management Commission, or that are proposed to be so classified in a proceeding that is pending before said Environmental Management Commission pursuant to G.S. 143-214.1 at the time of the designation of the area of environmental concern;
 - d. Existing wildlife refuges, preserves or management areas, and proposed sites for the same, as identified by the Wildlife Resources Commission, provided that the proposed site has been formally designated for acquisition (as hereinafter defined) or for inclusion in a cooperative agreement by the governmental agency having jurisdiction;
 - e. Complex natural areas surrounded by modified landscapes that do not drastically alter the landscape, such as virgin forest stands

within a commercially managed forest, or bogs in an urban complex;

- f. Areas that sustain remnant species or aberrations in the landscape produced by natural forces, such as rare and endangered botanical or animal species;
 - g. Areas containing unique geological formations, as identified by the State Geologist; and
 - h. Historic places that are listed, or have been approved for listing by the North Carolina Historical Commission, in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966; historical, archeological, and other places and properties owned, managed or assisted by the State of North Carolina pursuant to Chapter 121; and properties or areas that are or may be designated by the Secretary of the Interior as registered natural landmarks or as national historic landmarks;
- (5) Areas such as waterways and lands under or flowed by tidal waters or navigable waters, to which the public may have rights of access or public trust rights, and areas which the State of North Carolina may be authorized to preserve, conserve, or protect under Article XIV, Sec. 5 of the North Carolina Constitution;
- (6) Natural-hazard areas where uncontrolled or incompatible development could unreasonably endanger life or property, and other areas especially vulnerable to erosion, flooding, or other adverse effects of sand, wind and water, which may include:
- a. Sand dunes along the Outer Banks;
 - b. Ocean and estuarine beaches and shoreline;
 - c. Floodways and floodplains;
 - d. Areas where geologic and soil conditions are such that there is a substantial possibility of excessive erosion or seismic activity, as identified by the State Geologist;
 - e. Areas with a significant potential for air inversions, as identified by the Environmental Management Commission.
- (7) Areas which are or may be impacted by key facilities.

(c) In those instances where subsection (b) of this section refers to locations identified by a specified agency, said agency is hereby authorized to make the indicated identification from time to time and is directed to transmit the identification to the Commission; provided, however, that no designation of an area of environmental concern based solely on an agency identification of a proposed location may remain effective for longer than three years unless, in the case of paragraphs (4)a and d of subsection (b) of this section, the proposed site has been at least seventy-five percent (75%) acquired. Within the meaning of this section, "formal designation for acquisition" means designation in a formal resolution adopted by the governing body of the agency having jurisdiction (or by its chief executive, if it has no governing body), together with a direction in said resolution that the initial step in the land acquisition process be taken (as by filing an application with the Department of Administration to acquire property pursuant to G.S. 146-23).

(d) Additional grounds for designation of areas of environmental concern are prohibited unless enacted into law by an act of the General Assembly. (1973, c. 476, s. 128; c. 1262, ss. 23, 86; c. 1284, s. 1.)

§ 113A-114. Designation of interim areas of environmental concern; notice of developments within such areas. — (a) Pending the designation of

areas of environmental concern pursuant to G.S. 113A-115, the Commission may by rule designate such interim areas of environmental concern (hereafter referred to as "interim areas") as it deems appropriate.

(b) Not earlier than 15 days nor later than 75 days after July 1, 1974, the Secretary of Natural and Economic Resources, or his designee or designees, shall hold a one-day public hearing, at which public and private parties shall have the opportunity to present views and comments concerning proposed interim areas, in each of the following cities: Elizabeth City, Jacksonville, Manteo, Morehead City, Washington and Wilmington. The following provisions shall apply for all such hearings:

- (1) The hearing shall begin with a description of interim areas proposed by the Secretary.
- (2) Notice of any such hearing shall be given not less than seven days before the date of such hearing and shall state the date, time and place of the hearing, the subject of the hearing and the action to be taken. The notice shall state that a copy of a description of interim areas proposed by the Secretary (including a map of such proposed areas) is available for public inspection at the county courthouse of each county affected.
- (3) Any such notice shall be published one time in a newspaper of general circulation in the county or counties affected at least seven days before the date of the public hearing.
- (4) Any person who desires to be heard at such public hearing shall give notice thereof in writing to the Secretary on or before the date set for the hearing. The Secretary is authorized to set reasonable time limits for the oral presentation of views by any one person at any such hearing. The Secretary shall permit anyone who so desires to file a written argument or other statement with him in relation to proposed interim areas within five days following the conclusion of any public hearing or within such additional time as he may allow in his discretion.
- (5) A record of each such hearing shall be presented to the Commission by the Secretary, together with the description of interim areas proposed by the Secretary (with such revisions as he deems appropriate in light of the hearings). Upon receipt of said hearing records and description, and consideration of submitted evidence and arguments with respect to any proposed action pursuant to this section, the Commission shall adopt its final action with respect thereto and shall file a duly certified copy thereof with the Attorney General and with the board of commissioners of each county affected thereby.

(c) The Commission may revise the interim areas (or any part thereof) at any time in the manner provided by subsection (b) of this section, except that the hearing or hearings shall be held in each county in which lands to be affected are located.

(d) The interim areas (with such revisions as may be made pursuant to this section) shall remain in effect until designation of areas of environmental concern are made pursuant to G.S. 113A-115.

(e) During the period while interim areas are in effect, any person proposing to undertake any development in an interim area shall notify the Commission at least 60 days in advance of initiating construction, installation or other land- or water-disturbing activity in connection with said development. (1973, c. 1284, s. 1; 1975, 2nd Sess., c. 983, s. 77.)

Editor's Note. — The 1975, 2nd Sess., "Secretary of State" in the second sentence of amendment substituted "Attorney General" for subdivision (5) of subsection (b).

§ 113A-115. Designation of areas of environmental concern. — (a) Prior to adopting any rule permanently designating any area of environmental concern the Secretary and the Commission shall hold a public hearing in each county in which lands to be affected are located, at which public and private parties shall have the opportunity to present comments and views. The following provisions shall apply for all such hearings:

- (1) Notice of any such hearing shall be given not less than 30 days before the date of such hearing and shall state the date, time and place of the hearing, the subject of the hearing, and the action to be taken. The notice shall specify that a copy of the description of the area or areas of environmental concern proposed by the Secretary is available for public inspection at the county courthouse of each county affected.
- (2) Any such notice shall be published at least once in one newspaper of general circulation in the county or counties affected at least 30 days before the date on which the public hearing is scheduled to begin.
- (3) Any person who desires to be heard at such public hearing shall give notice thereof in writing to the Secretary on or before the first date set for the hearing. The Secretary is authorized to set reasonable time limits for the oral presentation of views by any one person at any such hearing. The Secretary shall permit anyone who so desires to file a written argument or other statement with him in relation to any proposed plan any time within 30 days following the conclusion of any public hearing or within such additional time as he may allow by notice given as prescribed in this section.
- (4) Upon completion of the hearing and consideration of submitted evidence and arguments with respect to any proposed action pursuant to this section, the Commission shall adopt its final action with respect thereto and shall file a duly certified copy thereof with the Attorney General and with the board of commissioners of each county affected thereby.

(b) In addition to the notice required by G.S. 113A-115(a)(2) notice shall be given to any interested State agency and to any citizen or group that has filed a request to be notified of a public hearing to be held under this section.

(c) The Commission shall review the designated areas of environmental concern at least biennially. New areas may be designated and designated areas may be deleted, in accordance with the same procedures as apply to the original designations of areas under this section. Areas shall not be deleted unless it is found that the conditions upon which the original designation was based shall have been found to be substantially altered. (1973, c. 1284, s. 1; 1975, 2nd Sess., c. 983, s. 78.)

Editor's Note. — The 1975, 2nd Sess., "Secretary of State" in subdivision (4) of amendment substituted "Attorney General" for subsection (a).

Part 4. Permit Letting and Enforcement.

§ 113A-116. Local government letter of intent. — Within two years after July 1, 1974, each county and city within the coastal area shall submit to the Commission a written statement of its intent to act, or not to act, as a permit-letting agency under G.S. 113A-121. If any city or county states its intent not to act as a permit-letting agency or fails to submit a statement of intent within the required period, the Secretary of Natural and Economic Resources shall issue permits therein under G.S. 113A-121; provided that a county may submit

a letter of intent to issue permits in any city within said county that disclaims its intent to issue permits or fails to submit a letter of intent. Provided, however, should any city or county fail to become a permit-letting agency for any reason, but shall later express its desire to do so, it shall be permitted by the Coastal Resources Commission to qualify as such an agency by following the procedure herein set forth for qualification in the first instance. (1973, c. 1284, s. 1; 1975, c. 452, s. 2.)

Editor's Note. — The 1975 amendment substituted "two years" for "one year" near the beginning of the first sentence.

§ 113A-117. Implementation and enforcement programs. — (a) The Secretary of Natural and Economic Resources shall develop and present to the Commission for consideration and to all cities and counties and lead regional organizations within the coastal area for comment a set of criteria for local implementation and enforcement programs. In the preparation of such criteria, the Secretary shall emphasize the necessity for the expeditious processing of permit applications. Said criteria may contain recommendations and guidelines as to the procedures to be followed in developing local implementation and enforcement programs, the scope and coverage of said programs, minimum standards to be prescribed in said programs, staffing of permit-letting agencies, permit-letting procedures, and priorities of regional or statewide concern. Within 20 months after July 1, 1971, the Commission shall adopt and transmit said criteria (with any revisions) to each coastal-area county and city that has filed an applicable letter of intent, for its guidance.

(b) The governing body of each city in the coastal area that filed an affirmative letter of intent shall adopt an implementation and enforcement plan with respect to its zoning area within 36 months after July 1, 1974. The board of commissioners of each coastal-area county that filed an affirmative letter of intent shall adopt an implementation plan with respect to portions of the county outside city zoning areas within 36 months after July 1, 1974, provided, however, that a county implementation and enforcement plan may also cover city jurisdictions for those cities within the counties that have not filed affirmative letters of intent pursuant to G.S. 113A-116. Prior to adopting the implementation and enforcement program the local governing body shall hold a public hearing at which public and private parties shall have the opportunity to present comments and views. Notice of the hearing shall be given not less than 15 days before the date of the hearing, and shall state the date, time and place of the hearing, the subject of the hearing, and the action which is to be taken. The notice shall state that copies of the proposed implementation and enforcement program are available for public inspection at the county courthouse. Any such notice shall be published at least once in one newspaper of general circulation in the county at least 15 days before the date on which the public hearing is scheduled to begin.

(c) Each coastal-area county and city shall transmit its implementation and enforcement program when adopted to the Commission for review. The Commission shall afford interested persons an opportunity to present objections and comments regarding the program, and shall review and consider each local implementation and enforcement program submitted in light of such objections and comments, the Commission's criteria and any general standards of review applicable throughout the coastal area as may be adopted by the Commission. Within 45 days after receipt of a local implementation and enforcement program the Commission shall either approve the program or notify the county or city

of the specific changes that must be made in order for it to be approved. Following such changes, the program may be resubmitted in the same manner as the original program.

(d) If the Commission determines that any local government is failing to administer or enforce an approved implementation and enforcement program, it shall notify the local government in writing and shall specify the deficiencies of administration and enforcement. If the local government has not taken corrective action within 90 days of receipt of notification from the Commission, the Commission shall assume enforcement of the program until such time as the local government indicates its willingness and ability to resume administration and enforcement of the program. (1973, c. 1284, s. 1; 1975, c. 452, s. 3.)

Editor's Note. — The 1975 amendment substituted "20 months" for "14 months" in the last sentence of subsection (a) and "36 months" for "20 months" in the first and second sentences of subsection (b).

§ 113A-118. Permit required. — (a) After the date designated by the Secretary of Natural and Economic Resources pursuant to G.S. 113A-125, every person before undertaking any development in any area of environmental concern shall obtain (in addition to any other required State or local permit) a permit pursuant to the provisions of this Part.

(b) Under the expedited procedure provided for by G.S. 113A-121, the permit shall be obtained from the appropriate city or county for any minor development; provided, that if the city or county has not developed an approved implementation and enforcement program, the permit shall be obtained from the Secretary of Natural and Economic Resources.

(c) Under the quasi-judicial procedure provided for by G.S. 113A-122, the permit shall be obtained from the Commission.

(d) Within the meaning of this Part:

(1) A "major development" is any development which requires permission, licensing, approval, certification or authorization in any form from the Environmental Management Commission, the Department of Human Resources, the State Department of Natural and Economic Resources, the State Department of Administration, the North Carolina Mining Commission, the North Carolina Pesticides Board, or the North Carolina Sedimentation Control Board; or which occupies a land or water area in excess of 20 acres; or which contemplates drilling for or excavating natural resources on land or under water; or which occupies on a single parcel a structure or structures in excess of a ground area of 60,000 square feet.

(2) A "minor development" is any development other than a "major development."

(e) If, within the meaning of G.S. 113A-103(5)b3, the siting of any utility facility for the development, generation or transmission of energy is subject to regulation under this Article rather than by the State Utilities Commission or by other law, permits for such facilities shall be obtained from the Coastal Resources Commission rather than from the appropriate city or county. (1973, c. 476, s. 128; c. 1262, ss. 23, 33; c. 1284, s. 1.)

§ 113A-119. Permit applications generally. — (a) Any person required to obtain a permit under this Part shall file with the Secretary of Natural and Economic Resources and (in the case of a permit sought from a city or county) with the designated local official an application for a permit in accordance with the form and content designated by the Secretary and approved by the Commission. The applicant must submit with the application a check or money

order payable to the Department or the city or county, as the case may be, constituting a reasonable fee (not to exceed twenty-five dollars (\$25.00)) set by the Commission to cover the administrative costs in processing the said application.

(b) Upon receipt of an application, the Secretary shall issue public notice of the proposed development (i) by mailing a copy of the application, or a brief description thereof together with a statement indicating where a detailed copy of the proposed development may be inspected, to any citizen or group which has filed a request to be notified of the proposed development, and to any interested State agency; (ii) by posting or causing to be posted a copy of the application at the location of the proposed development; and (iii) by publishing notice of the application at least once in one newspaper of general circulation in the county or counties wherein the development would be located at least seven days before final action on a permit under G.S. 113A-121 or before the beginning of the hearing on a permit under G.S. 113A-122. The notice shall set out that any comments on the development should be submitted to the Secretary by a specified date, not to exceed 15 days from the date of the newspaper publication of the notice. Public notice under this subsection is mandatory.

(c) Within the meaning of this Part, the "designated local official" is the official who has been designated by the local governing body to receive and consider permit applications under this Part. (1973, c. 1284, s. 1.)

§ 113A-120. Grant or denial of permits. — (a) After consideration of submitted evidence and arguments submitted at the hearing, or otherwise in the case where no hearing was conducted, the responsible official or body shall deny the application for permit upon finding:

- (1) In the case of coastal wetlands, that the development would contravene an order that has been or could be issued pursuant to G.S. 113-230.
- (2) In the case of estuarine waters, that a permit for the development would be denied pursuant to G.S. 113-229(e).
- (3) In the case of a renewable resource area, that the development will result in loss or significant reduction of continued long-range productivity that would jeopardize one or more of the water, food or fiber requirements of more than local concern identified in paragraphs a to c of subsection (b)(3) of G.S. 113A-113.
- (4) In the case of a fragile or historic area, or other area containing environmental or natural resources of more than local significance, that the development will result in major or irreversible damage to one or more of the historic, cultural, scientific, environmental or scenic values or natural systems identified in paragraphs a to h of subsection (b)(4) of G.S. 113A-113.
- (5) In the case of areas covered by G.S. 113A-113(4) [G.S. 113A-113(b)(5)], that the development will jeopardize the public rights or interests specified in said subdivision.
- (6) In the case of natural hazard areas, that the development would occur in one or more of the areas identified in paragraphs a to e of subsection (b)(6) [of G.S. 113A-113] in such a manner as to unreasonably endanger life or property.
- (7) In the case of areas which are or may be impacted by key facilities, that the development is inconsistent with the State guidelines or the local land-use plans, or would contravene any of the provisions of subdivisions (1) to (6) of this subsection.
- (8) In any case, that the development is inconsistent with the State guidelines or the local land-use plans.

(b) In the absence of such findings, a permit shall be granted. The permit may be conditioned upon the applicant's amending his proposal to take whatever measures are reasonably necessary to protect the public interest with respect to the factors enumerated in subsection (a) of this section.

(c) Variances. — Any person may petition the Commission for a variance granting permission to use his land in a manner otherwise prohibited by rules, regulations, standards or limitations prescribed by the Commission, or orders issued by the Commission, pursuant to this Article. When it finds that (i) practical difficulties or unnecessary hardships would result from strict application of the guidelines, rules, regulations, standards, or other restrictions applicable to the property, (ii) such difficulties or hardships result from conditions which are peculiar to the property involved, (iii) such conditions could not reasonably have been anticipated when the applicable guidelines, rules, regulations, standards, or restrictions were adopted or amended, the Commission may vary or modify the application of the restrictions to the property so that the spirit, purpose, and intent of the restrictions are preserved, public safety and welfare secured, and substantial justice preserved. In varying such regulations, the Commission may impose reasonable and appropriate conditions and safeguards upon any permit it issues. The Commission may conduct a hearing within 45 days from the receipt of the petition and shall notify such persons and agencies that may have an interest in the subject matter of the time and place of the hearing. (1973, c. 1284, s. 1.)

§ 113A-121. Permits for minor developments under expedited procedures. — (a) Applications for permits for minor developments shall be expeditiously processed so as to enable their promptest feasible disposition.

(b) In cities and counties that have developed approved implementation and enforcement programs, applications for permits for minor developments shall be considered and determined by the designated local official of the city or county as the case may be. In cities and counties that have not developed approved implementation and enforcement programs, such applications shall be considered and determined by the Secretary of Natural and Economic Resources.

(c) Failure of the Secretary or the designated local official (as the case may be) to approve or deny an application for a permit for a minor development within 30 days from receipt of application shall be treated as approval of such application, except that the Secretary or the designated local official (as the case may be) may extend such deadline by not more than an additional 30 days if necessary properly to consider the application. No waiver of the foregoing time limitation (or of the time limitation established in G.S. 113A-122(c)) shall be required of any applicant.

(d) Any person who is directly affected by the decision of the Secretary or the designated local official (as the case may be) to grant or deny an application for minor development permit may request within 20 days of such action, a hearing before the Commission. In the case of a grant or denial of a permit by a local official, the Secretary shall be considered to be a person affected by the decision. Pending final disposition of any such appeal, no action shall be taken which would be unlawful in the absence of a permit issued under this section. (1973, c. 1284, s. 1.)

§ 113A-122. Permits under quasi-judicial procedures. — (a) The procedure set forth in this section applies to all permit applications for major developments, as well as to permit applications for minor developments whose disposition was

appealed under G.S. 113A-121(d). All permit applications subject to this section shall be heard by the Commission.

(b) The following provisions shall be applicable in connection with hearings pursuant to this section:

- (1) Any hearing held pursuant to this section shall be held upon not less than 30 days' written notice given by the Commission to any person who is a party to the proceedings with respect to which such hearing is to be held, unless a shorter notice is agreed upon by all such parties.
- (2) All hearings under this section shall be open to the public. Any person to whom a delegation of power is made to conduct a hearing shall report the hearing with its evidence and record to the Commission for decision.
- (3) A full and complete record of all proceedings at any hearing under this section shall be taken by a reporter appointed by the Commission or by other method approved by the Attorney General. Any party to a proceeding shall be entitled to a copy of such record upon the payment of the reasonable cost thereof as determined by the Commission.
- (4) The Commission and its duly authorized agents shall follow generally the procedures applicable in civil actions in the superior court insofar as practicable, including rules and procedures with regard to the taking and use of depositions, the making and use of stipulations, and the entering into of agreed settlements and consent orders.
- (5) The Commission and its duly authorized agents may administer oaths and may issue subpoenas for the attendance of witnesses and the production of books, papers, and other documents belonging to the said person.
- (6) Subpoenas issued by the Commission in connection with any hearing under this section shall be directed to any officer authorized by law to serve process, and the further procedures and rules of law applicable with respect thereto shall be prescribed in connection with subpoenas to the same extent as if issued by a court of record. In case of a refusal to obey a subpoena issued by the Commission, application may be made to the superior court of the appropriate county for enforcement thereof.
- (7) The burden of proof at any hearing under this section on appeal pursuant to G.S. 113A-121(d) shall be upon the Secretary. The burden of proof at any hearing under this section on a permit application for a major development shall be upon the applicant. The provisions of this paragraph shall apply only to the hearings specified in this paragraph.
- (8) No decision or order of the Commission shall be made in any proceeding unless the same is supported by competent, material, and substantial evidence upon consideration of the whole record.
- (9) Following any hearing, the Commission shall afford the parties thereto an opportunity to submit within 30 days, or within such additional time as prescribed by the Commission, proposed findings of fact and conclusions of law and any brief in connection therewith.
- (10) After hearing the evidence, the Commission shall grant or deny the permit in accordance with the provisions of G.S. 113A-120. All such orders and decisions of the Commission shall set forth separately the Commission's findings of fact and conclusions of law and shall, wherever necessary, cite the appropriate provision of law or other source of authority on which any action or decision of the Commission is based.
- (11) The Commission shall have the authority to adopt a seal which shall be the seal of said Commission and which shall be judicially noticed by

the courts of the State. Any document, proceeding, order, decree, special order, rule, regulation, rule of procedure or any other official act or records of the Commission or its minutes may be certified by the Executive Director under his hand and the seal of the Commission and when so certified shall be received in evidence in all actions or proceedings in the courts of the State without further proof of the identity of the same if such records are competent, relevant and material in any such action to proceedings. The Commission shall have the right to take judicial notice of all studies, reports, statistical data or any other official reports or records of the federal government or of any sister state and all such records, reports and data may be placed in evidence by the Commission or by any other person or interested party where material, relevant and competent.

(c) Failure of the Commission to approve or deny an application for a permit (or to dispose of an appeal) pursuant to this section within 90 days from receipt of application or notice of appeal shall be treated as approval of such application or of the action appealed from, as the case may be, except that the Commission may extend such deadline by not more than an additional 90 days if necessary properly to consider the application or the appeal.

(d) All notices which are required to be given by the Secretary or Commission or by any party to a proceeding under this section shall be given by registered or certified mail to all persons entitled thereto. The date of receipt or refusal for such registered or certified mail shall be the date when such notice is deemed to have been given. Notice by the Commission may be given to any person upon whom a summons may be served in accordance with the provisions of law covering civil actions in the superior courts of this State. The Commission may prescribe the form and content of any particular notice. (1973, c. 1284, s. 1.)

§ 113A-123. Judicial review. — (a) Any person directly affected by any final decision or order of the Commission under this Part may appeal such decision or order to the superior court of the county where the land or any part thereof is located, pursuant to the provisions of Chapter 150[A] of the General Statutes. Pending final disposition of any appeal, no action shall be taken which would be unlawful in the absence of a permit issued under this Part.

(b) Any person having a recorded interest or interest by operation of law in or registered claim to land within an area of environmental concern affected by any final decision or order of the Commission under this Part may, within 90 days after receiving notice thereof, petition the superior court to determine whether the petitioner is the owner of the land in question, or an interest therein, and in case he is adjudged the owner of the subject land, or an interest therein, the court shall determine whether such order so restricts the use of his property as to deprive him of the practical uses thereof, being not otherwise authorized by law, and is therefore an unreasonable exercise of the police power because the order constitutes the equivalent of taking without compensation. The burden of proof shall be on petitioner as to ownership and the burden of proof shall be on the Commission to prove that the order is not an unreasonable exercise of the police power, as aforesaid. Either party shall be entitled to a jury trial on all issues of fact, and the court shall enter a judgment in accordance with the issues, as to whether the Commission order shall apply to the land of the petitioner. The Secretary of Natural and Economic Resources shall cause a copy of such finding to be recorded forthwith in the register of deeds office in the county where the land is located. The method provided in this subsection

for the determination of the issue of whether such order constitutes a taking without compensation shall be exclusive and such issue shall not be determined in any other proceeding. Any action authorized by this subsection shall be calendared for trial at the next civil session of superior court after the summons and complaint have been served for 30 days, regardless of whether issues were joined more than 10 days before the session. It is the duty of the presiding judge to expedite the trial of these actions and to give them a preemptory setting over all others, civil or criminal. From any decision of the superior court either party may appeal to the court of appeals as a matter of right.

(c) After a finding has been entered that such order shall not apply to certain land as provided in the preceding subsection, the Department of Administration upon the request of the Commission and upon finding that sufficient funds are available therefor, and with the consent of the Governor and Council of State may take the fee or any lesser interest in such land in the name of the State by eminent domain under the provisions of Chapter 146 of the General Statutes and hold the same for the purposes set forth in this Article (1973, c. 1284, s. 1; c. 1331, s. 3.)

Editor's Note. — Pursuant to Session Laws 1973, c. 1331, s. 3, effective July 1, 1975, the reference to Chapter 150[A] has been substituted for a reference to Article 33 of Chapter 143 in subsection (d).

Session Laws 1975, c. 69, s. 4, amends Session Laws 1973, c. 1331, s. 4, so as to change the effective date of the 1973 act from July 1, 1975 to Feb. 1, 1976.

§ 113A-124. Additional powers and duties. — (a) The Secretary of Natural and Economic Resources shall have the following additional powers and duties under this Article:

- (1) To conduct or cause to be conducted, investigations of proposed developments in areas of environmental concern in order to obtain sufficient evidence to enable a balanced judgment to be rendered concerning the issuance of permits to build such developments.
- (2) To cooperate with the Secretary of the Department of Administration in drafting State guidelines for the coastal area.
- (3) To keep a list of interested persons who wish to be notified of proposed developments and proposed rules designating areas of environmental concern and to so notify these persons of such proposed developments by regular mail. A reasonable registration fee to defray the cost of handling and mailing notices may be charged to any person who so registers with the Commission.
- (4) To propose rules and regulations to implement this Article for consideration by the Commission.
- (5) To delegate such of his powers as he may deem appropriate to one or more qualified employees of the Department of Natural and Economic Resources or to any local government, provided that the provisions of any such delegation of power shall be set forth in departmental regulations.
- (6) To delegate the power to conduct a hearing, on his behalf, to any member of the Commission or to any qualified employee of the Department of Natural and Economic Resources. Any person to whom a delegation of power is made to conduct a hearing shall report his recommendations with the evidence and the record of the hearing to the Secretary for decision or action.

(b) In order to carry out the provisions of this Article the secretaries of administration and of Natural and Economic Resources may employ such

clerical, technical and professional personnel, and consultants with such qualifications as the Commission may prescribe, in accordance with the State personnel regulations and budgetary laws, and are hereby authorized to pay such personnel from any funds made available to them through grants, appropriations, or any other sources. In addition, the said secretaries may contract with any local governmental unit or lead regional organization to carry out the planning provisions of this Article.

(c) The Commission shall have the following additional powers and duties under this Article:

- (1) To recommend to the Secretary of Natural and Economic Resources the acceptance of donations, gifts, grants, contributions and appropriations from any public or private source to use in carrying out the provisions of this Article.
- (2) To recommend to the Secretary of Administration the acquisition by purchase, gift, condemnation, or otherwise, lands or any interest in any lands within the coastal area.
- (3) To hold such public hearings as the Commission deems appropriate.
- (4) To delegate the power to conduct a hearing, on behalf of the Commission, to any member of the Commission or to any qualified employee of the Department of Natural and Economic Resources. Any person to whom a delegation of power is made to conduct a hearing shall report his recommendations with the evidence and the record of the hearing to the Commission for decision or action.
- (5) To adopt from time to time and to modify and revoke official regulations interpreting and applying the provisions of this Article and rules of procedure establishing and amplifying the procedures to be followed in the administration of this Article.

(d) The Attorney General shall act as attorney for the Commission and shall initiate actions in the name of, and at the request of, the Commission, and shall represent the Commission in the hearing of any appeal from or other review of any order of the Commission. (1973, c. 1284, s. 1)

§ 113A-125. Transitional provisions. — (a) Existing regulatory permits shall continue to be administered within the coastal area by the agencies presently responsible for their administration until a date (not later than 44 months after July 1, 1974), to be designated by the Secretary of Natural and Economic Resources as the permit changeover date. Said designation shall be effective from and after its filing with the Secretary of State.

(b) From and after the "permit changeover date," all existing regulatory permits within the coastal area shall be administered in coordination and consultation with (but not subject to the veto of) the Commission. No such existing permit within the coastal area shall be issued, modified, renewed or terminated except after consultation with the Commission. The provisions of this subsection concerning consultation and coordination shall not be interpreted to authorize or require the extension of any deadline established by this Article or any other law for completion of any permit, licensing, certification or other regulatory proceedings.

(c) Within the meaning of this section, "existing regulatory permits" include dredge and fill permits issued pursuant to G.S. 113-229; sand dune permits issued pursuant to G.S. 104B-4; air pollution control and water pollution control permits, special orders or certificates issued pursuant to G.S. 143-215.1 and 143-215.2, or any other permits, licenses, authorizations, approvals or

certificates issued by the Board of Water and Air Resources pursuant to Chapter 143; capacity use area permits issued pursuant to G.S. 143-215.15; final approval of dams pursuant to G.S. 143-215.30; floodway permits issued pursuant to G.S. 143-215.54; water diversion authorizations issued pursuant to G.S. 143-354(c); oil refinery permits issued pursuant to G.S. 143-215.99; mining operating permits issued pursuant to G.S. 74-51; permissions for construction of wells issued pursuant to G.S. 87-88; restricted-use pesticide permits issued pursuant to G.S. 143-440(b); pesticide applicator licenses issued pursuant to G.S. 143-452 for persons who may apply pesticides within the coastal area; and regulations concerning pesticide application within the coastal area issued pursuant to G.S. 143-458; approvals by the Department of Human Resources of plans for water supply, drainage or sewerage, pursuant to G.S. 130-161.1 and 130-161.2; standards and approvals for solid waste disposal sites and facilities, adopted by the Department of Human Resources pursuant to Chapter 130, Article 13B; permits relating to sanitation of shellfish, crustacea or scallops issued pursuant to Chapter 130, Articles 14A or 14B; permits, approvals, authorizations and regulations issued by the Department of Human Resources pursuant to Articles 23 or 24 of Chapter 130 with reference to mosquito control programs or districts; any permits, licenses, authorizations, regulations, approvals or certificates issued by the Department of Human Resources relating to septic tanks or water wells; oil or gas well regulations and orders issued for the protection of environmental values or resources pursuant to G.S. 113-391; a certificate of public convenience and necessity issued by the State Utilities Commission pursuant to Chapter 62 for any public utility plant or system, other than a carrier of persons or property; permits, licenses, leases, options, authorization or approvals relating to the use of State forestlands, State parks or other State-owned land issued by the State Department of Administration, the State Department of Natural and Economic Resources or any other State department, agency or institution; any approvals of erosion control plans that may be issued by the North Carolina Sedimentation Control Commission pursuant to G.S. 113A-60 or 113A-61; and any permits, licenses, authorizations, regulations, approvals or certificates issued by any State agency pursuant to any environmental protection legislation not specified in this subsection that may be enacted prior to the permit changeover date.

(d) The Commission shall conduct continuing studies addressed to developing a better coordinated and more unified system of environmental and land-use permits in the coastal area, and shall report its recommendations thereon from time to time to the General Assembly. Specifically, the Commission shall report to the 1975 General Assembly recommended procedures to implement the requirement of subsection (b) of this section for administration of existing regulatory permits within the coastal area in coordination and consultation with the Commission. In its 1975 recommendations, the Commission shall seek to develop procedures that are administratively practicable, that are not unduly burdensome for the affected agencies, and that are adapted to the circumstances of each agency, taking into account the volume of permits issued, the location of the regulated activity (whether or not within or near an area of environmental concern), the significance of the environmental consequences of the regulated activity, and the scheduling problems and needs of the regulatory agency. Provided, however, that no consultation or coordination shall be required in advance of issuance of individual pesticide applicator licenses, but only periodic consultation concerning the overall effect of the applicator licensing program within the coastal area. In its 1975 recommendations, the Commission shall also evaluate the desirability of legislation to provide for coordination of

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environmental permits at the option of permit applicants. In developing its 1975 recommendations, the Commission shall meet with all affected State agencies and shall hold one or more public hearings concerning its recommendations. (1973, c. 1284, s. 1; 1975, c. 452, s. 4.)

Editor's Note. — The 1975 amendment substituted "44 months" for "27 months" in the parentheses in the first sentence of subsection (a).

Section 130-161.2, referred to in subsection (c) of this section, does not exist.

Section 143-215.99, referred to in subsection (c), was repealed by Session Laws 1975, c. 521, § 1. As to provisions relating to oil refining facility permits, see now § 143-215.100.

§ 113A-126. **Injunctive relief and penalties.** — (a) Upon violation of any of the provisions of this Article or of any regulation, rule or order adopted under the authority of this Article the Secretary may, either before or after the institution of proceedings for the collection of any penalty imposed by this Article for such violation, institute a civil action in the General Court of Justice in the name of the State upon the relation of the Secretary for injunctive relief to restrain the violation and for such other or further relief in the premises as said court shall deem proper. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from any penalty prescribed by this Article for any violation of same.

(b) Upon violation of any of the provisions of this Article relating to permits for minor developments issued by a local government, or of any regulation, rule or order adopted under the authority of this Article relating to such permits, the designated local official may, either before or after the institution of proceedings for the collection of any penalty imposed by this Article for such violation, institute a civil action in the General Court of Justice in the name of the affected local government upon the relation of the designated local official for injunctive relief to restrain the violation and for such other and further relief in the premises as said court shall deem proper. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from any penalty prescribed by this Article for any violation of same.

(c) Any person who shall be adjudged to have knowingly or willfully violated any provision of this Article, or any regulation, rule or order adopted pursuant to this Article, shall be guilty of a misdemeanor, and for each violation shall be liable for a penalty of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000) or shall be imprisoned for not more than 60 days, or both. In addition, if any person continues to violate or further violates, any such provision, regulation, rule or order after written notice from the Secretary or (in the case of a permit for a minor development issued by a local government) written notice from the designated local official, the court may determine that each day during which the violation continues or is repeated constitutes a separate violation subject to the foregoing penalties.

(d) (1) A civil penalty of not more than one thousand dollars (\$1,000) may be assessed by the Commission against any person who:

- a. Is required but fails to apply for or to secure a permit required by G.S. 113A-122, or who violates or fails to act in accordance with the terms, conditions, or requirements of such permit.
- b. Fails to file, submit, or make available, as the case may be, any documents, data or reports required by the Commission pursuant to this Article.
- c. Refuses access to the Commission or its duly designated representative, who has sufficiently identified himself by

displaying official credentials, to any premises, not including any occupied dwelling house or curtilage, for the purpose of conducting any investigations provided for in this Article.

- d. Violates any duly adopted regulation of the Commission implementing the provisions of this Article. Provided, however, that this paragraph d shall not apply to regulations relating to minor developments
- (2) If any action or failure to act for which a penalty may be assessed under this subsection is willful, the Commission may assess a penalty not to exceed one thousand dollars (\$1,000) for each separate violation, after the first assessment, provided, however, no penalty shall be imposed under this subsection pending court review of the first assessment if appealed pursuant to subdivision (3)
- (3) The Commission may assess the penalties provided for in this subsection. When the Commission proposes to assess a penalty, it shall notify the person whom it proposes to assess by registered or certified mail of the proposal to assess a penalty, and the notice shall specify the reason for assessment and the date of the proposed hearing when assessment is to be determined. The hearing shall be no sooner than 15 days after the mailing of notice of the proposed assessment. Any hearing shall be based upon competent evidence, and the person the Commission proposes to assess shall be allowed to present evidence and the hearing shall be reported. The person assessed may apply to the superior court of the county where such person resides for review of the hearing and assessment and the scope of the court's review of the Commission's action (which shall include a review of the amount of the assessment), shall be as provided in G.S. 143-315. If the person assessed fails to pay the amount of the assessment to the Department of Natural and Economic Resources within 30 days after receipt of notice, or such longer period, not to exceed 180 days, as the Commission may specify, the Commission may institute a civil action in the superior court of the county in which the violation occurred or, in the discretion of the Commission in the superior court of the county in which the person assessed resides or has his or its principal place of business, to recover the amount of the assessment. In any such civil action, the scope of the court's review of the Commission's action (which shall include a review of the amount of the assessment), shall be as provided in G.S. 143-315.
- (4) In determining the amount of the penalty the Commission shall consider the degree and extent of harm caused by the violation and the cost of rectifying the damage. (1973, c. 1284, s. 1)

Editor's Note. — Section 143-315, referred to in two places in subsection (d)(3), was repealed by Session Laws 1973, c. 1331, s. 2. For present

provisions as to judicial review of decisions of administrative agencies, see §§ 150A-13 through 150A-52

§ 113A-127. Coordination with the federal government. — All State agencies shall keep informed of federal and interstate agency plans, activities, and procedures within their area of expertise that affect the coastal area. Where federal or interstate agency plans, activities or procedures conflict with State policies, all reasonable steps shall be taken by the State to preserve the integrity of its policies. (1973, c. 1284, s. 1.)

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§ 113A-128. Protection of landowners' rights. — Nothing in this Article authorizes any governmental agency to adopt a rule or regulation or issue any order that constitutes a taking of property in violation of the Constitution of this State or of the United States. (1973, c. 1284, s. 1.)

APPENDIX B

APPENDIX B

STATE GUIDELINES FOR LOCAL PLANNING*

STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN

COASTAL COUNTY AEC MAPS

Section .0300 of these Guidelines relates to proposed or potential Areas of Environmental Concern and were used by local governments in the development of their land use plans prior to the official designation by the North Carolina Coastal Resources Commission of Areas of Environmental Concern.

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SUBCHAPTER 7B - LAND USE PLANNING GUIDELINES

SECTION .0100 - INTRODUCTION AND SUMMARY

.0101 INTRODUCTION

The Coastal Area Management Act of 1974 establishes a cooperative program of coastal area management between local and state governments.

Under the act local governments are given the initiative for land use planning, and concurrent responsibility for enforcement, but are not responsible for the third phase of the management process; the establishment of areas of environmental concern.

The Coastal Resources Commission is convinced that effective implementation of the act depends on providing local government with incentives to participate in the program to the maximum extent possible. It has therefore responded affirmatively to the recommendation of the coastal resources advisory council to postpone adoption of the interim areas of environmental concern until after local governments have submitted preliminary drafts of their land use plans which are due on November 23, 1975. Accompanying but separate from these preliminary drafts may be maps delineating the proposed areas of environmental concern. This local identification and delineation approach will give local governments the initial opportunity to identify within their jurisdiction the specific areas, described by general category in these guidelines, where particular scrutiny should be given by designated local officials and/or the Coastal Resources Commission before development plans are implemented.

These amended state guidelines are designed to make possible this further involvement of local government in the coastal management process, and to simplify and clarify other points on which there appeared to be confusion.

History Note: Statutory Authority G.S. § 13A-107(a);
Eff. February 1, 1976.

.0102 OBJECTIVES

The purpose of these state guidelines is to assist local governments in each of the 20 coastal area counties with the preparation of their own individual land use plans.

Each county and each city or town within a coastal county is encouraged to develop a plan which reflects the desires, needs and best judgment of the citizens residing within its boundaries.

When completed these 20 individual county land use plans will form the basis for a "comprehensive plan for the protection,

preservation, orderly development, and management of the coastal area of North Carolina, " which is the primary objective of the Coastal Area Management Act of 1974.

It is, therefore, essential that each of the municipal plans and each of the 20 county plans not only take into consideration the geography, the economy and the traditional life style of the local area, but is also in harmony with the plans developed by the other 19 coastal counties and takes into consideration both state and national interests.

In this way the people of the coastal area, working through their local officials and with the assistance of professionally trained specialists, can realize the goals of the Coastal Area Management Act of 1974.

A problem arises at the very outset, however, because the Coastal Area Management Act is such a detailed and lengthy document few coastal residents have read it, and fewer still have studied it sufficiently to fully understand it.

Yet, the act requires the development and adoption of a land use plan for each county in the coastal area, and further requires that each county plan conform to state guidelines, which in turn "shall be consistent with the goals of the coastal area management system," as set forth in that first part of the act.

Thus, it is essential for any local official or any coastal citizen involved in developing a local land use plan to understand the legislative goals of the management system as stated in G.S. 113A-102(b). Briefly, they are:

- (1) to provide a management system capable of preserving and managing the natural ecological conditions of the estuarine system, the barrier dune system, and the beaches, so as to safeguard and perpetuate their natural productivity and their biological, economic and aesthetic values;
- (2) to insure that the development or preservation of the land and water resources of the coastal area proceeds in a manner consistent with the capability of the land and water for development, use, or preservation based on ecological considerations;
- (3) to insure the orderly and balanced use and preservation of our coastal resources on behalf of the people of North Carolina and the nation;
- (4) to establish policies, guidelines and standards for the conservation of resources; the economic development of the coastal area; the use of recreational lands and tourist facilities; the wise development of transportation and circulation patterns; the preservation and enhancement of historical, cultural and scientific aspects of the region;

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and the protection of common law and public rights in the lands and waters of the coastal area.

History Note: Statutory Authority G.S. 133A-107(a);
Eff. February 1, 1976.

.0103 POLICIES

The basic policy decisions in any effective program of county-wide land use planning must be made within the county -- by people familiar with local tradition, local problems and local desires for the future.

Though the final determination of policy is the responsibility of the elected officials, the process extends far beyond the courthouse. Within the structure of county government the planning board is obviously involved, though it is equally important to have input in their areas of special knowledge from all other agencies of government ranging from the sheriff, tax supervisor and tax collector to the board of education and school administrators, and the health and social services departments.

Equally important is the involvement of the city council, and of departments, boards and commissions of each incorporated municipality, not just with regard to the lands within their city limits, but in adjoining areas as well.

Finally, it is important to secure the views of a wide cross section of citizens, representing not only each different geographical area of the county, but those who can ably represent the varying economic, social, ethnic and cultural interests as well.

Once widespread local input is assured, the task becomes one of identifying those matters on which local value judgments are needed.

In any community there is a drive for growth and changes which can provide the facilities, services and strengthened economic base which most people equate with a full and happy life. At the same time there is mounting concern over human meddling with the ecological balance. And many tend to prefer the environment in which they were reared in coastal North Carolina to the more frenzied and complex life style of more urbanized sections of the country. Each of these factors must be weighed carefully before decisions can be made which will help shape the form of life for generations yet unborn.

For example, if a large part of the land in a coastal county has been put to use as farmland, with the result that agriculture has been the mainstay of the economy for generations, then the decision must be made whether to retain this traditional emphasis on farming; or to allow limited industrial expansion; or to abandon the agricultural base entirely. The same considerations

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apply in areas where commercial fishing, forestry or tourism have figured prominently as an economic base.

The very fact that coastal North Carolina has such an extensive shoreline, along the sounds, rivers and bays as well as the Atlantic Ocean, has brought extreme pressures in recent years to accommodate the growing numbers of tourists and summer residents drawn to the area. Yet at the same time that many coastal communities have experienced the benefits of the flow of tourist oriented dollars, they have most often been affected as much by the attendant problems of providing water, waste disposal facilities, roads, police protection and numerous other services, unthought of a few years back, for the growing throngs.

These are the questions which must be decided locally using land use planning as the basic tool. A key factor to bear in mind at all times in this process is the number of people the local area wants to accommodate eventually. If planning in a particular area is geared to handle a population of 100,000 people, and through the course of time that number take up residence, then there is a good chance of coping with the problems attendant on growth. But if a million people eventually show up in an area geared to handle one-tenth of that number, then the whole planning process will have been useless.

It should be borne in mind throughout the planning process that the county and municipal plans must take into consideration not only local and area needs, but state and national interests as well.

Fortunately for local governments, given the restraints of available time and funds, one important matter of policy throughout the coastal area was determined by the General Assembly when the Coastal Area Management Act of 1974 was enacted into law. This was the specific instruction to the Coastal Resources Commission to identify critical areas which need to be considered for protection and possible preservation in each county; and to formally designate them as "areas of environmental concern," in which any proposed development, change or other use of the land will be subject to review before permits for development are granted. Local governments are required to identify proposed AEC's for inclusion in their land use plans. Under the amended procedure recommended by the coastal resources advisory council and approved by the C.R.C., local governments will be given the additional opportunity to delineate proposed AEC's on maps to be submitted concurrently with but considered separate from the preliminary land use plans.

The C.R.C. will soon after the identification and delineation by the local governments promulgate interim and subsequently final areas of environmental concern taking careful note of the local governments' identifications and delineations.

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Simply stated, the ultimate policy decision is how to achieve responsible and needed growth within the capacity of the land and adjacent waters to sustain it. The framers of the Coastal Area Management Act of 1974 deliberately placed this decision in local hands.

When properly carried forward the land use planning process never ceases, for it is continually affected by changes in population, economics, technological development and life style. As an obvious example, any land use plan developed before the invention of the automobile would have to be revised drastically to take into consideration the need for highways and the impact of motor vehicles on the way people live and how they earn their living.

Each of the local land use plans called for in the Coastal Area Management Act of 1974, therefore, can be no more than a foundation to which future planning can be added in the light of our rapidly changing environment.

The Coastal Resources Commission recognized this, and recognized also the problems resulting from the required time schedule for completion of local plans, and the limitations of available funding. But the commission is equally aware that this entire effort will have been wasted if each local government does not produce a land use plan which will serve as a solid foundation for the future.

History Note: Statutory Authority G.S. 113A-107(a);
Eff. February 1, 1976.

.0104 STANDARDS

Traditionally the process of developing a land use plan begins with the collection of a vast amount of data, ranging from figures on population and income to maps showing topography, soil classification and current land uses.

This is generally followed by a detailed analysis of the collected data, the development of local objectives, preparation of new maps, and the drawing up of plans and budgets for the construction of new facilities to accommodate the projected expansion and growth.

It is a time consuming procedure, the culmination of which most often is the printing of thick documents containing a mass of written material, maps and charts. Unfortunately these are infrequently read, and seldom studied and implemented, and in many cases they end up stored in the basement of the courthouse for posterity -- or the trash collector.

The Coastal Area Management Act does not provide sufficient time for the local governments of coastal North Carolina to follow these traditional land use planning practices if they are

to complete their basic plans by the May 1976 deadline. Neither does the Coastal Resources Commission want any local government to go through the motions of preparing a traditional but relatively meaningless plan just to conform to the requirements of the act and these guidelines.

Therefore, every effort has been made in these guidelines to rearrange, simplify and streamline the procedures, so that none of the 20 coastal counties will be required to do more during the course of the 1975-1976 planning effort than it can realistically expect to accomplish in that period of time.

The basic objective, in short, is for each local governmental unit in the coastal area to determine its long-range development goals and translate these into clearly understandable written descriptions and maps which will serve as a firm foundation and practical guide for all future planning and development.

Specifics of this planning process are dealt with in the following || sub-sections of this Rule:

- (1) Developing Goals. From the outset the emphasis of the citizen planners; county commissioners, city officials, planning board members and citizens serving on advisory committees; should be directed toward formulating the local development plan. This calls first for the involvement of a large segment of the citizens in determining what they want their area to be like for future generations, and finally for value judgments by the local governing body in the process of articulating the goals. Only when these general policies and goals have been set will the planning process move into the area of data analysis, map preparation and development of the specifics of the plan.
- (2) Organizing the Team. In any area, county or city, the team setting out to put together an understandable and meaningful land use plan must consist of a number of elements:
 - (a) The Local Elected Officials. They head the team and most often delegate direct responsibility to the planning board, but retain final authority for approval of the plan.
 - (b) The Planning Board. It should be composed of individuals representative of different backgrounds, interests and geographic areas. A successful planning board directs the planning operation, with the assistance of the planning staff or consultants, and this calls for extensive study and continuing involvement in the process by all members. Individuals not able or willing to devote a large part of their time to this public service activity during 1975-1976

- will do a disservice to their counties and their fellow citizens by being planning board members in name only.
- (c) The Coastal Resources Advisory Council Members. These are local citizens whose role on the planning team is liaison with the Coastal Resources Commission.
 - (d) Professional Planners. Whether on salary or under contract, they are paid to assemble data, analyze information, identify problems, prepare maps, charts and background reports, and provide assistance and professional guidance to the citizen planners. It is not their job to make policy decisions, or to dominate the planning process. A number of coastal counties, municipalities and special districts already have various plans and studies which contain extensive data pertinent to the planning process. In addition, considerable additional data has been assembled since the CAMA became effective July 1, 1974, and local planning staffs will continue the process of accumulating maps, written material and statistics as the plan develops. Much of this material will come, without local effort or expense, from the CRC, DNER, other departments of state government, and agencies of the federal government.
 - (e) Representatives of Local Public Agencies. The experience and knowledge of these officials and department heads can add immeasurably to the planning process as well as helping to insure that the land use decisions they make in their own activities are consistent with county-wide goals and policies. The most effective way to involve representatives of the various agencies within the county is to have them serve on an advisory council which meets on a regular basis. Coordination between county and city governments is perhaps of even greater importance and is discussed in more detail in Rule .0104(4) of this Section.
 - (f) State and Federal Agencies. Especially in counties which have extensive state and federal installations or land holdings it is important to involve all agencies with a direct interest or expertise in local land use problems. Obvious examples are the National Park Service, defense installations, and the state divisions of parks and of forests. In all counties there is involvement by other agencies, especially those concerned with dredge and fill applications and other permits.

- (g) Citizens. Their involvement is probably the most essential ingredient of a successful land use planning program. Not only is it difficult, if not impossible, for a handful of elected officials and planners to develop a long-range land use plan which fully reflects the desires and needs of all citizens, but it has been proven time and again that when citizens are not directly involved in the planning they are reluctant to support the actions and funding required for future implementation. Citizens can be involved in two different ways. First, some counties already have formed county-wide advisory committees, working with their planning boards and planners on a continuing basis. Second, it is essential to involve a large segment of the citizens throughout the county as described in (3) of this Rule.
- (3) Achieving Public Participation. Because of the importance of public participation in land use planning the commission has prepared a special "Handbook on Public Participation in the Development of Land Use Plans in the Coastal Areas of North Carolina" for separate publication and extensive distribution to all involved or interested citizens. The handbook contains detailed descriptions of methods which have proven effective elsewhere in each of the two basic steps necessary for effective public participation; first informing the public, and then getting public involvement in the planning program. Before approval of any land use plan the commission will require that the plan include a statement outlining the methods employed in securing public participation; and the degree of that participation.
- (4) Effecting County-City Relationships. In the final analysis the individual plans for the municipalities are an important part of the overall county plan. It is imperative to devise some method for having representatives of municipalities serve on a permanent advisory council. The relationship of cities to counties, and of counties to cities, is one not fully defined in the Coastal Area Management Act. Many additional questions will arise which are not covered in the CAMA and cannot be anticipated in these guidelines. Specific questions on coordination must therefore be worked out locally. Already, in some counties, a close working relationship is being developed between the county and city planning boards, and similar coordination and cooperation is essential to the planning process throughout the coastal area. Just as it will be the responsibility of the CRC to

mesh the individual plans from all 20 counties into a single comprehensive plan for the entire coastal area of North Carolina, it is the responsibility of local governments within each county to combine their plans into a single comprehensive county-wide plan. The official policy of the commission on county-city planning relationships is as follows:

"It is the policy of this commission that in every instance city plans shall be considered as integral parts of the county plans."

"It is the further policy of this commission to encourage cities which so desire to develop their own land use plans, carefully coordinated with county plans prepared in the manner provided in the Coastal Area Management Act of 1974."

To implement this policy the CRC recommended, and the Secretary of DNER has authorized, the allocation of grant funds to qualifying cities for this purpose. Further, the commission and the coastal resources advisory council are available to work with local governments in developing cooperative programs.

- (5) Preparing a Time Schedule. The CAMA, as amended, provides that the commission must adopt these guidelines no later than January 27, 1975, and that each locality must complete the preparation and adoption of its land use plan within 480 days thereafter. The effective date for these guidelines is January 27, 1975, which means that the local plans must be adopted by May 21, 1976. This amended schedule provides an excellent opportunity for the local governments to solicit additional public input and participation in the planning process. The schedule also provides the opportunity for local governments to submit their preliminary land use plans to the CRC for an informal review before the plans are presented at the required public hearing. The CRC has identified a few key dates by which times local governments will have completed certain actions in the planning process and these are:
- August 7, 1975 -- Each local government must submit to the CRC a detailed program schedule which gives the date by which:

- (a) The development of local goals will have progressed sufficiently to begin the preparation of the written part of the plan;
- (b) The proposed plan should be completed for review by local officials and appropriate agencies;
- (c) The proposed plan must be completed and circulated for formal review (Hearing notification must be published

- in a newspaper of general circulation in the planning area giving the date, time and place of the hearing.);
- (d) One joint public hearing will be held where the county plan and one or more city plans (if applicable) are presented and comments received;
 - (e) Work should begin on making final changes in the plan, including those resulting from the public hearing.
- November 23, 1975 -- Three copies (one copy with maps and two text copies without maps) of the plan with synopsis shall be submitted to the CRC for informal review. The preliminary drafts should be accompanied by local delineation of proposed areas of environmental concern.
- May 21, 1976 -- This is the deadline for adoption of the plan.
- May 24, 1976 -- A certified copy of the adopted plan with maps shall be delivered to the commission.
- June 1, 1976 -- Three additional copies (with maps) of the plan shall be delivered to the commission.
- (6) Protecting Areas of Environmental Concern. "They (State Guidelines) shall give particular attention to the nature of development which shall be appropriate within the various types of areas of environmental concern that may be designated by the Commission." [Coastal Area Management Act of 1974, G.S. 113A-107(a)] The act contains detailed procedures to be followed by the Coastal Resources Commission and others before areas of environmental concern can be designated; but no time schedule is included. The first step in the AEC process, identifying proposed areas of environmental concern, was begun in the summer of 1974 and will not be completed until after local governments have submitted their proposed AEC identifications and map delineations on November 23, 1975. The commission will then formally designate interim areas of environmental concern as early as practical after that November date. The final steps required by the act are even more time consuming, which means there is little likelihood that permanent areas of environmental concern could be designated by the commission before sometime in 1976. The commission has, however, developed land use standards to insure that potential IAEC's are adequately considered in the land use planning process. These standards, which are set forth in Section .0300 of this Subchapter, clearly define each area and establish policy objectives and general standards for their appropriate use. They are intended for use in the preparation of local land use plans. More detailed standards and criteria to be used in permit letting will

be published at a later date as an amendment to these guidelines.

- (7) Preparing the Plan; Format and Content. "A land use plan for a county shall...consist of statements of objectives, policies, and standards to be followed in public and private use of land within the county, which shall be supplemented by maps showing the appropriate location of particular types of land or water use and their relationship to each other and to public facilities... (It shall contain) specific criteria for particular types of land or water use in particular areas...(and) give special attention to the protection and appropriate development of areas of environmental concern..." [Coastal Area Management Act of 1974, G.S. 113A-110(a)] So long as the directives from the act listed in this Rule are followed the commission has wide latitude in establishing guidelines for what an acceptable land use plan shall consist of, and for the form it should take. The commission is exercising that latitude by departing from conventional land use plan concepts and calling instead for simplicity and innovation in these guidelines with the conviction that the resultant plans will be brief and understandable, and thus practical and meaningful. An approved plan shall consist of two documents, one being a complete land use plan for limited distribution to those who will be involved in implementation and follow-up, and the other a concise synopsis for wide distribution to the public. The commission may give relief to local governments from the synopsis requirements, if the commission determines that the material relating to the local government is adequately included in the synopsis of another local government. The synopsis shall contain a clear summation of the essential elements of the long-range land use program prepared by the citizens. The complete land use plan shall contain the synopsis, supplemented by considerable additional detail and back-up information. A single copy of the preliminary draft of the synopsis, land use plan and the proposed AEC delineation maps shall be submitted to the CRC for informal review by November 23, 1975. As soon as the draft of the synopsis is returned by the commission and any suggested revisions are made, each county and city shall arrange for public exposure and scrutiny of the synopsis draft with maps to the maximum degree possible. This public review may utilize the media, presentations before neighborhood meetings, clubs, and organizations and/or any other methods which might be considered

effective. The final synopsis shall be prepared only after such public exposure is carried out and revisions are made which take into consideration the reactions of the citizens of the area. Both the synopsis and the complete land use plan shall be adopted by the local governing body on or before May 21, 1976, and submitted to the Coastal Resources Commission. These two documents represent only the beginning of a continuing planning process, and the commission anticipates that additional studies will be necessary to strengthen and implement the plan. Local governments are encouraged to forward these additional planning documents to the commission as they are developed. Map requirements for the synopsis and complete land use plan are shown in Figures I and II (of this Rule). Map requirements shown in Figures I and II (of this Rule) for the November draft may be optional if a local government's map work is presently well advanced; all other map requirements shown in Figures I and II of this Rule shall be mandatory.

FIGURE I

SUMMARY OF MAP REQUIREMENTS

<u>COMPLETE LAND USE PLAN</u>		<u>AEC DELINEATION MAP FOR CRC</u>
<u>LAND USE MAP</u>	<u>LAND CLASSIFICATION MAP</u>	
County: 1" = 2 mi Color Coded Map OR 1:24,000 Orthos (or equivalent) with boundary lines and coded (letter or number code)	County: 1" = 2 mi Color Coded Map OR 1:24,000 Orthos (or equivalent) with boundary lines and letter code	County: 1:24,000 Orthos (or equivalent) with boundary lines and letter code (single color for bound- ary lines and letter code optional)
City: 1" = 400' or equiva- lent color coded map reduced to report	City: 1" = 400' or equiva- lent color coded map reduced to report size	City: 1" = 400' or equivalent map with boundary

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size	OR	lines and let-
OR	1" = 400' or equiva-	ter code
1" = 400' or equiva-	lent map with bound-	OR
lent with boundary	ary lines and letter	1:24,000 Orthos
lines and coded	code	(or equivalent)
(letter or number	OR	with boundary
code)	1:24,000 Orthos (or	lines and letter
	equivalent) with	code (single
	boundary lines and	color for bound-
	letter code	ary lines and
		letter code
		optional)

County:	County:
1" = 2 mi Color Coded	1" = 2 mi Color Coded
Map	Map
OR	OR
1:24,000 Orthos (or	1:24,000 Orthos (or
equivalent) with	equivalent) with
boundary lines and	boundary lines and
coded (letter or	letter code
number-code)	

City:	City:
1" = 400' or equiva-	1" = 400' or equiva-
lent color coded map	lent color coded map
reduced to report	reduced to report
size	size
OR	OR
1" = 400' or equiva-	1" = 400' or equiva-
lent map with bound-	lent map with bound-
ary lines and coded	ary lines and letter
(letter or number	code
code)	OR
	1:24,000 Orthos (or
	equivalent) with
	boundary lines and
	letter code

FIGURE II
SUMMARY OF MAP REQUIREMENTS
SYNOPSIS

LAND USE MAP

LAND CLASSIFICATION MAP

November 23*

County:
1" = 2 mi color coded map

County:
1" = 2 mi color coded map
OR
1" = 2 mi map with boundary
lines and letter code

City:
1" = 400' or equivalent color
coded map reduced to report
size

City:
1" = 400' or equivalent color
code map reduced to report size
OR
1" = 400' or equivalent reduced
to report size with boundary
lines and letter code

May 24 and June 1* **

County:
1" = 2 mi color coded map

County:
1" = 2 mi color coded map
OR
1" = 2 mi map with boundary
lines and letter code

City:
1" = 400' or equivalent color
coded map reduced to report
size

City:
1" = 400' or equivalent color
coded map reduced to report size
OR
1" = 400' or equivalent reduced
to report size, with boundary
lines and letter code

Printed Synopsis

County:

County:

NORTH CAROLINA ADMINISTRATIVE CODE

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1" = 2 mi color coded map

1" = 2 mi color coded map

City:	City:
1" = 400' or equivalent color	1" = 400' or equivalent color
coded map reduced to report	coded map reduced to report
size	size

*Maps may be colored.

**Submit mockup to represent copy for the printed synopsis.

- (a) Synopsis. The synopsis shall contain an identification of the major land use issues or problems in the area, a clear statement of land use goals and objectives, and an explanation of how and why the long-range goals were developed. This should be backed up with a summary of past and present land use conditions and trends and an existing land use map as described in 7B .0204(a) of this Chapter. Particular attention should be given to the capability of the land to sustain whatever growth is called for, with emphasis on the limitations of the natural resources of the area. Mention should be made also of desired changes in population, 5, 10, 25 and 50 years in the future, with attention given to the type of services needed to accommodate such growth. The written synopsis shall also contain a copy of the land classification map with an explanation of the relationship between the cities and the county. A separate section shall list the proposed areas of environmental concern categories occurring in the respective jurisdictional area, describe their relationship to adjacent areas, and appropriate land uses. Finally, the written synopsis shall contain a concise explanation of the steps which will be required in the future for implementation of the plan; a method of providing periodic review and revision in the light of changes in life style, the environmental and economic pressures; and a proposed method for widespread distribution of the synopsis. In the interest of greater public participation in the planning process, the commission may allow a local government to deviate from the aforementioned synopsis format in favor of an innovative format which would increase public understanding and awareness of the plan. The local government must formally request the

format change and in so doing demonstrate to the commission how the change would increase the public's understanding of the plan. The commission will only allow a format change for reasons of increased public participation and not for the convenience of the local government or contractor. The written text of the synopsis shall be no more than the equivalent of 20 double-spaced typewritten pages in length. For purposes of economy in printing the synopsis, DNER will develop additional copy form and preparation criteria which local government shall follow in the preparation of the synopsis. This criteria will only consist of the "mechanics" necessary for preparing the synopsis and will include such items as copy size, color overlay techniques, general map placement, etc.

- (b) The Complete Land Use Plan. Details on the contents of the land use plan are given in Section .0200 of this Subchapter.
- (8) Classifying Land. A simplified land classification system for the coastal area has been adopted by the CRC after concurrence with the state land policy council. It consists of five classes of land, which shall be employed by counties in their land use plans:
 - (a) developed; lands where existing population density is moderate to high and where there are a variety of land uses which have the necessary public services;
 - (b) transition; lands where local government plans to accommodate moderate to high density development during the following 10 year period and necessary public services will be provided to accommodate that growth;
 - (c) community; lands where low density development is grouped in existing settlements or will occur in such settlements during the following 10 year period and which will not require extensive public services now or in the future;
 - (d) rural; lands whose highest use is for agriculture, forestry, mining, water supply, etc., based on their natural resource potential; Also included are lands for future needs not currently recognized;
 - (e) conservation; fragile, hazard and other lands necessary to maintain a healthy natural environment and necessary to provide for the public health, safety, or welfare.
- (9) Reviewing and Approving the Plan. Each plan will be reviewed carefully by the commission and staff as soon as possible after receipt. In compliance with the CMAA interested persons will be given the opportunity to

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present objections or comments, in writing, within 30 days after the date of approval by the local governing body. Within 45 days after receipt of the local plan, the commission will approve the plan or notify the county of the specific changes which must be made in order for it to be approved.

- (10) Distributing the Plan. Every effort should be made to provide a copy of the synopsis of the land use plan for each household in the county. It is recommended that the county arrange to mail a copy of the synopsis to each listed taxpayer during the calendar year of 1976. This can be enclosed with the annual tax bill, though it would be preferable to provide for an earlier mailing. Alternative methods of accomplishing widespread distribution should be proposed to the commission when the approved plan is forwarded. After the plan is adopted by the local governing body, and approved by the commission, copies of the maps included in the final land use plan shall be placed on display in the county courthouse or city hall, as appropriate. The timing of the display should be coordinated with distribution of the county and/or city synopsis. This display can allow detailed public inspection of the land use plan maps and thereby promote additional public awareness and interest in the synopsis and resultant planning program.
- (11) The Continuing Planning Process. Too frequently in the past counties and municipalities, in North Carolina and elsewhere, have expended considerable effort and public funds in developing land use plans, and then shelved them. In many instances a root cause for failure to implement such a plan has been the fact that there was inadequate citizen involvement; first in not being informed of the problems; second in not becoming actively involved in the planning process; and finally in not being familiar with the plan once it was completed. An equally pertinent reason for non-implementation is the process by which county commissioners and municipal officials are elected, and planning board members are appointed. Too often by the time a plan has been completed and printed the individuals who worked hardest on it are no longer in office and their successors have their hands full familiarizing themselves with their new jobs and current problems. This is the first attempt in North Carolina, and apparently in any of the other 49 states, to provide for the development of land use plans simultaneously by a large number of counties and municipalities in a large geographic area. It gives the CRC and local government in

coastal North Carolina a unique opportunity to develop land use plans which can serve as a standard for numerous other areas to follow. Thus it is imperative for each involved agency of local government to devise the most practical and applicable methods for insuring that the 1976 land use plan will be implemented and not shelved.

History Note: Statutory Authority G.S. 113A-107(a);
Eff. February 1, 1976.

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SECTION .0200 - LAND USE PLAN

.0201 INTRODUCTION

The land use plan shall contain the following basic elements:

- (1) a statement of local land use objectives, policies and standards;
- (2) a summary of data collection and analysis;
- (3) an existing land use map;
- (4) a land classification map;
- (5) written text describing and indicating appropriate development for proposed areas of environmental concern. (Maps delineating proposed AEC's should accompany the preliminary land use plan but will not be considered a part of the plan.)

The constraints imposed by statutory time schedules will require the land use plans produced under the provisions of the Coastal Area Management Act to be basic, simplified documents. These five elements represent a minimum level of planning necessary to fulfill the objectives of the act. Counties and municipalities are encouraged to use these minimum guidelines as a foundation from which to establish a more comprehensive planning and management process.

While the land classification system permits a general expression of future development patterns, some counties may find it useful to formulate a detailed land use map as well as the land classification map. Those desiring to take this additional step are encouraged to do so, and are requested to make their detailed land use manuscript maps available for commission inspection.

The scale of submission for maps should be adequate to present existing land use data and the land classification system with reasonable accuracy, but in no case should they be submitted at a scale of less than 1" = 2 miles. For the delineation of interim areas of environmental concern, use and submission of the 1:24,000 scale orthophotoquads (or their equivalent substitutes in the few instances where they are not available) will be necessary in most cases to generally indicate their location (see Figures I and II of 15 NCAC 7B, Rule .0104).

The local land use plan, including the land classification maps, must be updated every five years. If any local plans and maps are not updated by the local planning unit and submitted for reapproval to the Coastal Resources Commission by the end of six years, the plans and maps are voidable and updated plans and maps may be prepared by the CRC for use in that local area.

History Note: Statutory Authority G.S. 113A-107(a);

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added: Collection & Analysis
Eff. February 1, 1976.

added: Collection & Analysis
.0202 STATEMENT OF OBJECTIVES, POLICIES AND STANDARDS

The local planning unit shall, in cooperation with its citizens and all relevant public agencies, identify the major land use issues facing the planning area and formulate a series of objectives to help guide future development. The major land use issues which will be faced during the following 10 year period should be identified and analyzed. Such issues should include:

- (1) the impact of population and economic trends,
- (2) the provision of adequate housing and other services,
- (3) the conservation of productive natural resources,
- (4) the protection of important natural environments,
- (5) the protection of cultural and historic resources.

Alternative approaches for dealing with these issues and their respective implications should then be considered in the development of land use objectives, policies and standards. These clearly stated objectives, policies and standards should serve as a guide to classifying land areas as well as clearly establishing priorities for action during the planning period. While the emphasis is to be on setting priorities for the 10 year period, eventual population projections for 5, 10, 25 and 50 years in the future shall be defined consistent with the desires of the people and the capability of the land and adjacent waters to sustain them. Consideration shall be given to the type and cost of services needed to accommodate those population projections and to the ability of the local economy to finance such services. It is recognized that projections for 25 and especially 50 years may not be very accurate, but even a rough projection can provide a long-range perspective on growth.

A brief description shall also be given of the process used to determine objectives, policies and standards, with particular attention given to the participation of the public and relevant public agencies.

History Note: Statutory Authority G.S. 113A-107(a);
Eff. February 1, 1976.

added: very statement
.0203 DATA COLLECTION AND ANALYSIS

(a) The data collection and analysis items detailed in this Rule are designed to encourage consistency in the planning efforts of the coastal counties to facilitate the commission's review of the plans. They have been formulated so as not to place a large burden on the planning resources of the localities. The requirements can generally be fulfilled by utilizing existing local plans and studies as well as information provided by regional planning bodies and state agencies. The items set forth

here provide the basic information necessary to initiate an effective planning process, to assist in formulating local objectives, and to prepare a land classification map. Those counties and municipalities desiring to be more detailed or comprehensive than these guidelines suggest are encouraged to do so. Figure III in (b) of this Rule briefly sets forth the required items and illustrates possibilities for additional planning studies.

The process suggested by the data items outlined in (b) of this Rule begins with an examination of the present situation. An estimate is then made of what land use demands are likely to be placed on the planning area during the ensuing 10 year period, based upon population and economic projections and upon local objectives. The implications of the projected future are examined and balanced against the suitability of the lands within the county for development and the capability of government to provide basic public services and facilities. The final step in the process is land classification, which involves determining which lands within the county are to be developed with urban services, which are to continue growing as small communities, which are to be used for rural productive purposes, and which are to be conserved and left largely undeveloped.

The summary of the data collection and analysis submitted as part of the land use plan shall indicate the manner in which the data was assembled and analyzed along with a statement of the major conclusions. This summary shall also demonstrate that each data item discussed below was considered in formulating the plan, based upon the best information available. Base maps to be used for displaying the data and for preparing the land classification map will be provided by the Department of Natural and Economic Resources.

(b) Present Conditions.

- (1) Present Population and Economy. A brief analysis of the local population and economy shall be made utilizing existing information. Particular attention should be given to the impact of seasonal populations and to economic activities which utilize, are dependent upon, or which may impair coastal land and water resources.
- (2) Existing Land Use. Existing land use shall be mapped and analyzed, with particular attention given to:
 - (A) significant land use compatibility problems;
 - (B) major problems which have resulted from unplanned development, and which have implications for future land use;

- (C) an identification of areas experiencing or likely to experience major changes in predominant land uses;
- (D) areas of environmental concern (not to be mapped on existing land use map).

Because of the benefit uniformity will provide in maps of existing land use, the generalized categories and color coding set forth in Figure IV in this Rule shall be used. These categories are generalized and are designed to be compatible with those suggested by the U.S. Department of Interior. The use of more detailed breakdowns of these basic categories is encouraged if appropriate (see Figures I and II, 15 NCAC 7B .0104).

- (3) Current Plans, Policies and Regulations. This element shall contain:
 - (A) a listing and summary of existing plans and policies having significant implications for land use, including at least transportation plans, community facilities plans, utilities extension policies, open space and recreation policies, and prior land use plans and policies;
 - (B) a listing and brief description of the means for enforcement of all existing local land use regulations; The following regulations shall be discussed, where applicable: zoning ordinance (including amendments), subdivision regulations, floodway ordinance, building codes, septic tank regulations, historic districts, nuisance regulations, dune protection, sedimentation codes, and environmental impact statement ordinances;
 - (C) a listing and summary of relevant state and federal regulations affecting coastal land and water resources (to be provided by the Department of Natural and Economic Resources).

(c) Constraints; Land Suitability. A analysis shall be made of the general suitability of the undeveloped lands within the planning area for development, with consideration given to the following factors: physical limitations for development, fragile areas, and areas with resource potential. These factors shall be analyzed, and where possible mapped, based upon the best information available. The major purpose of this analysis is to assist in preparing the land classification map. It is recognized, however, that some of the areas identified as a result of the land suitability analysis may be designated areas of environmental concern. Any areas so designated as AEC's shall be subject to the detailed requirements of Section .0300 of this

Subchapter in addition to the analysis carried out under this Subsection:

- (1) Physical Limitations for Development. An identification shall be made of areas likely to have conditions making development costly or causing undesirable consequences if developed. The following areas shall be identified:
 - (A) hazard areas: man-made (for example, airports, tank farms for the storage of flammable liquids, nuclear power plants) natural, including:
 - (i) ocean erodible areas (as defined in Section .0300;
 - (ii) estuarine erodible areas (as defined in Section .0300 of this Subchapter);
 - (iii) flood hazard areas: riverine (floodplains and floodways), coastal floodplains (as defined in Section .0300 of this Subchapter);
 - (B) areas with soil limitations, including the following:
 - (i) areas presenting hazards for foundations;
 - (ii) shallow soils;
 - (iii) poorly drained soils;
 - (iv) areas with limitations for septic tanks including both areas that are generally characterized by soil limitations, but within which small pockets of favorable soils do exist; and areas where soil limitations are common to most of the soils present;
 - (C) sources of water supply, including:
 - (i) groundwater recharge areas (bedrock and surficial),
 - (ii) public water supply watersheds,
 - (iii) wellfields;
 - (D) areas where the predominant slope exceeds 12 percent;
- (2) Fragile Areas. An identification shall be made of those areas which could easily be damaged or destroyed by inappropriate or poorly planned development. The following shall be considered (as defined in Section .0300 of this Subchapter):
 - (A) coastal wetlands;
 - (B) sand dunes along the outer banks;
 - (C) ocean beaches and shorelines;
 - (D) estuarine waters;
 - (E) public trust waters;
 - (F) complex natural areas;
 - (G) areas that sustain remnant species;

- (H) areas containing unique geologic formations;
- (I) registered natural landmarks;
- (J) others not defined in Section .0300 of this Subchapter such as wooded swamps, prime wildlife habitats, scenic and prominent high points, etc.;
- (K) archeologic and historic sites;
- (3) Areas with resource potential, including:
 - (A) productive and unique agricultural lands, including: prime agricultural soils, potentially valuable agricultural lands with moderate conservative efforts, other productive or unique agricultural lands;
 - (B) potentially valuable mineral sites;
 - (C) publicly owned forests, parks, fish and gamelands, and other non-intensive outdoor recreation lands;
 - (D) privately owned wildlife sanctuaries;
- (d) Constraints; Capacity of Community Facilities. An identification shall be made of:
 - (1) existing water and sewer service areas;
 - (2) the design capacity of the existing water treatment plant, sewage treatment plant, schools, and primary roads;
 - (3) the percent at which the existing water treatment plant, sewage treatment plant, schools, and primary roads are currently utilized.
- (e) Estimated Demand; Population and Economic Estimates.
 - (1) Population. A population estimate for the following 10 years shall be made and utilized as the basis for determining land and facilities demand and for classifying land areas. Ten year population projections will be provided by the Department of Administration for use in making population estimates. Projections will be provided for counties and cities and towns having a population greater than 2,500. Accurate projections for those areas with a population of less than 2,500 are not available and must be developed by the local planning unit. The projections provided by the Department of Administration are based on prior trends with annual updates. The local government may wish to use these trend projections as their population estimates or to modify them to include additional factors such as:
 - (A) seasonal population,
 - (B) local objectives concerning growth,
 - (C) foreseeable social and economic change.The Department of Administration population model is capable of taking into account some of these

considerations and should be used where possible when such further refinement is desired. If such refinement causes a significant difference between the Department of Administration population projections and the local population estimate, the Coastal Resources Commission or its designee should review the estimate prior to the local government using it in their land use plan.

- (2) Economy. Major identifiable trends or factors in the economy which might have impact on future land use shall be set forth:

(A) Future Land Need. The steps to be followed in determining future land needs are:

(i) to make an allocation of the estimated population growth to the transition, community, and rural land classes of the land classification system, based on local objectives (for further clarification see Rule .0204 of this Section); The transition class is to be used to accommodate all the estimated moderate to high density growth. That is not to say, however, that growth cannot occur in the developed class. The great majority of the low density growth which is estimated should be clustered in the community class, though a small amount can be accommodated at very low densities in the rural class;

(ii) to determine, for the transition and community classes, the land area required to accommodate the estimated growth based upon the following gross population densities (for further clarification see Rule .0204 of this Section):

(I) transition: a minimum of 2,000 people per square mile;

(II) community: as a rule of thumb, 640 people per square mile (one person per acre).

(B) Community Facilities Demand. Consideration should be given to new facilities which will be required by the estimated population growth.

FIGURE III
REQUIRED DATA ANALYSIS ITEMS

<u>ELEMENT</u>	<u>REQUIRED</u>
PRESENT CONDITIONS:	
Population and Economy	Brief analysis, utilizing existing information
Existing Land Use	Mapped at generalized categories, Figure II
Current Plans, Policies and Regulations	
(1) Plans & Policies	(1) Listing and summary
(2) Local Regulations	(2) Listing and description of their enforcement mechanism
(3) Federal & State Regulations	(3) Listing and summary (to be provided by N.C. Dept. of Natural & Economic Resources)
CONSTRAINTS	
Land Potential	
(1) Physical Limitations	(1) Analysis of the following factors: Hazard areas Areas with soil limitations Sources of water supply Steep slopes
(2) Fragile Areas	(2) Analysis of the following factors: Coastal wetlands Sand dunes along the Outer Banks Ocean beaches and shorelines Estuarine waters Public trust waters Complex natural areas Areas that sustain remnant species Areas that contain unique geologic formations Registered natural landmarks Archeologic and historic sites Others

- | | |
|-----------------------------------|---|
| (3) Areas with Resource Potential | (3) Analysis of following factors:
Productive and unique agricultural lands
Mineral sites
Publicly-owned forests, parks, fish and game lands, and other outdoor recreational lands
Privately-owned wildlife sanctuaries |
|-----------------------------------|---|

Capacity of Community Facilities	Identification of existing water and sewer service areas Design capacity of water treatment plant, schools, and primary roads Percent utilization of the above
----------------------------------	--

ESTIMATED DEMAND

Population and Economy

- | | |
|----------------|--|
| (1) Population | (1) 10-year estimates based upon Department of Administration figures as appropriate |
| (2) Economy | (2) Identification of major trends and factors in the economy |

Future Land Needs	Gross 10-year estimate allocated to appropriate land classes
-------------------	--

Community Facilities Demand	Consideration of basic facilities needed to service estimated growth
-----------------------------	--

OPTIONAL DATA ANALYSIS ITEMS

PRESENT CONDITIONS:

Population and Economy

More detailed analyses relating to human resources (population composition, migration rates, educational attainment, etc.) and economic development factors (labor force characteristics, market structure, employment mix, etc.)

Existing Land Use	Mapped with more detailed categories including more detailed analyses, building inventory, etc.
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Current Plans, Policies

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- and Regulations
- | | |
|------------------------|--|
| (1) Plans and Policies | Detailed impact analysis of plans and policies upon land development patterns. |
| (2) Local Regulations | Detailed assessment of adequacy and degree of enforcement. |

CONSTRAINTS

Land Potential

- | | |
|-----------------------------------|---|
| (1) Physical Limitations | (1) Detailed analysis and mapping of required items.
Analysis and mapping of additional factors:
Water quality limited areas
Air quality limited areas
Others as appropriate |
| (2) Fragile Areas | (2) Detailed analysis and mapping of required items.
Analysis and mapping of additional factors. |
| (3) Areas with Resource Potential | (3) Detailed analysis and mapping of required items.
An analysis and mapping of additional factors:
Areas with potential for commercial wildlife management
Outdoor recreation sites
Scenic and tourist resources |

- | | |
|---|--|
| Capacity of Community Facilities
Detailed community facilities studies or plans (housing, transportation, recreation, water and sewer, police, fire, etc.) | Identification of existing water and sewer service areas
Design capacity of water treatment plant, sewage treatment plant, schools, and primary roads.
Percent utilization of the above. |
|---|--|

ESTIMATED DEMAND

Population and Economy

- | | |
|----------------|---|
| (1) Population | (1) Detailed estimate and analysis, adapted to local conditions using Department of Administration model. |
| (2) Economy | (2) Detailed economic studies |

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Future Land Needs	Detailed estimates by specific land use category (commercial residential, industrial, etc.)
Community Facilities Demand	Estimates of demands and costs for some or all community facilities and services.

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FIGURE IV

GENERALIZED CATEGORIES FOR RECORDING EXISTING LAND USE

<u>CATEGORY</u>	<u>Number Code**</u>	<u>Color Code</u>	<u>Letter Code</u>
URBAN AND BUILT-UP	1.0	-	U
Residential*	1.1	Yellow	Ur
Commercial	1.2	Red	Uc
Industrial	1.3	Violet	Ui
Transportation, Communi- cation, & Utilities	1.4	Grey	Ut
Government & Institutional	1.8	Dark Blue	Ug
Cultural, Entertainment, & Recreation	1.9	Green	Ue
Undeveloped Land	1.7	White	Uv
AGRICULTURE	2.0	Brown Hatched	A
FORESTLAND	4.0	Green Hatched	F
WATER	5.0	Light Blue	W
WETLAND	6.0	Light Blue Hatched	C
BARREN (including beaches, surface extraction and cleared transitional land)	7.0	Brown	B

Notes:

*Where it is desirable to further break down the residential category by density or dwelling unit characteristics it is suggested that shades of yellow and orange be used.

**Number code is based on the code suggested by the U.S. Department of Interior and is generally compatible with that code.

History Note: Statutory Authority G.S. 113A-107(a);

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Eff. February 1, 1976.

.0204 LAND CLASSIFICATION

(a) A land classification map shall be prepared according to the specifications set forth in this Section. The following codes shall be used:

<u>Optional Codes</u>		
<u>Class</u>	<u>Color Code</u>	<u>Letter Code</u>
Developed	Solid rust	D
Transition	Hatched rust	T
Community	Cross-hatched rust	C
Rural	White	R
Conservation	Dot Green	P

Land classification shall be represented at least with boundary lines around each category mapped, and with a single letter code to indicate which category is intended. However, the map(s) may optionally be submitted using color patterns to differentiate between categories (see Figures I and II, 15 NCAC 7B .0104).

(b) The North Carolina land classification system contains five classes of land:

- (1) Developed. Lands where existing population density is moderate to high and where there are a variety of land uses which have the necessary public services;
- (2) Transition. Lands where local government plans to accommodate moderate to high density development during the following 10 year period and where necessary public services will be provided to accommodate that growth;
- (3) Community. Lands where low density development is grouped in existing settlements or will occur in such settlements during the following 10 year period and which will not require extensive public services now or in the future;
- (4) Rural. Lands whose highest use is for agriculture, forestry, mining, water supply, etc., based on their natural resources potential; Also, lands for future needs not currently recognized;
- (5) Conservation. Fragile, hazard and other lands necessary to maintain a healthy natural environment and necessary to provide for the public health, safety, or welfare.

These five classes provide a framework to be used by local governments to identify the general use of all lands in each county. Such a system presents an opportunity for the local government to provide for its needs as well as to consider those of the whole state. Also, they can make a statement of policy on where and to what density they want growth to occur, and where

they want to conserve the county's natural resources by guiding growth.

(c) As a statement of local policy consistent with statewide needs and goals, the county land classification map will serve as a basic tool for coordinating numerous policies, standards, regulations, and other governmental activities at the local, state and federal level. Such coordination may be described by five applications:

- (1) The land classification system encourages coordination and consistency between local land use policies and those of state government. Lands are classified by the local governments. The Coastal Resources Commission then reviews those classifications to ensure conformance with minimum guidelines for the system. The coastal county maps taken together will be the principal policy guide for governmental decisions and activities which affect land uses in the coastal area.
- (2) The system provides a guide for public investment in land. For example, state and local agencies can anticipate the need for early acquisition of lands and easements in the transition class for schools, recreation, transportation, and other public facilities.
- (3) The system can also provide a useful framework for budgeting and planning for the construction of community facilities such as water and sewer systems, schools, and roads. The resources of many state and federal agencies, as well as those of the local government which are used for such facilities, can then be more efficiently allocated.
- (4) In addition, such a system will aid in better coordination of regulatory policies and decisions. Conservation and rural production lands will help to focus the attention of state and local agencies and interests concerned with the valuable natural resources of the state. On the other hand, lands in the transition and community classes will be of special concern to those agencies and interests who work for high quality development through local land use control such as zoning and subdivision regulations.
- (5) Finally, the system can help to provide guidance for a more equitable distribution of the land tax burden. Private lands which are in the rural and conservation classes should have low taxes to reflect the policy that few, if any, public services will be provided to these lands. In contrast, lands in the transition class should be taxed to pay for the large cost of new

public services which will be required to support the density of growth anticipated. The local land classifications maps must be updated every five years. Each class is designed to be broad enough so that frequent changes in maps are not necessary. In extreme cases, such as when a large key facility, causing major repercussions, is unexpectedly placed in a county, the Coastal Resources Commission can allow a county to revise its classification map before the five year period is over. In addition, the land classification system allows a variety of detailed land uses such as residential, commercial, industrial, recreational, etc. to occur within these classes. There is flexibility under existing zoning enabling statutes to change these detailed land uses whenever necessary. Policies, rules, and actions concerning areas of environmental concern shall take precedence over policies, rules, and actions concerning the land classifications, in the event of any conflicts.

(d) The five classes are as follows:

- (1) Developed. Purpose: The developed class identifies developed lands which are presently provided with essential public services. Consequently, it is distinguished from areas where significant growth and/or new service requirements will occur. Continued development and redevelopment should be encouraged to provide for the orderly growth in the area. Description: Developed lands are areas with a minimum gross population density of 2,000 people per square mile. At a minimum, these lands contain existing public services including water and sewer systems, educational systems, and road systems; all of which are able to support the present population and its accompanying land uses including commercial, industrial, and institutional.
- (2) Transition. Purpose: The transition class identifies lands where moderate to high density growth is to be encouraged and where any such growth that is permitted by local regulation will be provided with the necessary public services. Description: The area to be designated as transition must be no greater than that required to accommodate the estimated county population growth at a minimum gross density of 2,000 people per square mile. For example, if the population increase for the following 10 year period is projected to be 10,000 people, and it is planned that 8,000 of them will be accommodated in the transition area, then no

more than four square miles of transition area should be shown. In addition, the minimum services which will be required are the necessary water and sewer facilities, educational services, and roads. Consideration must be given to the cost of public services in the transition area. Each local government is encouraged to estimate the approximate cost of providing public services where they do not already exist. Land to be classified transition should be considered in the following order:

- (A) First priority is for lands which presently have a gross population density of more than 2,000 people per square mile, but do not qualify as developed because they lack the necessary minimum public services. These areas may not be expected to accommodate additional population, but they will require funds for services to avoid public health and safety problems;
- (B) Second priority is for lands that have all the necessary public services in place, but which lack the minimum gross population density of 2,000 people per square mile needed to qualify the area as developed. These areas therefore have not utilized the capacity of the existing services;
- (C) Additional lands necessary to accommodate the remainder of the estimated transition growth for the 10 year planning period.

In choosing lands for the transition class, such lands should not include: Areas with severe physical limitations for development with public services, lands which meet the definition of the conservation class, lands of special value such as the following unless no other reasonable alternative exists:

- (i) productive and unique agricultural lands;
- (ii) productive forest lands;
- (iii) potentially valuable mineral deposits;
- (iv) potential aquifers and key parts of water supply watersheds;
- (v) scenic and tourist resources;
- (vi) habitat for economically valuable wildlife species;
- (vii) flood fringe lands;
- (viii) open coast flood hazard areas, exclusive of ocean erosive areas;
- (ix) estuarine flood hazard areas, exclusive of estuarine erosive areas.

- (3) Community. Purpose: The community class identifies existing and new clusters of low density development not requiring major public services. Description:
- (A) The community class includes existing clusters of one or more land uses such as a rural residential subdivision or a church, school, general store, industry, etc. (Cluster is defined as a number of structures grouped together in association or in physical proximity -- Webster's Dictionary.)
 - (B) This class will provide for all new rural growth when the lot size is 10 acres or less. Such clusters of growth may occur in new areas, or within existing community lands. In choosing lands for community growth, such lands should not include:
 - (i) Areas with severe physical limitations for development;
 - (ii) Areas meeting the definition of the conservation class;
 - (iii) Lands of special value such as the following unless no other reasonable alternative exists:
 - (I) productive and unique agricultural lands;
 - (II) productive forest lands;
 - (III) potentially valuable mineral deposits;
 - (IV) potential aquifers and key parts of water supply watersheds;
 - (V) scenic and tourist resources;
 - (VI) habitat for rare and endangered wildlife species and economically valuable wildlife species;
 - (VII) floor fringe lands;
 - (VIII) open coast flood hazard areas exclusive of ocean erosive areas;
 - (IX) estuarine flood hazard areas, exclusive of estuarine erosive areas;
 - (iv) New development in the community class areas will be subject to subdivision regulations under the Enabling Subdivision Act (G.S. 153-330 et seq.);
 - (v) In every case, the lot size must be large enough to safely accommodate on-site sewage disposal and where necessary water supply so that no public sewer services will be required now or in the future;

- (vi) Limited public services should be provided in the community class such as public road access and electric power;
 - (vii) As a guide for calculating the amount of land necessary to accommodate new rural community growth, a gross population density of 640 people per square mile or one person per acre should be used. For example, if 1,000 new people are expected to settle in low density clusters during the following 10 year period, then roughly 1,000 acres of land should be allocated for new growth in community class areas.
- (4) Rural. Purpose: The rural class identifies lands for long-term management for productive resource utilization, and where limited public services will be provided. Development in such areas should be compatible with resource production. Description: The rural class includes all lands not in the developed, transition, community and conservation classes.
- (5) Conservation. Purpose: The conservation class identifies land which should be maintained essentially in its natural state and where very limited or no public services are provided. Description: Lands to be placed in the conservation class are the least desirable for development because:
- (A) They are too fragile to withstand development without losing their natural value; and/or
 - (B) They have severe or hazardous limitations to development; and/or
 - (C) Though they are not highly fragile or hazardous, the natural resources they represent are too valuable to endanger by development.
- Such lands at a minimum should include:
- (i) Fragile
 - (I) wetlands;
 - (II) steep slopes and prominent high points;
 - (III) frontal dunes;
 - (IV) beaches;
 - (V) surface waters including: lakes and ponds, rivers and streams, tidal waters below mean high water;
 - (VI) prime wildlife habitat;
 - (VII) unique natural areas and historic and archaeological sites;
 - (ii) Hazard
 - (I) floodways,

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- (II) ocean erosive areas,
- (III) inlet lands,
- (IV) estuarine erosive areas;
- (iii) Other
 - (I) publicly owned forest, park, and fish and game lands and other non-intensive outdoor recreation lands;
 - (II) privately owned sanctuaries, etc., which are dedicated to preservation;
 - (III) publicly owned water supply watershed areas;
 - (IV) undeveloped key parts of existing water supply watersheds;
 - (V) potential water impoundment sites.

In addition to the types of land listed in this Rule, a county may include other areas to be maintained in an essentially natural state which are needed to implement their stated policy objectives.

History Note: Statutory Authority G.S. 113A-107(a);
Eff. February 1, 1976.

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SECTION .0300 - GUIDELINES FOR PROPOSED AREAS
OF ENVIRONMENTAL CONCERN

.0301 INTRODUCTION

The Coastal Area Management Act of 1974 requires that these state guidelines "shall give particular attention to the nature of development which shall be appropriate within the various types of areas of environmental concern that may be designated by the commission."

The act further provides that local land use plans "shall give special attention to the protection and appropriate development of areas of environmental concern."

The 1974 Legislature found that "the coastal area, and in particular the estuaries, are among the most biologically productive regions of this State and of the nation" but in recent years the area "has been subjected to increasing pressures which are the result of the often conflicting needs of a society expanding in industrial development, in population, and in the recreational aspirations of its citizens."

"Unless these pressures are controlled by coordinated management," the act states, "the very features of the coast which make it economically, aesthetically, and ecologically rich will be destroyed."

To prevent this destruction the act charges the Coastal Resources Commission with the responsibility for identifying types of areas, and designating specific areas; water as well as land; in which uncontrolled or incompatible development might result in irreparable damage. It further instructs the commission to determine what types of use or development are appropriate within such areas, and it calls on local governments to give special attention to these environmentally fragile and important areas in developing their land use plans.

Thus, the Coastal Resources Commission and local government, with the assistance and guidance of the coastal resources advisory council, share a unique statutory assignment, for this is the first time North Carolina has undertaken such a massive and comprehensive determination of its critical land and water areas. Further, this is an unprecedented opportunity, in that none of the other coastal states has given this authority and responsibility to local government and a locally oriented commission.

The commission has chosen to emphasize this intended local involvement by acting on a coastal resources advisory council recommendation that provides local governments the opportunity to become a more effective participant in the AEC process. This recommendation gives the local governments the option of

preparing maps delineating (delineation of AEC's -- the portrayal of AEC's on maps) the boundaries of specific AEC's within their respective jurisdictions. This task should not be confused with the requirement set forth in 15 NCAC .0204 for the identification (identification of AEC's -- the written listing of the AEC's occurring within a jurisdiction) of AEC's in the land use plans.

This delineation will serve to assist the commission in the ultimate designation of AEC's and will provide data for use in local land use planning. The commission will use the delineations supplied by local governments for the purpose of analyzing the territorial extent of the various proposed AEC categories.

The identification and delineation by local governments will not serve as a designation of AEC's for the purposes of permit letting. The designation of AEC's for purposes of the permit program shall be by a written description adopted by the commission, and such designations will be equally applicable to all local governments in the coastal area. At the present time the commission will not attempt to map AEC's with sufficient detail to enable a permit letting agency in all cases to determine solely on the basis of such a map whether a particular area falls within an area of environmental concern. The determination as to whether a particular area is within an AEC will be based on the written description of the area of environmental concern which will be adopted by the commission. The commission will continue to study the possibility of mapping AEC's with sufficient detail to serve in this permit program and may base the permit program on maps if the capability exists to do so.

For the local government identification program, the local governments shall use the categories and descriptions included in the following pages of these amended guidelines. During the process of amending these guidelines to provide for this added local input, the CRC has also removed some potential AEC categories which were contained in the original state guidelines as adopted January 27, 1975, and has further clarified the description of others.

Those involved locally in identifying proposed AEC's for inclusion in the land use plans are encouraged to contact the CRC at any time that questions arise concerning the proposed AEC definitions in these guidelines. Local governments are also encouraged to make written recommendations as to the exclusion of proposed AEC's, the inclusion of additional AEC's, or changes in the description of proposed AEC's. Such recommendations are not a part of the local land use plan and should be submitted separately.

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These amended guidelines specifically require that the preliminary local plans should include identification of each proposed AEC. The plan must also include written statements of specific land uses which may be allowed in each of the proposed classes of AEC's. These allowable land uses must be consistent with the policy objectives and appropriate land uses found in this Chapter. In addition, local governments may submit maps delineating proposed AEC's with the preliminary land use plan. Such maps are not a part of the land use plan but should be submitted concurrently with it. All AEC maps prepared by local governments shall contain a statement which reads as follows: "Work map illustrating proposed areas of environmental concern prepared by (locality) _____ for the use and information of the N.C. Coastal Resources Commission. This map is not for use in determining areas requiring permits. November 23, 1975."

For the delineation of proposed areas of environmental concern use and submission of the 1:24,000 orthophotoquads (or their equivalent in the few cases where they are not available) will be necessary to generally indicate their location.

Proposed AEC's shall be represented with lines around each category area mapped, and with a two letter code to indicate which category is intended (see Figure IV, 15 NCAC 7B, .0104). All applicable codes shall be shown if categories overlap. In order that the lines may be easily distinguished, it is recommended that these lines and accompanying letter codes be in a single color, distinct from that used in the base map presentation.

The text of the plan shall be sufficiently precise as to the nature of permissible land uses in such areas as to: (1) enable the Coastal Resources Commission to determine if the plan is consistent with these guidelines, and (2) afford a legal basis for the issuance or denial of development permits in the future.

Local planners should note that there are a few instances where one category of areas of environmental concern may overlap with another. Where this is found to occur, the policy of the commission is to require the local plan to adopt allowable land uses within the area of overlap consistent with the more restrictive land use standard.

The following rules of the guidelines for AEC's are divided into six, of seven, general categories specified in the act as being those which the commission may designate as AEC's. As in the act, some of these contain sub-categories, which are more clearly defined here. The categories are:

Ltr.
Code
CW

- (1) Coastal Wetlands
- (a) Low Tidal Marshland

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- (b) Other Coastal Marshlands
- (2) Estuarine Waters EW
- (3) Resource Areas-Watersheds or Aquifers
 - (a) Small Surface Water Supplies WS
 - (b) Special Aquifers Areas -- Outer Banks and Barrier Islands SA
- (4) Fragile, Historic or Natural Resource Areas
 - (a) Existing National or State Parks PK
 - (b) Complex Natural Areas NA
 - (c) Areas that Sustain Remnant Species RS
 - (d) Areas Containing Unique Geologic Formations GF
 - (e) Historic Places HP
 - (f) Registered Natural Landmarks NL
- (5) Areas Subject to Public Rights; Certain Public Trust Areas PT
- (6) Natural Hazard Areas
 - (a) Sand Dunes Along the Outer Banks SD
 - (b) Ocean Beaches and Shorelines (on the Outer Banks) OB
 - (c) Coastal Flood Plains CF
 - (d) Excessive Erosion Areas
 - (i) Coastal Inlet Lands IN
 - (ii) Ocean Erodible Areas OE
 - (iii) Estuarine, Sound and River Erodible Areas SE
- (7) Development Standards Applicable to all AEC's

History Note: Statutory Authority G.S. 113A-107(a);
Eff. February 1, 1976.

1302 COASTAL WETLANDS; GENERAL

Coastal wetlands are defined as "any salt marsh or other marsh subject to regular or occasional flooding by tides, including land tides (whether or not the tide waters reach the marshland areas through natural or artificial watercourses), provided this shall not include hurricane or tropical storm tides. Salt marshland or other marsh shall be those areas upon which grow some, but not necessarily all, of the following salt marsh and marsh plant species: Smooth or salt water Cordgrass (*Spartina alterniflora*); Black Needlerush (*Juncus roemerianus*); Glasswort (*Salicornia* spp.); Bulrush (*Scirpus* spp.); Saw Grass (*Cladium mariscense*); Cat-tail (*Typha* spp.); Salt-Meadow Grass (*Spartina patens*); and Salt Reed Grass (*Spartina cynosuroides*)." Included in this statutory definition of wetlands is "such contiguous land as the Secretary of NER reasonably deems necessary to affect by

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any such order in carrying out the purposes of this Section" [G.S. 113-230(a)].

For policy purposes, coastal wetlands may be considered in two categories: (1) low tidal marsh, (2) other coastal marshlands which have different significance and policy implications.

History Note: Statutory Authority G.S. 113A-107(a);
Eff. February 1, 1976.

.0303 COASTAL WETLANDS; LOW TIDAL MARSHLAND

(a) Description. Defined as marshland consisting primarily of *Spartina alterniflora* and usually subject to inundation by the normal rise and fall of lunar tides.

(b) Significance. Low tidal marshland serves as a critical component in the coastal ecosystem. The marsh is the basis for the high net yield system of the estuary through the production of organic detritus (partially decomposed plant material) which is the primary input source for the food chain of the entire estuarine system. Estuarine dependent species of fish and shellfish such as menhaden, shrimp, flounder, oysters and crabs currently make up over 90 percent of the total value of North Carolina's commercial catch.

In addition, the roots and rhizomes of the *Spartina alterniflora* serve as waterfowl food and the stems as wildlife nesting material. Low tidal marsh also serves as the first line of defense in retarding shoreline erosion. The plant stems and leaves tend to dissipate wave action while the vast network of roots resists soil erosion. Marshes of this type operate additionally as traps for sediment originating from upland runoff thus reducing siltation of the estuarine bottoms and consequent detriment to marine organisms.

(c) Policy Objective. To give the highest priority to the preservation of low tidal marshland.

(d) Appropriate Land Uses. Appropriate land uses shall be those consistent with the above policy objective. These marshes should be considered unsuitable for all development which will alter their natural functions. Inappropriate land uses include, but are not limited to the following examples: restaurants and businesses; residences, apartments, motels, hotels, and trailer parks; parking lots and offices; spoil and dump sites; wastewater lagoons; public and private roads and highways; and factories. Examples of acceptable land uses may include utility easements, fishing piers, docks, certain agricultural uses except when excavation or filling affecting estuarine or navigable waters is involved, and such other uses which do not significantly alter the natural functions of the marsh.

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History Note: Statutory Authority G.S. ||3A-107(a);
Eff. February 1, 1976.

.0304 COASTAL WETLANDS; OTHER COASTAL MARSHLAND

(a) Description. All other marshland which is not low tidal marshland and which contains the species of vegetation as listed in the first Paragraph under Rule .0302 of this Section.

(b) Significance. This marshland type also contributes to the detritus supply necessary to the highly productive estuarine system essential to North Carolina's economically valuable commercial and sports fisheries.

The higher marsh types offer quality wildlife and waterfowl habitat depending on the biological and physical conditions of the marsh. The vegetative diversity in the higher marshes usually supports a greater diversity of wildlife types than the limited habitat of the low tidal marsh. This marshland type also serves as an important deterrent to shoreline erosion especially in those marshes containing heavily rooted species. The dense system of rhizomes and roots of *Juncus roemerianus* are highly resistant to erosion. In addition, the higher marshes are effective sediment traps.

(c) Policy Objective. To give a high priority to the preservation and management of the marsh so as to safeguard and perpetuate their biological, economic and aesthetic values.

(d) Appropriate Land Uses. Appropriate land uses shall be those consistent with the above policy objective. Highest priority shall be allocated to the conservation of existing marshlands. Second priority for land uses allocation of this type shall be given to development which requires water access and cannot function anywhere else, such as ports, docks and marinas, provided that the actual location of such facilities within the marsh consider coastal, physical and biological systems and further provided that feasible alternatives regarding location and design have been adequately considered and need for such development can be demonstrated. Such allocation may only be justified by the projected land use demands and by community development objectives, but in no case shall the allocation exceed the capacity of the marshland system to sustain losses without harm to the estuarine ecosystem unless the losses would be offset by a clear and substantial benefit to the public.

History Note: Statutory Authority G.S. ||3A-107(a);
Eff. February 1, 1976.

.0305 ESTUARINE WATERS

(a) Description. Estuarine waters are defined in G.S. ||3-229(n) (2) as, "all the water of the Atlantic Ocean within the

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boundary of North Carolina and all the waters of the bays, sounds, rivers, and tributaries thereto seaward of the dividing line between coastal fishing waters and inland fishing waters, as set forth in an agreement adopted by the Wildlife Resources Commission and the Department of Conservation and Development filed with the Secretary of State entitled 'Boundary Lines, North Carolina Commercial Fishing-Inland Fishing Waters, revised March 1, 1965,' or as it may be subsequently revised by the legislature.

(b) Significance. Estuaries are among the most productive natural environments of North Carolina. They not only support valuable commercial and sports fisheries, but are also utilized for commercial navigation, recreation, and aesthetic purposes. Species dependent upon estuaries such as menhaden, shrimp, flounder, oysters and crabs make up over 90 percent of the total value of North Carolina's commercial catch. These species must spend all or some part of their life cycle in the estuary. The high level of commercial and sports fisheries and the aesthetic appeal of coastal North Carolina is dependent upon the protection and sustained quality of our estuarine areas.

(c) Policy Objective. To preserve and manage estuarine waters so as to safeguard and perpetuate their biological, economic and aesthetic values.

(d) Appropriate Uses. Appropriate uses shall be those consistent with the (c) of this Rule. Highest priority shall be allocated to the conservation of estuarine waters. The development of navigational channels, the use of bulkheads to prevent erosion, and the building of piers or wharfs where no other feasible alternative exists are examples of land uses appropriate within estuarine waters, provided that such land uses will not be detrimental to the biological and physical estuarine functions and public trust rights. Projects which would directly or indirectly block or impair existing navigation channels, increase shoreline erosion, deposit spoils below mean high tide, cause adverse water circulation patterns, violate water quality standards, or cause degradation of shellfish waters are generally considered incompatible with the management of estuarine waters.

History Note: Statutory Authority G.S. 113A-107(a);
Eff. February 1, 1976.

.0306 RENEWABLE RESOURCE AREAS; WATERSHEDS OR AQUIFERS; GENERAL

Public water supply watersheds or aquifers are defined as areas that are present sources of public water supply, as identified by the N.C. Commission for Health Services or the Environmental Management Commission, or that are classified for water supply pursuant to G.S. 143-214.1.

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History Note: Statutory Authority G.S. 113A-107(a);
Eff. February 1, 1976.

.0307 WATERSHEDS OR AQUIFERS; SMALL SURFACE WATER SUPPLIES

(a) Description. Small surface water supplies are defined as relatively small watersheds or catchment areas which contain a stream(s) classified A-I or A-II by the Environmental Management Commission.

(b) Significance. Small water supply watersheds represent a source of potable water for a locality or region. Any loss or serious detriment to such an area would have serious public health implications. Such a loss would also have a significant adverse financial impact.

Uncontrolled development within the watershed would cause significant changes in the runoff patterns and would affect the quantity of water available as a raw water supply. Such development would also adversely affect water quality by introducing a wide variety of pollutants from homes, businesses, or industries, either through discharge or surface runoff into the water supply.

(c) Policy Objective. The policy objective is to insure the continued maintenance of water quality and quantity of the surface water supply.

(d) Appropriate Land Uses. Appropriate land uses shall be those consistent with the policy objective in (c) of this Rule.

History Note: Statutory Authority G.S. 113A-107(a);
Eff. February 1, 1976.

.0308 SPECIAL AQUIFER AREAS; OUTER BANKS AND BARRIER ISLANDS

(a) Description. Special aquifer areas are areas of well drained sands that extend downward from the surface to include an extensive area of fresh water that is an important source for a public water supply identified by the North Carolina Department of Human Resources, division of health services, or that are classified for water supply use pursuant to G.S. 143-214.1. The information necessary to identify these areas will be supplied by the division of health services in cooperation with the State Geologist.

(b) Significance. Naturally occurring aquifers on the Outer Banks and barrier islands generally occur in well drained sands at relatively shallow depth. Recharge to these aquifers is through precipitation and, occasionally, indirectly from adjoining freshwater marshlands. Very little filtration of chemical contaminants or of viruses is afforded by the sand materials, and the potential exists for extensive pollution of these supplies rendering them unsafe as sources of public water

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supply. Additionally, a rate of water withdrawal that greatly exceeds water recharge from the surface can result in saltwater intrusion rendering all or part of the aquifer unsuitable as a water supply source.

(c) Policy Objective. The policy objective is to eliminate as nearly as possible the potential for contamination of special aquifer areas that may result in a public health hazard or significantly limit the value of the aquifer as water supply source.

(d) Appropriate Land Uses. Appropriate land uses shall be those consistent with the policy objective in (c) of this Rule. Special aquifer areas shall be planned for those kinds of development that will not rely upon subsurface waste disposal systems, result in injection of wastes into the ground, significantly increase the risk of accidental discharge onto the surface of liquid or other easily soluble contaminants, or increase the withdrawal of water from the aquifer to a rate that may cause saltwater intrusion. Inappropriate uses would include chemical or fuel processing or storage facilities or residential development employing septic tank sewage disposal systems. These AEC's should be planned for low intensity of use where feasible, and new intensive development that must occur should be provided with public waste water disposal systems.

History Note: Statutory Authority G.S. 113A-107(a);
Eff. February 1, 1976.

.0309 FRAGILE, HISTORIC OR NATURAL RESOURCE AREAS: GENERAL

The general description of these areas is: fragile or historic areas, and other areas containing environmental or natural resources of more than local significance, where uncontrolled or incompatible development could result in major or irreversible damage to important historic, cultural, scientific or scenic values or natural systems.

History Note: Statutory Authority G.S. 113A-107(a);
Eff. February 1, 1976.

.0310 EXISTING NATIONAL OR STATE PARKS

(a) Description. Existing national or state parks are defined as existing sites that have been acquired for use as national or state parks, as identified by the Secretary of Natural and Economic Resources.

(b) Significance. Existing national or state parks are areas containing environmental or natural resources of more than local significance where uncontrolled or incompatible development could result in major or irreversible damage to important historic,

cultural, scientific, or scenic values, or natural systems, or would be detrimental to the recreational uses of natural systems. These sites provide (1) areas of unique or scenic value; (2) recreational uses of natural resources; (3) portrayal and interpretation of plant and animal life, geology and natural features; and (4) preservation of scientific sites and natural areas of statewide importance.

(c) Policy Objective. The policy objective is to protect and preserve the scenic, historic, cultural, scientific and natural values of national or state parks.

(d) Appropriate Land Uses. Appropriate land uses shall be those consistent with the policy objective in (c) of this Rule. All development in parks shall be planned and executed so as to in no way impair, damage or detract from the values for which the areas were established to preserve and protect. In parks or parts of parks that do not contain natural areas or scientific sites, facilities for such outdoor activities as picnicking, swimming, boating, fishing, hiking, nature study, and camping; and facilities normally associated with simple play fields incident to picnicking and organized camping are examples of appropriate land uses. Facilities for recreational activities such as organized sports and athletic contests are examples of inappropriate uses. In parks or parts of parks containing natural areas of scientific sites, minimum developed paths and trails are examples of appropriate land uses. Facilities for recreational activities such as swimming, camping, picnicking, and the like are examples of inappropriate land uses in these areas.

History Note: Statutory Authority G.S. 113A-107(a);
Eff. February 1, 1976.

.0311 COMPLEX NATURAL AREAS

(a) Description. Complex natural areas are defined as lands that support native plant and animal communities and provide habitat conditions or characteristics that have remained essentially unchanged by human activity. Such areas are surrounded by landscapes that have been modified but that do not drastically alter the conditions within the natural areas or their scientific or educational value. Such areas will be determined by the commission, after consideration of written reports or testimony of competent experts, to be rare within a county or to be of particular scientific or educational value.

(b) Significance. Complex natural areas provide the few remaining examples of conditions that existed within the coastal area prior to settlement by western man. Often these natural areas provide habitat conditions suitable for rare or endangered

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species or they support plant and animal communities representative of presettlement conditions. These areas help provide a historical perspective to changing natural conditions in the coastal area and together are important and irreplaceable scientific and educational resources.

(c) Policy Objective. The policy objective of these areas is to preserve the natural conditions of the site so as to safeguard its existence as an example of naturally occurring, relatively undisturbed plant and animal communities of major scientific or educational value.

(d) Appropriate Land Uses. Appropriate land uses shall be those consistent with the policy objective in (c) of this Rule. Lands within the AEC shall not be planned for uses or kinds of development that will unnecessarily jeopardize the natural or primitive character of the natural area directly or indirectly through increased accessibility. Additionally, lands adjacent to the complex natural area should not be planned for additional development that would unnecessarily endanger the recognized value of the AEC. The variability between kinds of complex natural areas and between land uses adjacent to those natural areas means that the range of permissible uses and intensity of use must be carefully tailored to the individual area.

History Note: Statutory Authority G.S. 113A-107(a);
Eff. February 1, 1976.

.0312 AREAS THAT SUSTAIN REMNANT SPECIES

(a) Description. Areas that sustain remnant species are those places that support native plants or animals, rare or endangered, within the coastal area. Such places provide habitat conditions necessary for the survival of existing populations or communities of rare or endangered species within the county. Determination will be by the commission based upon accepted lists published by the state or federal government and written reports or testimony of competent experts indicating that a species is rare or endangered within the coastal area.

(b) Significance. The continued survival of certain native plants and animals in the coastal area that are now rare or endangered cannot be assured unless the relatively few well defined areas providing necessary habitat conditions are protected from development of land uses that might alter these conditions. These habitats and the species they support provide a valuable educational and scientific resource.

(c) Policy Objective. The policy objective is to preserve habitat conditions necessary to the continued survival of rare or endangered native plants and animals and minimize development or

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land uses that might jeopardize known areas that support remnant species.

(d) Appropriate Land Uses. Appropriate land uses shall be those consistent with the policy objective in (c) of this Rule. Lands within the AEC shall not be planned for uses or kinds of development that will unnecessarily jeopardize the habitat conditions responsible for the continued survival of the respective plants or animals.

History Note: Statutory Authority G.S. §§3A-107(a);
Eff. February 1, 1976.

.03|3 AREAS CONTAINING UNIQUE GEOLOGICAL FORMATIONS

(a) Description. Areas containing unique geological formations will be identified by the State Geologist. These places contain surface or near surface formations that are either themselves unique or are especially unusual or notable examples of geologic formations or processes in the coastal area.

(b) Significance. Unique geological areas provide surface or near surface exposures of unique geologic formations or processes of the coastal area. They are important educational, scientific, or scenic resources that would be jeopardized by uncontrolled or incompatible development.

(c) Policy Objective. The policy objective is to preserve the scientific, educational or scenic values of unique geological formations so that they may be available for future study and enjoyment.

(d) Appropriate Land Uses. Appropriate land uses shall be those consistent with the policy objective in (c) of this Rule. Uses within areas containing unique geological formations shall be tailored to the particular unique qualities of the individual area.

History Note: Statutory Authority G.S. §§3A-107(a);
Eff. February 1, 1976.

.03|4 HISTORIC PLACES

(a) Description. These are defined as historic places that are listed, or have been approved for listing by the North Carolina Historical Commission, in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966; historical, archaeological, and other places and properties owned, managed, or assisted by the State of North Carolina pursuant to G.S. §21; and properties or areas that are designated by the Secretary of the Interior as national historic landmarks.

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(b) Significance. Historic resources are both non-renewable and fragile. They owe their significance to their association with American history, architecture, archaeology, and culture. Properties on or approved for the National Register of Historic Places may be of national, state, or local significance.

(c) Policy Objective. The policy objective is to protect and/or preserve the integrity of districts, sites, buildings, and objects in (a) and (b) of this Rule.

(d) Appropriate Land Uses. Appropriate land uses shall be those consistent with the policy objective stated in (c) of this Rule. Land use which will result in substantial irreversible damage to the historic value of the area is inappropriate.

History Note: Statutory Authority G.S. 113A-107(a);
Eff. February 1, 1976.

.0315 REGISTERED NATURAL LANDMARKS

(a) Description. Registered natural landmarks are defined as properties or areas that are designated by the Secretary of the Interior as registered natural landmarks.

(b) Significance. Registered natural landmarks are true, accurate, essentially unspoiled examples of natural areas which possess exceptional value or quality in illustrating or interpreting the natural heritage of our nation. Those areas: (1) encourage the preservation of sites illustrating the geological and ecological character of the United States, (2) enhance the educational and scientific value of sites thus preserved, (3) strengthen cultural appreciation of natural history, and (4) foster a greater concern in the conservation of the nation's natural heritage.

(c) Policy Objective. The policy objective is to maintain intact registered natural landmarks and the resource values for which they receive recognition of national significance.

(d) Appropriate Land Uses. Appropriate land uses shall be those consistent with the policy objective stated in (c) of this Rule. Continuing integrity is the essential element in development and maintenance of natural landmarks. Reference to the original landmark application and description, as described in the national landmark program, is essential to evaluate continuing integrity. Developments which dilute the quality of the landmark so that it no longer meets the test of integrity are considered inappropriate land uses.

History Note: Statutory Authority G.S. 113A-107(a);
Eff. February 1, 1976.

.0316 AREAS SUBJECT TO PUBLIC RIGHTS; GENERAL

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The general description of areas subject to public rights is: areas such as waterways and lands under or flowed by tidal waters or navigable waters, to which the public may have rights of access or public trust rights and areas which the State of North Carolina may be authorized to preserve, conserve, or protect under Article XIV, Section 5, of the North Carolina Constitution.

History Note: Statutory Authority G.S. 113A-107(a);
Eff. February 1, 1976.

.0317 AREAS SUBJECT TO PUBLIC RIGHTS; CERTAIN PUBLIC TRUST AREAS

(a) Description. Certain public trust areas are defined as all waters of the Atlantic Ocean and the lands thereunder from the mean high water mark to the seaward limit of state jurisdiction; all natural bodies of water subject to measurable lunar tides and lands thereunder to the mean high water mark; all navigable natural bodies of water and lands thereunder to the mean high water mark or ordinary high water mark as the case may be, except privately owned lakes to which the public has no right of access; all waters in artificially created bodies of water in which exists significant public fishing resources or other public resources, which are accessible to the public by navigation; from bodies of water in which the public has rights of navigation all waters in artificially created bodies of water in which the public has acquired rights by prescription, custom, usage, dedication or any other means. In determining whether the public has acquired rights in artificially created bodies of water, the following factors shall be considered:

- (1) the use of the body of water by the public,
- (2) the length of time the public has used the area,
- (3) the value of public resources in the body of water,
- (4) whether the public resources in the body of water are mobile to the extent that they can move into natural bodies of water,
- (5) whether the creation of the artificial body of water required permission from the state, and
- (6) the value of the body of water to the public for navigation from one public area to another public area.

For purposes of the description in Rules .0316 and .0317 of this Section, the following definitions shall apply:

- (A) Mean high water mark means the line on the shore established by the average of all high tides. It is established by survey based on available tidal datum. In the absence of such datum, the mean high water mark shall be determined by physical markings or comparison of the area in question with an area having similar

physical characteristics for which tidal datum is readily available.

(B) Navigable means navigable-in-fact.

(C) Navigable-in-fact means capable of being navigated in its natural condition by the ordinary modes of navigation including modes of navigation used for recreational purposes. The natural condition of a body of water for purposes of determining navigability shall be the condition of the body of water at mean high water or ordinary high water as the case may be, and the condition of the body of water without man-made obstructions and without temporary natural obstructions. Temporary natural conditions such as water level fluctuation and temporary natural obstructions which do not permanently or totally prevent navigation do not make an otherwise navigable stream non-navigable.

(D) Ordinary high water mark means the natural or clear line impressed on the land adjacent to the waterbody. It may be established by erosion or other easily recognized characteristics such as shelving, change in the character of the soil, destruction of terrestrial vegetation or its inability to grow, the presence of litter and debris, or other appropriate means which consider the characteristics of the surrounding area. The ordinary high water mark does not extend beyond the well defined banks of a river where such banks exist.

(b) Significance. The public has rights in these waters including navigation and recreation. In addition, these waters support valuable commercial and sports fisheries, have aesthetic value, and are important potential resources for economic development.

(c) Policy Objective. The policy objective is to protect public rights for navigation and recreation and to preserve and manage the public trust waters so as to safeguard and perpetuate their biological, economic and aesthetic value.

(d) Appropriate Uses. Appropriate uses shall be those consistent with the policy objective stated in (c) of this Rule. Any land use which interferes with the public right of navigation, or other public trust rights, which the public may be found to have in these waters, shall not be allowed. The development of navigational channels, drainage ditches, the use of bulkheads to prevent erosion, and the building of piers or wharfs are examples of land uses appropriate within public trust waters provided that such land uses will not be detrimental to the biological and physical functions and public trust rights. Projects which would directly or indirectly block or impair

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existing navigation channels, increase shoreline erosion, deposit spoils below mean high tide, cause adverse water circulation patterns, violate water quality standards, or cause degradation of shellfish waters are generally considered incompatible with the management of public trust waters.

History Note: Statutory Authority G.S. 113A-107(a);
Eff. February 1, 1976.

.0318 NATURAL HAZARD AREAS; GENERAL

Natural hazard areas are those where uncontrolled or incompatible development could unreasonably endanger life or property, and other areas especially vulnerable to erosion, flooding, or other adverse effects of sand, wind, and water.

History Note: Statutory Authority G.S. 113A-107(a);
Eff. February 1, 1976.

.0319 SAND DUNES ALONG THE OUTER BANKS

(a) Description. Dunes are defined as ridges or mounds of loose wind-blown material, usually sand.

(b) Significance. Dunes comprise a major portion of the outer banks and barrier islands and represent a protective barrier for the sounds, estuaries, and mainland. Development with inadequate design or construction may alter the protective character of the dunes and subject property to an increased risk of substantial damage due to the adverse effects of wind and water.

(c) Policy Objective. The policy objective is to insure that development which is undertaken utilizes sound engineering practices to minimize the erosive effects of wind and water.

(d) Appropriate Land Uses. Appropriate land uses shall be those consistent with the policy objective stated in (c) of this Rule. Only those developments that can be safely undertaken utilizing recognized engineering practices and site preparation and site maintenance to minimize unnecessary damage from wind and water should be allowed.

History Note: Statutory Authority G.S. 113A-107(a);
Eff. February 1, 1976.

.0320 OCEAN BEACHES AND SHORELINES (ON THE OUTER BANKS)

(a) Description. These are defined as land areas without vegetation covering, consisting of unconsolidated soil material that extends landward from the mean low tide to a point where any one or combination of the following occur:

- (1) vegetation, or
- (2) a distinct change in predominant soil particle size, or

(3) a change in slope or elevation which alters the physiographic land form.

(b) Significance. Sand deposits of ocean beaches and shorelines represent a dynamic zone which does not afford long term protection for development. The nature of tidal action and the force of storms is such that they cause the beach areas to constantly shift. Littoral drift is a natural phenomenon whereby sand is removed from beaches by wave action and littoral currents and is deposited upon a different stretch of the beach. The action also shifts the line of high tide and low tide. Ocean beaches and shorelines are valuable for public and private recreation and are located within a natural hazard area. Development within this dynamic zone may result in loss of property and possible loss of life.

(c) Policy Objective. The policy objective is to preserve to the greatest extent feasible the opportunity to enjoy the physical, aesthetic, cultural and recreational qualities of the natural shorelines of the state and to allow that type development which will withstand the prevalent natural forces and not unreasonably interfere with the rightful use and enjoyment of the beach area.

(d) Appropriate Land Uses. Appropriate land uses shall be those consistent with the policy objective stated in (c) of this Rule.

History Note: Statutory Authority G.S. 113A-107(a);
Eff. February 1, 1976.

.0321 COASTAL FLOODPLAINS

(a) Description. Coastal floodplain is defined as the land areas adjacent to coastal sounds, estuaries or the ocean which are prone to flooding from storms with an annual probability of one percent or greater (100 year storm). These areas are analogous to the 100 year floodplain on a river. Information necessary to identify these areas will be supplied by the State Geologist.

(b) Significance. Coastal floodplains are those lands subject to flooding or wave action during severe storms or hurricanes. They are lands where uncontrolled, incompatible, or improperly designed building, structures, facilities, and developments can unreasonably endanger life and property. Except for those portions of the areas lying within estuarine or ocean erodible areas, they are not generally or necessarily subject to severe erosion or dynamic action leading to replacement of the land with a body of water. In most instances, structures within this area do not obstruct the flow of waters or create any additional back waters.

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(c) Policy Objective. The policy objective is to ensure that all buildings, structures, facilities and developments are properly designed and built to maintain their stability, integrity, and safety in the event of flood surge from a 100 year storm.

(d) Appropriate Land Uses. Appropriate land uses shall be those consistent with the policy objective stated in (c) of this Rule. It is reasonable to allow a certain degree of development if it is carefully controlled and meets stringent engineering standards for stability, integrity and safety during a 100 year storm. The land use plan may allow development activities, and if such development is undertaken, as a minimum it must conform with the standards of the Federal Insurance Administration for coastal high hazard areas and safety during the flood surge from a 100 year storm (Code of Federal Regulations, Title 24, Chapter 10, Subchapter B).

History Note: Statutory Authority G.S. 113A-107(a);
Eff. February 1, 1976.

.0322 EXCESSIVE EROSION AREAS; GENERAL

Excessive erosion areas are those areas where geologic and soil conditions are such that there is substantial possibility of excessive erosion or seismic activity.

History Note: Statutory Authority G.S. 113A-107(a);
Eff. February 1, 1976.

.0323 EXCESSIVE EROSION AREAS; COASTAL INLET LANDS

(a) Description. These are defined as the natural zone of migration of coastal inlets. Such a zone covers all areas that are expected to be eroded by future inlets and inlet migration based on the best available data and studies, including relevant historical photography, surveys, maps and other appropriate information. The information necessary to identify these areas will be supplied by the State Geologist.

(b) Significance. The particular location of the inlet channel is a temporary one, as such channels are subject to extensive migration. Coastal inlet lands are extremely dynamic land areas that are highly susceptible to becoming completely displaced by water.

(c) Policy Objective. The policy objective is to limit unnecessary hazards to life or property or unreasonable requirements for public expenditures to protect property or maintain safe conditions.

(d) Appropriate Land Uses. Appropriate land uses shall be those consistent with the policy objective stated in (c) of this

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Rule. Recreational or conservation activities and easements for access represent the preferred land use. Moveable temporary structures for recreational purposes may be appropriate. Permanent or substantial residential, commercial, institutional, or industrial structures are not appropriate uses in coastal inlet lands.

History Note: Statutory Authority G.S. ||3A-107(a);
Eff. February 1, 1976.

.0324 EXCESSIVE EROSION AREAS; OCEAN ERODIBLE AREAS

(a) Description. Ocean erodible areas are defined as the areas above mean high water where excessive erosion has a high probability of occurring. In delineating the landward extent of this area a reasonable 25-year recession line shall be determined using the best scientific data available. The information necessary to identify these areas will be supplied by the State Geologist.

(b) Significance. Ocean erodible areas are extremely dynamic lands highly susceptible to becoming completely displaced by water.

(c) Policy Objective. The policy objective is to limit unnecessary hazards to life or property or unreasonable requirements for public expenditures to protect property or maintain safe conditions.

(d) Appropriate Land Uses. Appropriate land uses shall be those consistent with the policy objective stated in (c) of this Rule.

History Note: Statutory Authority G.S. ||3A-107(a);
Eff. February 1, 1976.

.0325 EXCESSIVE EROSION AREAS; ESTUARINE & RIVER ERODIBLE AREAS

(a) Description. These are defined as the area above ordinary high water where excessive erosion has a high probability of occurring. In delineating the landward extent of this area a reasonable 25-year recession line shall be determined using the best available information. The information necessary to identify these areas will be supplied by the State Geologist.

(b) Significance. The estuarine and sound and river erodible areas are natural hazard areas especially vulnerable to erosion. Development within this type AEC is subjected to the damaging process of erosion unless special development standards and preventive measures are employed.

(c) Policy Objective. The policy objective is to insure that development occurring within these areas is compatible with the

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dynamic nature of the erodible lands thus minimizing the likelihood of significant loss of property.

(d) Appropriate Land Uses. Appropriate land uses shall be those consistent with the policy objective stated in (c) of this Rule. Permanent or substantial residential, commercial, institutional or industrial structures are not appropriate uses in estuarine and sound and river erodible areas unless stabilization has been achieved along the affected reach. Recreational, rural and conservation activities represent appropriate land uses in those erodible areas where shoreline protective construction has not been completed.

History Note: Statutory Authority G.S. 113A-107(a);
Eff. February 1, 1976.

.0326 DEVELOPMENT STANDARDS APPLICABLE TO ALL AEC's

(a) No development should be allowed in any AEC which would result in a contravention or violation of any rules, regulations, or laws of the State of North Carolina or of local government in which the development takes place.

(b) No development should be allowed in any AEC which would have a substantial likelihood of causing pollution of the waters of the state to the extent that such waters would be closed to the taking of shellfish under standards set by the Commission for Health Services pursuant to G.S. 130-169.01.

History Note: Statutory Authority G.S. 113A-107(a);
Eff. February 1, 1976.

NORTH CAROLINA ADMINISTRATIVE CODE

TITLE 15

DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT

CHAPTER 7

COASTAL RESOURCES COMMISSION

SUBCHAPTER 7I - STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN

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NOTE: These rules are subject to minor changes by the Attorney General's Administrative Procedures Section and should be requested by title, State Guidelines for Areas of Environmental Concern.

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- .1001 SMALL SURFACE WATER SUPPLY WATERSHEDS
- .1002 PUBLIC WATER SUPPLY WELL FIELDS
- .1003 BIBLIOGRAPHY

Subchapter 15 NCAC 7I, State Guidelines For Areas Of Environmental Concern, has been adopted by the Coastal Resources Commission and reads as follows:

SUBCHAPTER 7I - STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN

SECTION .0100 - INTRODUCTION AND GENERAL COMMENTS

.0101 INTRODUCTION

One of the basic purposes of North Carolina's Coastal Area Management Act (CAMA or the act) is to establish a state management plan that is capable of rational and coordinated management of coastal resources. The act recognizes that the key to more effective protection and use of the land and water resources of the coast is the development of a coordinated approach to resource management. The Coastal Area Management Act provides two principal mechanisms to accomplish this purpose. First, the formulation of local land use plans articulating the objectives of local citizens and translating these objectives into future desired land use patterns; and second, the designation of areas of environmental concern for the protection of areas of statewide concern within the coastal area.

Both the development of local land use plans and the designation and regulation of critical resource areas contribute to rational management by encouraging local and state governments to exercise their full authorities over coastal resources and to express their management goals in a comprehensible and uniform manner. Local objectives benefit through their incorporation into a state management scheme, and the statewide objectives of resource protection and development benefit through an integrated and comprehensive management approach. It is the purpose of the State Guidelines to ensure this uniformity and consistency in the local land use plans and the regulation of critical resource areas, or areas of environmental concern (AECs), through the establishment of unified policies criteria, standards, methods, and processes.

These State Guidelines are designed to provide individuals and governmental agencies with a complete statement of the uniform policies and standards adopted by the Coastal Resources Commission (CRC or the commission) for areas of environmental concern, as mandated by the act.

History Note: Statutory Authority G.S. 113A-101; 113A-102;
113A-124(c)(5);
Eff. September 9, 1977.

.0102 CAMA PROVISIONS FOR AECs

The Coastal Area Management Act requires that these State Guidelines "shall give particular attention to the nature of development which shall be appropriate within the various types of areas of environmental concern that may be designated by the commission."

The act further provides that local land use plans "shall give special attention to the protection and appropriate development of areas of environmental concern."

The 1974 Legislature found that "the coastal area, and in particular the estuaries, are among the most biologically productive regions of this state and of the nation", but in recent years the area "has been subjected to increasing pressures which are the result of the often conflicting needs of society expanding in industrial development, in population, and in the recreational aspirations of its citizens."

"Unless these pressures are controlled by coordinated management," the act states, "the very features of the coast which make it economically, aesthetically, and ecologically rich will be destroyed."

To prevent this destruction, the act charges the Coastal Resources Commission with the responsibility for identifying types of areas -- water as well as land -- in which uncontrolled or incompatible development might result in irreversible damage. It further instructs the commission to determine what types of development activities are appropriate within such areas, and it calls on local government to give special attention to these environmentally fragile and important areas in developing their land use plans. Also, the act provides that upon establishing the types of development activities appropriate within areas of environmental concern, the CRC should implement a permit program capable of controlling inappropriate or damaging development activities within the AECs. The intent of this authority is not to stop development, but rather to ensure the compatibility of development with the continued productivity and value of certain critical land and water areas.

The act divides the implementation responsibilities of the permit program between local governments and the CRC. Individuals proposing "minor development" activities (defined in G.S. 113A-118(d)(2)) within an AEC will be required to receive permits from a local permit officer, while individuals undertaking "major development" activities (defined in G.S. 113A-118(d)(1)) will seek permits directly from the CRC. In either case, the criteria and standards determining permit approval as described in this Subchapter of the guidelines will be identical.

History Note: Statutory Authority G.S. 113A-102(a); 113A-106;
113A-107; 113A-113(a); 113A-118;
Eff. September 9, 1977.

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.0103 SELECTION OF PROPOSED AREAS FOR AEC DESIGNATION

The selection of proposed AEC categories was made after several months of consideration by local government, the Coastal Resources Commission, and the Coastal Resources Advisory Council (CRAC). The Act specified the potential AEC categories from which the Commission was to choose a mix of AECs that would most effectively achieve the goals of the Coastal Area Management Act. Local governments played a major role in the selection process by identifying AEC categories they considered to be appropriate for their jurisdictions. These recommendations formed the basis for selecting interim areas of environmental concern (IAECs) after which the categories were once again reviewed by the Commission and further narrowed in scope. Thirteen categories were proposed for final designation.

As presented in these guidelines, the thirteen categories of AECS are separated into four broad groupings. The broad breakdowns include categories of AECs that are either interrelated components of an ecological system or a collection of AECs with similar management objectives. The purposes in presenting the material in this manner is not only to create a logical organization, but also to emphasize the relationship of one AEC category to another and the interactive nature of AECs with the total coastal environment.

History Note: Statutory Authority G.S. 113A-114;
Eff. September 9, 1977.

SECTION .0200 - THE ESTUARINE SYSTEM

.0201 ESTUARINE SYSTEM CATEGORIES

The first AECs discussed collectively are those water and land areas of the coast that contribute enormous economic, social, and biological values to North Carolina as components of the estuarine system. Included within the estuarine system are the following AEC categories: estuarine waters, coastal wetlands, public trust areas, and estuarine shorelines. Each of these AECs is either geographically within the estuary or, because of its location and nature, may significantly affect the estuary.

History Note: Statutory Authority G.S. 113A-113(b)(1); 113A-113(b)(2); 113A-113(b)(5); 113A-113(b)(6)b;
Eff. September 9, 1977.

.0202 SIGNIFICANCE OF THE SYSTEMS APPROACH IN ESTUARIES

The management program must embrace all characteristics, processes, and features of the whole system and not characterize individually any one component of an estuary. The AECs are interdependent and ultimately require management as a unit. Any alteration, however slight, in a given component of the estuarine system may result in unforeseen consequences in what may appear as totally unrelated areas of the estuary. For example, destruction of wetlands may have harmful effects on estuarine waters which are also areas within the public trust. As a unified system, changes in one AEC category may affect the function and use within another category.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b);
Eff. September 9, 1977.

.0203 MANAGEMENT OBJECTIVE OF THE ESTUARINE SYSTEM

It is the objective of the Coastal Resources Commission to give high priority to the protection and coordinated management of estuarine waters, coastal wetlands, public trust areas, and estuarine shorelines, as an interrelated group of AECs, so as to safeguard and perpetuate their biological, social, economic, and aesthetic values and to ensure that development occurring within these AECs is compatible with natural characteristics so as to minimize the likelihood of significant loss of private property and public resources.

History Note: Statutory Authority G.S. 102(b)(1); 102(b)(4);
113A-107(a); 113A-107(b);
Eff. September 9, 1977.

.0204 AECs WITHIN THE ESTUARINE SYSTEM

The following regulations in this section define each AEC within the estuarine system, describe its significance, articulate the policies regarding development, and state the standards for development within each AEC.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b);
Eff. September 9, 1977.

.0205 COASTAL WETLANDS

(a) Description. Coastal wetlands are defined as any salt marsh or other marsh subject to regular or occasional flooding by tides, including wind tides (whether or not the tide waters reach the marshland areas through natural or artificial watercourses), provided this shall not include hurricane or tropical storm tides.

Coastal wetlands contain some, but not necessarily all, of the following marsh plant species:

- (1) Cord Grass (Spartina alterniflora),
- (2) Black Needlerush (Juncus roemerianus),
- (3) Glasswort (Salicornia spp.),
- (4) Salt Grass (Distichlis spicata);
- (5) Sea Lavender (Limonium spp.),
- (6) Bulrush (Scirpus spp.),
- (7) Saw Grass (Cladium jamaicense),
- (8) Cat-tail (Typha spp.),
- (9) Salt Meadow Grass (Spartina patens),
- (10) Salt Reed Grass (Spartina cynosuroides).

Included in this definition of coastal wetlands is "such contiguous land as the Secretary of NR&CD reasonably deems necessary to affect by any such order in carrying out the purposes of this section." (G.S. 113-230(a))

(b) Significance. The unique productivity of the estuarine system is supported by detritus (decayed plant material) and nutrient that are exported from the coastal marshlands. The amount of exportation and degree of importance appears to be variable from marsh to marsh, depending primarily upon its frequency of inundation and inherent characteristics of the various plant species. Without the marsh, the high productivity levels and complex food chains typically found in the estuaries could not be maintained.

Man harvests various aspects of this productivity when he fishes, hunts, and gathers shellfish from the estuary. Estuarine dependent species of fish and shellfish such as menhaden, shrimp, flounder, oysters, and crabs currently make up over 90 percent of the total value of North Carolina's commercial catch. The marshlands, therefore, support an enormous amount of commercial and recreational businesses along the seacoast.

The roots, rhizomes, stems, and seeds of coastal wetlands act as good quality waterfowl and wildlife feeding and nesting materials. In addition, coastal wetlands serve as the first line of defense

in retarding estuarine shoreline erosion. The plant stems and leaves tend to dissipate wave action, while the vast network of roots and rhizomes resists soil erosion. In this way, the coastal wetlands serve as barriers against flood damage and control erosion between the estuary and the uplands.

Marshlands also act as nutrient and sediment traps by slowing the water which flows over them and causing suspended organic and inorganic particles to settle out. In this manner, the nutrient storehouse is maintained, and sediment harmful to marine organisms is removed. Also, pollutants and excessive nutrients are absorbed by the marsh plants, thus providing an inexpensive water treatment service.

(c) Management Objective. To give highest priority to the protection and management of coastal wetlands so as to safeguard and perpetuate their biological, social, economic and aesthetic values. To coordinate and establish a management sysyem capable of conserving and utilizing coastal wetlands as a natural resource essential to the functioning of the entire estuarine system.

(d) Use Standards. Suitable land uses shall be those consistent with the above management objective. Highest priority of use shall be allocated to the conservation of existing coastal wetlands. Second priority of coastal wetland use shall be given to those types of development activities that require water access and cannot function elsewhere.

Unacceptable land uses may include, but would not be limited to, the following examples: restuarants and businesses; residences, apartments, motels, hotels, and trailer parks; parking lots and private roads and highways; and factories. Examples of acceptable land uses may include utility easements, fishing piers, docks, and agricultural uses, such as farming and forestry drainage, as permitted under North Carolina's Dredge and Fill Act and/or other applicable laws.

In every instance, the particular location, use, and design characteristics shall be in accord with the general use standards for coastal wetlands, estuarine waters, and public trust areas described in Rule .0208 of this Subchapter.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b);
113A-113(b)(1);
Eff. September 9, 1977;
Amended Eff. January 20, 1978.

.0206 ESTUARINE WATERS

(a) Description. Estuarine waters are defined in G.S. 113A-113(b) (2) as "all the water of the Atlantic Ocean within the boundary of North Carolina and all the waters of the bays, sounds, rivers, and tributaries thereto seaward of the dividing line between coastal fishing waters and inland fishing waters, as set forth in an agreement adopted by the Wildlife Resources Commission and the Department of Natural Resources and Community Development filed with the Secretary of State, entitled Boundary Lines, North Carolina Commercial Fishing - Inland Fishing Waters, Revised to March 1, 1965."

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(b) Significance. Estuarine waters are the dominant component and bonding element of the entire estuarine system, integrating aquatic influences from both the land and the sea. Estuaries are among the most productive natural environments of North Carolina. They support the valuable commercial and sports fisheries of the coastal area which are comprised of estuarine dependent species such as menhaden, flounder, shrimp, crabs, and oysters. These species must spend all or some part of their life cycle within the estuarine waters to mature and reproduce. Of the ten leading species in the commercial catch, all but one are dependent on the estuary.

This high productivity associated with the estuary results from its unique circulation patterns caused by tidal energy, fresh water flow, and shallow depth; nutrient trapping mechanisms; and protection to the many organisms. The circulation of estuarine waters transports nutrients, propels plankton, spreads seed stages of fish and shellfish, flushes wastes from animal and plant life, cleanses the system of pollutants, controls salinity, shifts sediments, and mixes the water to create a multitude of habitats. Some important features of the estuary include mud and sand flats, eel grass beds, salt marshes, submerged vegetation flats, clam and oyster beds, and important nursery areas.

Secondary benefits include the stimulation of the coastal economy from the spin off operations required to service commercial and sport fisheries, waterfowl hunting, marinas, boatyards, repairs and supplies, processing operations, and tourist related industries. In addition, there is considerable nonmonetary value associated with aesthetics, recreation, and education.

(c) Management Objective. To give the highest priority to the conservation and management of the important features of estuarine waters so as to safeguard and perpetuate their biological, social, aesthetic, and economic values. To coordinate and establish a management system capable of conserving and utilizing estuarine waters so as to maximize their benefits to man and the estuarine system.

(d) Use Standards. Suitable land/water uses shall be those consistent with the above management objectives. Highest priority of use shall be allocated to the conservation of estuarine waters and its vital components. Second priority of estuarine waters use shall be given to those types of development activities that require water access and use which cannot function elsewhere such as simple access channels; structures to prevent erosion; navigation channels; boat docks, marinas, piers, wharfs, and mooring pilings.

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In every instance, the particular location, use, and design characteristics shall be in accord with the general use standards for coastal wetlands, estuarine waters, and public trust areas described in regulation .0208 of this Subchapter.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b), 113A-113(b)(2);
Eff. September 9, 1977;
Amended Eff. January 20, 1978.

.0207 PUBLIC TRUST AREAS

(a) Description. Public trust areas are all waters of the Atlantic Ocean and the lands thereunder from the mean high water mark to the seaward limit of state jurisdiction; all natural bodies of water subject to measurable lunar tides and lands thereunder to the mean high water mark; all navigable natural bodies of water and lands thereunder to the mean high water level or mean water level as the case may be, except privately-owned lakes to which the public has no right of access; all water in artificially created bodies of water containing significant public fishing resources or other public resources which are accessible to the public by navigation from bodies of water in which the public has rights of navigation; and all waters in artificially created bodies of water in which the public has acquired rights by prescription, custom, usage, dedication, or any other means. In determining whether the public has acquired rights in artificially created bodies of water, the following factors shall be considered:

- (1) the use of the body of water by the public,
- (2) the length of time the public has used the area,
- (3) the value of public resources in the body of water,
- (4) whether the public resources in the body of water are mobile to the extent that they can move into natural bodies of water,
- (5) whether the creation of the artificial body of water required permission from the State, and
- (6) the value of the body of water to the public for navigation from one public area to another public area.

(b) Significance. The public has rights in these areas, including navigation and recreation. In addition, these areas support valuable commercial and sports fisheries, have aesthetic value, and are important resources for economic development.

(c) Management Objective. To protect public rights for navigation and recreation and to preserve and manage the public trust areas so as to safeguard and perpetuate their biological, economic and aesthetic value.

(d) Use Standards. Acceptable uses shall be those consistent with the above management objective. In the absence of overriding public benefit, any use which significantly interferes with the public right of navigation or other public trust rights which the public may be found to have in these areas shall not be allowed. The development of navigational channels or drainage ditches, the use of bulkheads to prevent erosion, and the building of piers,

wharfs, or marinas are examples of uses that may be acceptable within public trust areas, provided that such uses will not be detrimental to the public trust rights and the biological and physical functions of the estuary. Projects which would directly or indirectly block or impair existing navigation channels, increase shoreline erosion, deposit spoils below mean high tide, cause adverse water circulation patterns, violate water quality standards, or cause degradation of shellfish waters are generally considered incompatible with the management policies of public trust areas. In every instance, the particular location, use, and design characteristics shall be in accord with the general use standards for coastal wetlands, estuarine waters, and public trust areas.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b);
113A-113(b)(5);
Eff. September 9, 1977.

.0208 GENERAL USE STANDARDS FOR ESTUARINE SYSTEM AECs

(a) The CRC will use the following criteria stated in this Section to determine if a development or its intended use would interfere with or negatively affect either public interests or natural values of the coastal wetlands, estuarine waters, and public trust areas.

(b) Public Interests.

- (1) Finding that a project does not illustrate either the public or private need for a proposed development will be considered a negative factor in project evaluation.
- (2) Finding that a project is in conflict with officially adopted state, regional, or local land use plans, or policies applicable to the land and water areas under review will be considered a negative factor in project evaluation.
- (3) Finding that a project is incompatible with the purposes of an existing or proposed civil works project will be considered a negative factor in project evaluation.
- (4) Those particular projects, supported by public funds, that are initiated, planned, and constructed by federal or state programs and agencies must clearly exhibit overriding factors of national or state interest and public benefit in order to obtain favorable consideration. Preferred federal projects may include navigation aids, devices, and structures; maintenance activities in vital shipping channels

to continue intrastate and interstate commerce; and work necessary to increase use by waterfowl or conserve important wildlife resources.

- (5) Finding that a proposal will or could create a significantly adverse effect on the value and enjoyment of the property of any riparian owner will be a negative factor in project evaluation.
- (6) Finding that a project may impede navigation of, or create undue interference with access to, or use of, navigable waters will be considered a negative factor in project evaluation.
- (7) All landowners have the general right to protect their properties from erosion, and usually these projects will be viewed favorably. Finding that there exists substantial probability that a proposed protective structure will result in damage to nearby properties or harm public resources will be considered a negative factor in project evaluation.
- (8) In order to determine the proper balance between social, economic, and ecological costs and benefits of a project, the overall development plan will be evaluated to consider project purposes, multiple uses, social needs, local economic benefits, and anticipated secondary effects. If the balancing of these considerations does not interfere with the public interest, the project will receive favorable consideration.
- (9) If substantiated negative comments or reasonable objections are received from federal or state agencies, local governments, public interest groups, riparian owners, and individuals, these comments will be considered negative factors in project evaluation.

(c) Natural Values.

- (1) A project will be evaluated with the recognition that it will be part of a complete and interrelated estuarine resource area.
- (2) A project's probable impact on the biological systems will be evaluated in relation to the cumulative effect of existing and anticipated uses within the general vicinity of the site.
- (3) The location, design, and need for a project, as well as the construction activities involved, must be demonstrated to be suitable, considering the biological and physical processes of the estuarine system. The planning and evaluation criteria of North Carolina's Division of Marine Fisheries and the Corps of Engineers will be utilized in determining the project's suitability regarding location, design, and construction methods.

- (4) In order to conserve the vital components of the estuarine system, all development will be consistent with the following policies:

- (A) Finding that a project would require excavation and/or fill work directly within the highly productive, regularly flooded coastal wetland (Spartina alterniflora marshes); or would alter their important drainage patterns will be considered a negative factor in project evaluation.
- (B) Finding that a project would destroy, alter, pollute, or interfere with the social, economic, and biological values of productive shellfish beds (including sand, mudflat, and oyster beds) will be considered a negative factor in project evaluation.
- (C) Finding that a project would destroy or adversely impact important marine grass beds, spawning and nursery areas of valuable estuarine dependent fish species; and important nesting, feeding, and wintering sites of waterfowl or wildlife will be considered a negative factor in project evaluation.
- (D) Finding that a project would weaken natural erosion barriers, including peat marshland, resistant clay shorelines, and cypress-gum protective fringe areas adjacent to vulnerable estuarine shorelines, will be considered a negative factor in project evaluation.

History Note: Statutory Authority G.S. 113A-107(a), 113A-107(b); 113A-113(b)(1), 113A-113(b)(2), 113A-113(b)(5);
Eff. September 9, 1977.

.0209 ESTUARINE SHORELINES

(a) Rationale. As an AEC, estuarine shorelines, although characterized as dry land, are considered a component of the estuarine system because of the close association with the adjacent estuarine waters. This Section defines estuarine shorelines, describes the significance, and articulates standards for development.

(b) Description. Estuarine shorelines are those non-ocean shorelines which are especially vulnerable to erosion, flooding, or other adverse effects of wind and water and are intimately connected to the estuary. This area extends from the mean high water level or normal water level along the estuaries, sounds,

bays, and brackish waters as set forth in an agreement adopted by the Wildlife Resources Commission and the Department of Natural Resources and Community Development (described in regulation .0206(a) of this Subchapter) for a distance of 75 feet landward.

(c) Significance. Development within estuarine shorelines influences the quality of estuarine life and is subject to the damaging processes of shore front erosion and flooding.

(d) Management Objective. To ensure shoreline development is compatible with both the dynamic nature of estuarine shorelines and the values of the estuarine system.

(e) Use Standards.

- (1) Suitable land uses shall be those consistent with the management objectives.
- (2) Highest priority of land use allocation shall be given to recreational, rural, and conservational activities in those shoreline areas exhibiting a significant erosion rate. High priority shall be given to water access and shoreline protection proposals, provided that public resources will not be detrimentally affected.
- (3) Second priority of land use allocation shall be given to proposals which illustrate a sound understanding of the management principles of this dynamic and susceptible zone. The applicant must demonstrate, in cases where the shoreline is to be altered, that notification of the proposed activity has been given to adjacent riparian land owners.
- (4) All allowable construction activities shall require the applicant's written acknowledgement that there may be associated risks with building on the particular location.
- (5) In order to give proper guidance to the applicant, the most up-to-date information concerning shoreline erosion rates and potentials for flooding shall be given, accompanied by recommended shoreline stabilization and flood-proofing techniques.
- (6) Proposals must not conflict with the purposes and goals of officially adopted state, regional, or local land use plans and regulations.
- (7) Proposed land uses should not significantly harm estuarine resources (both biological and physical) or cause damage to adjacent riparian properties.
- (8) Major public facilities that guide growth and land use patterns which may include, but are not limited to, roads, water lines, and sewers, will not be permitted within this category of AEC if their placement would result in a substantial possibility of excessive public expenditures for maintaining public safety and continued use of the facilities.

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- (9) All construction within the 75-foot estuarine shoreline zone shall be in compliance with all relevant provisions of local and state building codes.
- (10) All construction within the 75-foot estuarine shoreline zone shall be in compliance with the mandatory standards of the North Carolina Sedimentation Pollution Control Act of 1973 (G.S. 113A-57).

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b), 113A-113(b)(6)(b);
Eff. September 9, 1977.

SECTION .0300 - OCEAN HAZARD AREAS

.0301 OCEAN HAZARD CATEGORIES

The next broad grouping is composed of those AECs that are considered natural hazard areas along the Atlantic Ocean shoreline where, because of their special vulnerability to erosion or other adverse effects of sand, wind, and water, uncontrolled or incompatible development could unreasonably endanger life or property. Ocean hazard areas include beaches, frontal dunes, inlet lands, and other areas in which geologic, vegetative and soil conditions indicate a substantial possibility of excessive erosion or flood damage.

History Note: Statutory Authority G.S. 113A-107(a) 113A-107(b), 113A-113(b)(6) a; 113A-113(b)(6) b; 113A-113(b)(6) d ;
Eff. September 9, 1977.

.0302 SIGNIFICANCE OF THE OCEAN HAZARD CATEGORY

The primary causes of the hazards peculiar to the Atlantic shoreline are the constant forces exerted by waves, winds, and currents upon the unstable sands that form the shore. During storms, these forces are intensified and can cause significant changes in the bordering landforms and to structures located on them. Hazard area property is in the ownership of a large number of private individuals as well as several public agencies and is used by a vast number of visitors to the coast. Ocean hazard areas are critical, therefore, because of both the severity of the hazards and the intensity of interest in the areas.

The location and form of the various hazard area landforms, in particular the beaches, dunes, and inlets, are in a permanent state of flux, responding to meteorologically induced changes in the wave climate. For this reason, the appropriate location of structures on and near these landforms must be reviewed carefully in order to avoid their loss or damage. As a whole, the same flexible nature of these landforms which presents hazards to development situation immediately on them offers protection to the land, water, and structures located landward of them. The

value of each landform lies in the particular role it plays in affording protection to life and property. (The role of each landform is described in detail in Technical Appendix 2 in terms of the physical processes most important to each.) Overall, however, the energy dissipation and sand storage capacities of the landforms are most essential for the maintenance of the landforms' protective function.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(6)a; 113A-113(b)(6) b; 113A-113(b)(6) d ;
Eff. September 9, 1977.

.0303 MANAGEMENT OBJECTIVE OF OCEAN HAZARD AREAS

The CRC recognizes that absolute safety from the destructive forces indigenous to the Atlantic shoreline is an impossibility for development located adjacent to the coast. The loss of life and property to these forces, however, can be greatly reduced by the proper location and design of shoreline structures and by care taken in prevention of damage to natural protective features. Therefore, it is the CRC's objective to provide management policies and standards for ocean hazard areas that serve to eliminate unreasonable danger to life and property and achieve a balance between the financial, safety, and social factors that are involved in hazard area development.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(6) a; 113A-113(b)(6) b; 113A-113(b)(6) d ;
Eff. September 9, 1977.

.0304 AECs WITHIN OCEAN HAZARD AREAS

(a) This section defines each AEC within ocean hazard areas and describes its significance. Standards for the issuance of permits for each of these AECs are found in general use standards for ocean hazard areas (Regulations .0306 and .0307 of this Subchapter)

(b) Ocean Beaches.

- (1) Description. Ocean beaches are lands consisting of unconsolidated soil materials that extend from the mean low water line landward to a point where either (A) the growth of vegetation occurs or (B) a distinct change in the slope or elevation of the unconsolidated sands alters the configuration of the landform.
- (2) Significance. Sand deposits of ocean beaches and shorelines represent a dynamic zone which does not afford long-term protection for development. The nature of tidal action and the force of storms are

such that they cause the beach areas to constantly shift. Littoral drift is a natural phenomenon whereby sand is deposited upon a different stretch of the beach. The action also shifts the line of high tide and low tide. Ocean beaches and shorelines are valuable for public recreation and are located within a natural hazard area. Development within this dynamic zone may result in loss of property and possible loss of life.

(c) Frontal Dunes.

- (1) Description. Frontal dunes are mounds of sand located directly landward of the ocean beaches and extending inland to the lowest elevation in the depression immediately behind the first dune ridge (commonly referred to as the dune trough).
- (2) Significance. Frontal dunes comprise a significant portion of the outer banks and barrier islands and represent a protective barrier for development on the outer banks. Development with inadequate design or construction may alter the protective character of the dunes and subject property to an increased risk of substantial damage due to the adverse effects of wind and water. Frontal dunes are also extremely dynamic and highly susceptible to the erosive effects of storm surges.

(d) Inlet Lands.

- (1) Description. Inlet lands as identified by the state geologist are those lands with a substantial possibility of excessive erosion located adjacent to inlets and extending inland a distance sufficient to encompass that area through which either the inlet is predicted to migrate during the next 25 years or the maximum extent of recorded migration over the past 25 years, whichever is less; this distance will be determined for each inlet using a procedure outlined in Technical Appendix 3.
- (2) Significance. The particular location of the inlet channel is a temporary one, as such channels are subject to extensive migration. Coastal inlet lands are extremely dynamic land areas that are highly susceptible to becoming completely displaced by water.

(e) Ocean Erodible Areas.

- (1) Description. The landward extent of those ocean shoreline areas identified by the state geologist to have a substantial possibility of excessive erosion has been determined for each ocean-fronting county from the report (no. 73-5) prepared by C. E. Knowles, Jay Langfelder, and Richard McDonald, published by the N. C. State University Center for Marine Coastal Studies, as follows:

Virginia line to Hatteras Inlet	- 61 ft.
Hatteras Inlet to Bogue Inlet	- 72 ft.
Bogue Inlet to Rich Inlet	- 121 ft.
Rich Inlet to Cape Fear Inlet	- 156 ft.
Cape Fear Inlet to South Carolina line	- 144 ft.

The above distances are measured landward from the seaward toe of the frontal dune (point of transition from beach to dune indicated by a significant change in elevation).

- (2) Significance. Ocean erodible areas are extremely dynamic lands, highly susceptible to becoming displaced by water created by periodic storm surges.

History Note: Statutory Authority G. S. 113A-107(a); 113A-107(b); 113A-113(b)(6)a; 113A-113(b)(6)b; 113A-113(b)(6)d; Eff. September 9, 1977.

.0305 OCEAN HAZARD AREAS - GENERAL IDENTIFICATION

Ocean hazard areas include collectively the ocean beaches, frontal dunes, inlet lands, and ocean erodible areas AECs, each characterized by a substantial possibility of excessive erosion.

For the purpose of public and administrative convenience, each designated minor development permit-letting agency is authorized to designate, subject to CRC approval, a more readily identifiable land area within which an ocean hazard AEC is likely to occur. This designated notice area, however, must include all of the land areas as defined above. It is recommended that for this purpose each permit-letting agency consider the use of natural or man-made landmarks such as roads, existing hazard area delineations such as those prepared for administration of the Federal Flood Disaster Protection Act, or existing shore protection lines established for administration of county sand dune protection ordinances.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(6) a; 113A-113(b)(6) b; 113A-113(b)(6) d ; Eff. September 9, 1977.

.0306 GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS

(a) In order to avoid unreasonable danger to life and property, the construction or placement of structures to be used for residential, institutional, or commercial purposes will be permitted only landward of the frontal dune.

(b) In order to avoid excessive public expenditures for maintaining public safety, no construction or placement of major public facilities to be supported by state funds will be permitted in hazard areas. This includes, but is not limited to, sewers, waterlines and roads.

(c) In order to avoid weakening the protective nature of frontal dunes, no development will be permitted which would involve the removal or relocation of frontal dune sand or frontal dune vegetation.

(d) Any residential building erected within an ocean erodible area is required to be in compliance with the piling requirements (Appendix D, Section 3.0) of the N. C. Uniform Residential Building Code. All other construction in ocean hazard areas must comply with the state building code or more stringent local building codes.

(e) The following construction activities may be permitted on or seaward of the frontal dune, provided that their specific location and design are demonstrated to be the most suitable alternatives and in compliance with the North Carolina Building Code and the standards set in paragraph (a) of the exceptions listed in regulation .0307 of this Subchapter.

- (1) necessarily water-oriented structures such as fishing piers;
- (2) structural accessways to beaches; and
- (3) non-permanent recreational structures such as lifeguard chairs.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(6) a; 113A-113(b)(6) b; 113A-113(b)(6) d ;
Eff. September 9, 1977.

.0307 GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS; EXCEPTIONS

(a) Development which does not involve the placement or construction of major state supported facilities or of structures to be used for residential, institutional, industrial, or commercial purposes may be permitted in hazard areas if it can be demonstrated that development will not (1) reduce or cause to be reduced the amount of sand held in storage in beaches and frontal dunes, (2) cause accelerated erosion along the shore, or (3) otherwise increase the risk of loss or damage presented to life or property.

(b) The construction or placement of a structure to be used for residential, institutional, or commercial purposes may be permitted on the frontal dune if it can be demonstrated that the size or location of an existing lot (as defined in 15 NCAC 7I .0307(d)). would not otherwise allow any practical use to be made of it. In such a case, written acknowledgement of the lot's location in a hazard area and of the state's policy concerning public expenditures

in hazard areas will be required of the property owner, as well as compliance with relevant provisions of the North Carolina Building Code and the standards set out in Regulation .0307(a) of this Subchapter.

(c) The minimum necessary amount of removal or relocation of frontal dune sand or dune vegetation may be permitted if it can be demonstrated that the size or location of an existing lot (as defined in this Section of these Rules) would not otherwise allow any practical use to be made of it or if the development requiring that removal or relocation is shown to be in the best public interest. In either case, it must be demonstrated that such activity will be in compliance with the standards set in Regulation .0307(a) 1, 2 & 3 of these Rules and that all reasonable measures will be taken to prevent erosion of the dune and to reestablish the dune and its vegetation in the most appropriate location.

(d) The words "existing lot" in this Section shall mean a lot or tract of land which on the effective date of this Section is specifically described in a deed, contract, or other instrument conveying fee title or which is specifically described in a recorded plat and which cannot be enlarged by combining the lot or tract of land with a contiguous lot(s) or tract(s) of land under the same ownership.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b);
113A-113(b)(6)a; 113A-113(b)(6)b; 113A-113(b)(6)d;
Eff. September 9, 1977;
Amended Eff. January 20, 1978.

SECTION .0400 - PUBLIC WATER SUPPLIES

.0401 PUBLIC WATER SUPPLY CATEGORIES

The third broad grouping of AECs includes valuable small surface water supply watersheds and public water supply well fields.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b);
113A-113(b) (3)a;
Eff. September 9, 1977.

.0402 SIGNIFICANCE

These vulnerable, critical water supplies, if degraded, could adversely affect public health or require substantial monetary outlays by affected communities for alternative water source development.

Uncontrolled development within the designated boundaries of a watershed or well field site could cause significant changes in run-off patterns or water withdrawal rates that may adversely affect the quantity and quality of the raw water supply. Also, incompatible development could adversely affect water quality by introducing a wide variety of pollutants from homes, businesses, or industries, either through subsurface discharge, surface runoff, or seepage into the vulnerable water supply.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b);
113A-113(b) (3) a;
Eff. September 9, 1977.

.0403 MANAGEMENT OBJECTIVE FOR PUBLIC WATER SUPPLIES

The CRC objective in regulating development within critical water supply areas is the protection and preservation of public water supply well fields and A-11 streams and to coordinate and establish a management system capable of maintaining public water supplies so as to perpetuate their values to the public health, safety, and welfare.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b)
113A-113(b) (3)a;
Eff. September 9, 1977.

.0404 AECs WITHIN PUBLIC WATER SUPPLIES

Public water supplies as a broad category includes two AECs: small surface water supply watersheds and public water supply well fields. The following discussion includes the description and the land use standards for each. Maps of these AECs are available at the CRC and the appropriate local minor development permit office.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b)
113A-113(b)a;
Eff. September 9, 1977;
Amended Eff. January 20, 1978.

(Note: Technical Appendix 4 (Section .1000 of this Subchapter) contains a description of four public water supply areas as identified by the North Carolina Department of Human Resources, Division of Health Services.)

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.0405 SMALL SURFACE WATER SUPPLY WATERSHEDS

(a) Description. These are catchment areas situated entirely within the coastal area which contain a stream(s) classified as A-11 by the Environmental Management Commission. This means the maximum beneficial use of these streams is to serve as public water supply areas. The watershed of the A-11 streams has been identified by the North Carolina Department of Human Resources for designation by the CRC.

(b) Use Standards. The CRC or local designated official shall approve an application upon finding that the project is in accord with the following minimum standards:

- (1) Ground absorption sewage disposal systems shall be located a minimum of 100 feet from A-11 surface waters.
- (2) Development requiring a National Pollution Discharge Elimination System (NPDES) permit will be denied an AEC permit until the NPDES permit is secured.
- (3) Land-disturbing activities (land clearing, grading, and surfacing) shall be in compliance with the mandatory standards of the North Carolina Sedimentation Pollution Control Act of 1973 (G.S. 113A-57).

History Note: Statutory Authority G. S. 113A-107(a); 113A-107(b);
113-113(b)(3)a;
Eff. September 9, 1977;
Amended Eff. January 20, 1978.

.0406 PUBLIC WATER SUPPLY WELL FIELDS

(a) Description. These are areas of well-drained sands that extend downward from the surface into the shallow ground water table which supplies the public with potable waters. These surficial wells fields are confined to a readily definable geographic area as identified by the North Carolina Department of Human Resources with assistance and support from affected local governments.

(b) Use Standards. The CRC or the local designated official shall approve an application upon finding that the project is in accord with the following minimum standards:

- (1) The project does not use ground absorption sewage disposal systems within the designated boundary of the well field.
- (2) The project does not require subsurface pollution injection within the designated boundary of the AEC.
- (3) The project does not significantly limit the quality of the water supply or the amount of rechargeable water to the well fields.
- (4) The project does not cause salt water intrusion into the public water supply or discharge toxic and/or soluble contaminants.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b);
113-113(b)(3)a;
Eff. September 9, 1977.

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SECTION .0500 - FRAGILE COASTAL NATURAL RESOURCE AREAS

.0501 FRAGILE COASTAL NATURAL RESOURCE AREAS CATEGORY

The fourth and final group of AECs is gathered under the heading of fragile coastal natural resource areas and is defined as areas containing environmental or natural resources of more than local significance in which uncontrolled or incompatible development could result in major or irreversible damage to natural systems, scientific or educational values, or aesthetic qualities.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(4)e; 113A-113(b)(4)f; 113A-113(b)(4)g; Eff. September 9, 1977.

.0502 SIGNIFICANCE

Fragile coastal natural resource areas are generally recognized to be of educational, scientific, or cultural value because of the natural features of the particular site. These features in the coastal area serve to distinguish the area designated from the vast majority of coastal landscape and therein establish its value. Such areas may be key components of systems unique to the coast which act to maintain the integrity of that system.

Areas that contain outstanding examples of coastal processes or habitat areas of significance to the scientific or educational communities are a second type of fragile coastal natural resource area. These areas are essentially self-contained units or "closed systems" minimally dependent upon adjoining areas.

Finally, fragile areas may be particularly important to a locale either in an aesthetic or cultural sense.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(4)e; 113A-113(b)(4)f; 113A-113(b)(4)g; Eff. September 9, 1977.

.0503 FRAGILE COASTAL NATURAL RESOURCE AREAS; DESIGNATION

(a) Special Designation Process. The designation of a coastal complex natural area, a unique coastal geologic formation, or a coastal area that sustains a remnant species is a process peculiar to these categories of AECs alone. Unlike the other AECs, designation is based upon a procedure of nomination, evaluation, and site specific designation.

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(b) Nomination. The first step in the nomination process will be the transmission of relevant information regarding the location, size, importance, ownership, and uniqueness of the proposed site to the local government in whose jurisdiction the site is located and to the CRC. The local government will forward the nomination and recommendations to the CRC within 60 days of the first meeting of the local board following that nomination. Those sites considered appropriate, i.e., meeting the definition of at least one of the fragile coastal natural resource areas categories, will continue to the evaluation step.

(c) Evaluation. Opportunity will be given to local government officials, interest groups including private land owners, the CRAC, the CRC staff, and those with scientific expertise to comment on the appropriateness of designation. Statements from the scientific community should include any documentation attesting to the unique qualities of the site, and, when appropriate, a discussion relating the specific values of the site to the associated biological and physical systems.

(d) Designation. The CRC has the sole authority to designate AECs; thus, upon receipt of all documentation and statements, the CRC must decide if designation is merited. This will be determined by establishing that the resource is of unusually high or unique quality and by showing that the resource does fit the descriptions of at least one of the fragile coastal natural resource areas categories. General statements from local government and interest groups will be considered along with the scientific rationale. All parties involved in the processes of nomination and evaluation will be informed in writing of the commission's decision to designate or not to designate the site in question.

A public hearing is required prior to designation of each site at which time the commission shall present the scientific documentation and general statements in support of the designation decision. Also, the values established in the evaluation stage will be so stated and will be used as the basis for policy development by which permits will be approved or denied. All sites chosen for designation that are within the bounds of state-owned property will become an AEC regardless of state agency ownership. Sites located on private property will immediately become AECs if the property owner is in favor of its designation. If land owners dissent, they will be given 60 days to prepare arguments explain-

ing why their property should not be designated, whereupon the commission will make its final judgement. It is the intent of the commission to point out the significance of AECs on private property and to suggest how appropriate development should proceed within the constraints imposed by constitutionally guaranteed rights of private property.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(4)e; 113A-113(b)(4)f; 113A-113(b)(4)g; Eff. September 9, 1977.

.0504 AECs WITHIN FRAGILE COASTAL NATURAL RESOURCE AREAS CATEGORY

The description, significance, and management objectives for each AEC (coastal complex natural areas, coastal areas that sustain remnant species, and unique coastal geologic formations) within the grouping of fragile coastal natural resource areas follows in Regulations .0505, .0506, and .0507 of this Subchapter.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(4)e; 113A-113(b)(4)f; 113A-113(b)(4)g; Eff. September 9, 1977.

.0505 COASTAL AREAS THAT SUSTAIN REMNANT SPECIES

(a) Description. Coastal areas that sustain remnant species are those areas that support native plants or animals determined to be rare or endangered (synonymous with threatened and endangered), within the coastal area. Such places provide habitats necessary for the survival of existing populations or communities of rare or endangered species within the coastal area. Determination will be made by the Commission based upon the listing adopted by the North Carolina Wildlife Resources Commission or the federal government listing; upon written reports or testimony of experts indicating that a species is rare or endangered within the coastal area; and upon consideration of written testimony of local government officials, interest groups, and private land owners.

(b) Significance. The continued survival of certain habitats that support native plants and animals in the coastal area is vital for the preservation of our natural heritage and for the protection of natural diversity which is related to biological stability. These habitats and the species they support provide a valuable educational and scientific resource that cannot be duplicated.

(c) Management Objective. To protect unique habitat conditions that are necessary to the continued survival of threatened and endangered native plants and animals and to minimize land use impacts that might jeopardize these conditions.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b);
113A-113(b)(4)f;
Eff. September 9, 1977.

.0506 COASTAL COMPLEX NATURAL AREAS

(a) Description. Coastal complex natural areas are defined as lands that support native plant and animal communities and provide habitat qualities which have remained essentially unchanged by human activity. Such areas may be either significant components of coastal systems or especially notable habitat areas of scientific, educational, or aesthetic value. They may be surrounded by landscape that has been modified but does not drastically alter conditions within the natural area.

(b) Significance. Coastal complex natural areas function as key biological components of natural systems, as important scientific and educational sites, or as valuable scenic or cultural resources. Often these natural areas provide habitat suitable for threatened or endangered species or support plant and animal communities representative of pre-settlement conditions. These areas help provide a historical perspective to changing natural habitats in the coastal area and together are important and irreplaceable scientific and educational resources.

(c) Management Objectives. To protect the features of a designated coastal complex natural area in order to safeguard its biological relationships, educational and scientific values, and aesthetic qualities. Specific objectives for each of these functions shall be related to the following policy statement either singly or in combination:

- (1) To protect the natural conditions or the sites that function as key or unique components of coastal systems. The interactions of various life forms are the foremost concern and include sites that are necessary for the completion of life cycles, areas that function as links to other wildlife areas (wildlife corridors), and localities where the links between biological and physical environments are most fragile.
- (2) To protect the identified scientific and educational values and to ensure that the site will be accessible for related study purposes.
- (3) To protect the values of the designated coastal complex natural area as expressed by the local government and citizenry. These values should be related to the educational and aesthetic qualities of the feature.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b);
113A-113(b)(4)e;
Eff. September 9, 1977.

.0507 UNIQUE COASTAL GEOLOGIC FORMATIONS

(a) Description. Unique coastal geologic formations are defined as sites that contain geologic formations that are unique or otherwise significant components of coastal systems, or that are especially notable examples of geologic formations or processes in the coastal area. Such areas will be evaluated by the commission after identification by the State geologist.

(b) Significance. Unique coastal geologic areas are important educational, scientific, or scenic resources that would be jeopardized by uncontrolled or incompatible development.

(c) Management Objectives. The CRC's objective is to preserve unique resources of more than local significance that function as key physical components of natural systems, as important scientific and educational sites, or as valuable scenic resources. Specific objectives for each of these functions shall be related to the following policy statements either singly or in combination:

- (1) To ensure that the designated geologic feature will be able to freely interact with other components of the identified systems. These interactions are often the natural forces acting to maintain the unique qualities of the site. The primary concern is the relationship between the geologic feature and the accompanying biological component associated with the feature. Other interactions which may be of equal concern are those relating the geologic feature to other physical components, specifically the relationship of the geologic feature to the hydrologic elements; ground water and surface runoff.
- (2) To ensure that the designated geologic feature or process will be preserved for and be accessible to the scientific and educational communities for related study purposes.
- (3) To protect the values of the designated geologic feature as expressed by the local government and citizenry. These values should be related to the educational and aesthetic qualities of the feature.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b);
113A-113(b)(4)g;
Eff. September 9, 1977.

.0508 FRAGILE COASTAL NATURAL RESOURCE AREAS; USE STANDARDS

Permits for development in designated fragile coastal natural resource areas will be approved upon finding that:

1. The proposed design and location will cause no major or irreversible damage to the stated values of a particular site. One or more of the following values must be considered depending upon the stated significance of the site:
 - (a) Development shall preserve the values of the individual site as it functions as a critical component of a natural system.

- (b) Development shall not adversely affect the values of the site as a unique scientific or educational resource.
- (c) Development shall be consistent with the aesthetic values of a site as identified by the local government and citizenry.
- (2) No reasonable alternative sites are available outside the designated AEC.
- (3) Reasonable mitigation measures have been considered and incorporated into the project plan. These measures shall include consultation with recognized scientific authorities and with the CRC.
- (4) The project will be of equal or greater public benefit than those benefits lost or damaged through development.

History Note: Statutory Authority G.S. 113A-107(a), 113A-107(b), 113A-113(b)(4)e; 113A-113(b)(4)f; 113A-113(b)(4)g; Eff. September 9, 1977.

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SECTION .0600 DEVELOPMENT STANDARDS APPLICABLE
TO ALL AECs

.0601 NO VIOLATION OF ANY RULE

No development shall be allowed in any AEC which would result in a contravention or violation of any rules, regulations, or laws of the State of North Carolina or of local government in which the development takes place.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b);
Eff. September 9, 1977.

.0602 POLLUTION OF WATERS

No development shall be allowed in any AEC which would have a substantial likelihood of causing pollution of the waters of the State to the extent that such waters would be closed to the taking of shellfish under standards set by the Commission for Health Services pursuant to G.S. 130-169.01.

History Note: Statutory Authority G.S. 113A-107(2); 113A-107(b);
Eff. September 9, 1977.

SECTION .0700 TECHNICAL APPENDIX 1; DEFINITIONS
FOR PUBLIC TRUST AREAS

.0701 MEAN HIGH WATER

(a) In bodies of water having six inches or more lunar tidal influence, mean high water is the average height of the high water over a 19 year period. For shorter periods of observations, corrections are applied to eliminate known variations and reduce the result to the equivalent of a mean 19 year value.

(b) Mean high water may be ascertained from National Ocean Survey or U. S. Corps of Engineers tide stations data where available. In the absence of the precise method, one or more of the following acceptable approximation methods are to be used:

- (1) Short term (temporary) tide stations (i.e. seven days or more records properly corrected).
- (2) Extrapolation from nearby existing tide stations (where feasible).
- (3) Vegetative indicators such as the presence of Spartina alterniflora (saltmarsh cordgrass).
- (4) A relatively close approximation of mean high water may be assumed to be the physical water level on the project site, provided:
 - (A) the body of water is within its normally established banks or shoreline, which may be determined by inspection of soil character indicators;
 - (B) no sustained winds in excess of 12 knots have occurred within a fifty mile radius of the project site in the three day period preceding the determination; and
 - (C) the determination is made at the peak of the tidal cycle predicted by the National Ocean Survey Tide Tables to have a value equal to mean high water at the nearest published tide station to the project site.

(c) Navigable means navigable-in-fact.

(d) Navigable-in-fact means capable of being navigated in its natural condition by the ordinary modes of navigation including modes of navigation used for recreational purposes. The natural condition of a body of water for purposes of determining navigability shall be the condition of the body of water at mean high water or mean water level as the case may be, and the condition of the body of water without manmade obstructions and without temporary natural obstructions. Temporary natural conditions such as water level fluctuation and temporary natural obstructions which do not permanently or totally prevent navigation do not make an otherwise navigable stream nonnavigable.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b);
113A-113(b)(5);
Eff. September 9, 1977.

.0702 MEAN WATER LEVEL

(a) In bodies of water having less than six inches lunar tidal influence, and excluding tropical storm and hurricane conditions, mean water level is the average height of all water levels.

(b) In the absence of more precise data, a relatively close approximation of the mean water level may be assumed to be the physical water level on the site, provided:

- (1) The body of water is within its normally established banks or shoreline which may be determined by inspection of vegetative and soil character indicators.
- (2) No precipitation of one inch or more has occurred upstream of the project site in the seven day period preceding the determination.
- (3) No sustained winds in excess of 12 knots have occurred within a fifty mile radius of the project site in the three day period preceding the determination.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b),
113A-113(b)(5);
Eff. September 9, 1977.

SECTION .0800 TECHNICAL APPENDIX 2; OCEAN HAZARD AREAS

.0801 PHYSICAL PROCESSES IN OCEAN HAZARD AREAS

A wave is a movement of energy; a breaker is an energy dissipator. Winds give waves energy. Therefore the wave speed and size depend on wind speed, wind duration, the distance across which the wind blows with the same direction and speed (the fetch), and the state of the sea when the winds began to blow (Gilluly et al 1968). When waves enter the shallow water near the shore, the sea bottom interferes with wave motion causing waves to steepen and break. When a wave breaks, its energy is dissipated by throwing bottom sediments violently into suspension (Gilluly et al 1968). The sediments are carried with the rush of water until the water's turbulent energy is reduced to the point where sediments can no longer be transported.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(6)a; 113A-113(b)(6)b; 113A-113(b)(6)d; Eff. September 9, 1977.

.0802 DYNAMIC EQUILIBRIUM

If the energy contained in the waves is low, the energy in the resultant swash is low and sediments are deposited quickly, for the most part landward of the breaking waves. If wave energy is high, swash energy is high, capable of continuing to pick up sediments, rather than depositing them, and carrying them seaward with receding waters. The reaction of the shore to these changing wave properties is a constant change in profile - a state of dynamic equilibrium in which the beach constantly, and the dunes periodically, readjust to the wave conditions prevailing at a given time.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(6)a; 113A-113(b)(6)b; 113A-113(b)(6)d; Eff. September 9, 1977.

.0803 BEACHES

Generally in summer, winds forming waves are gentle, or short duration and short fetch. Summer waves, therefore, tend to be long and of low steepness, transporting less energy. Most of the energy of summer winds can usually be dissipated in the transportation of sediments landward; sediments carried in the swash of breakers are deposited shoreward causing a buildup of the beach berm (the highest part of the beach). The elevation of the beach berm depends on the length of time that low swells dominate (Thompson and Hallett 1968) since the berm is established by the highest of the normal waves which overtop the berm and deposit sediments as swash waters recede (Dean 1968). The beach berm in summer, therefore, becomes an intermediate sand storage region between the surf zone and the dunes, causing the wide beaches characteristic of normal

summer conditions. What is more, at low tide, sediments that were deposited on the berm at higher tides can be further transported landward by the wind, causing a progressive build up of the adjacent dunes as well as the beach.

Conversely, higher energy winter winds which may blow over a greater distance toward the shore produce steeper, higher energy waves which yield a higher energy swash. In winter, sand stored in the berm is eroded, transported offshore, and deposited in bars. This movement of sand offshore reduces the elevation of the beach in winter increasing the exposure of the dunes somewhat to storm wave attack. However, the winter bar serves an important protective function by producing shallower water offshore, causing subsequent waves to break further from the beach and dunes. Less energy from the winter waves, therefore, is available to attack and erode the shore further, since there is a greater distance over which swash can loose its energy. The bars formed in the winter usually remain until summer when longer, lower waves transport the material stored in the bar back to the beach.

In storms, as in winter, sand that was stored in the berm is placed back in the littoral (the seaward edge of the shore) system. Initially, sand eroded by the storm waves can function as a protective winter offshore bar. When the storm waves decay, the bar migrates shoreward, eventually moving as far upward as the runup limit of swashes. The bar again forms a berm, which remains stabilized until destroyed by the next storm (Sonu 1968). In severe storms, however, storm surges, caused by prolonged and unusually violent onshore winds, can attain water levels above the existing beach elevation. The storm waves accompanying surges can erode sand not only from the beach, but from the dunes as well, and transport that sand to greater depths. Severe storms can transport this material to depths in excess of that from which summer waves are capable of transporting the sand back to the shore. In these extreme cases, erosion can be permanent, causing substantial losses of beach and dune property.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b);
113A-113(b)(6)b;
Eff. September 9, 1977.

.0804 SAND DUNES

The dunes along the shore are shaped by gentle prevailing winds acting on the surplus of sand deposited by storms (McCullagh et al 1972). The configuration of the ground, the vegetation, and other obstacles can interfere with the wind and cause the sand it carries to accumulate. Once a dune begins to build it stabilizes somewhat by decreasing the wind velocity near the ground on the leeward side. Vegetation, particularly certain grasses, can help stabilize a dune more, however, by growing upward and extending roots downward anchoring the sand as it continues to accumulate.

As a reservoir of sand and an energy dissipator, a dune well anchored with vegetation can reduce the ability of storm waves not accompanied by storm surges to attack the barrier directly; erosion and flood damage of the rest of the barrier island surface and the structures on it is thereby reduced. The more sand held in storage in dunes, the more sand there is to feed offshore bars, keeping all but the largest waves breaking at a greater distance seaward. The higher the dunes, the longer they can prevent a storm surge from flooding the land behind them. When a dune is overtopped by a surge, it can help prevent further erosion of the barrier surface by dissipating the energy carried in the surge flow.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b), 113A-113(b)(6)a;
Eff. September 9, 1977.

.0805 SEDIMENT TRANSPORT

Currents differ from waves in that currents are a continued and progressive forward movement of water; like waves, however, most surface ocean currents are directly or indirectly caused by the wind. Waves are the most important agents of erosion along a shore; currents are an important means of sediment transport (Thornbury 1969). Most waves break against the shore at a slight angle causing the swash to recede at an angle; the longshore currents (or drift) which are thereby generated move sediment in sand waves oriented approximately parallel to the shore (Sonu 1968). These wave induced longshore currents are responsible for the majority of sand transport along the coast. Although weak (generally less than 2 feet per second), they are effective in transporting the sediments cast into suspension by the turbulent wave breaking process (Dean 1972). Like the onshore and offshore sand transport and its resultant beach profile changes, the direction, intensity and width of the current depend on the wave climate which generally varies seasonally (Dean 1972).

In gross overall aspect the barrier islands have not been reduced in area to any great extent since an ample supply of sand is available to maintain the barrier island system (Pierce 1973a). Particular stretches along the coast, however, may show accretion or erosion dominant. Even slight natural or man-made irregularities in the shape of the shore can obstruct the longshore sediment flow. In addition, other wind driven currents can develop along an open coast. Where various currents converge or diverge, significant deposition or erosion can occur along adjacent stretches of beach. Currents in the vicinity of an inlet differ significantly from those present along an open coast exposed to the same wave climate. The persistent current along the coast adjacent to an inlet may be directed toward the inlet for both flood and ebb tidal flows, leading to a net transport of sand from the adjacent shore toward the inlet (Dean 1972). Some portion of the sediment involved in longshore transport is lost from the shore through tidal inlets into the sounds. The sediment movement caused by currents, therefore, results in gradual shifts of barrier islands and of the inlets separating them (Hoyt and Henry 1973).

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(6)a; 113A-113(b)(6)b; 113A-113(b)(6)d; Eff. September 9, 1977.

.0806 INLETS

Inlets are breaches in the outer banks which allow the passage of water between the ocean and the sounds. Inlets function as channels for rising and falling tide waters and as outlets to the ocean for mainland stream flow. Since a relatively constant volume of water moves through inlets within each tidal cycle in normal (non-storm) conditions, an inlet normally maintains a relatively constant cross-sectional area (Hoyt and Henry 1973). Because of longshore currents, however, the location of inlets and inlet channels can migrate significantly, commonly moving in non-storm conditions in the prevailing direction of the longshore current.

Storms can cause significant rises in sea level on both the ocean and sound sides of the barrier islands. In addition to surges, heavy rains on the mainland, as often accompany storms, cause increased stream flow into the sounds. To accommodate this increased volume of water, existing inlets may enlarge, new inlets may form, and/or parts of the barrier may simply be overwashed. Both tidal inlets and overwash fans are formed by a storm surge causing water to flow across a sand barrier. The resultant end product of this flow - tidal inlet or washover fan - depends on a variety of factors including (a) the topography of the barrier, the sound floor and the nearshore bottom, (b) the wave climate, (c) the type of storm generating the surge, and (d) the direction, either from the lagoon floor or the sea, from which the surge comes (Pierce 1973b). This variety of factors makes inlet formation, closure, and migration highly unpredictable.

Direct wave attack on the oceanfront is probably ineffective in forming inlets (Pierce 1973b). To be effective in cutting a pass through a barrier, wave energy must be concentrated at some point or along a very narrow reach of shore. When the dune ridge is overtopped by a storm surge, the available energy may be sufficient to cut a channel if the flow itself can be channeled and if frictional losses are minimal. In general, the conditions necessary for this process are a narrow barrier with a steep slope and a deep adjacent sound. In the absence of these conditions, overwash fans (or flats) are formed from the oceanside where available flow energy was dissipated and transported sediments deposited.

While direct frontal attack is usually unable to cut a new inlet itself, its prior erosion of the beach and lowering of the height of the dune ridge facilitate the cutting of an inlet from the sound. Tidal inlets in a wide barrier with extensive overwash flats are generally opened from the sound side. Pierce (1973b)

found that in one study area at least all inlets that opened during storms occurred as extensions of tidal creeks or channels in the marsh. In most cases these inlets opened at virtually the same place along the barrier as inlets previously existed.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b),
113A-113(b)(6)d;
Eff. September 9, 1977.

.0807 WASHOVER AREAS

A considerable amount of beach and dune sand can be carried into washover areas by storm surges overtopping the dunes. Where barrier islands are relatively narrow, this sand may be carried completely across the barrier and lost into the marshes and sounds. Storm surge washover occurs along a barrier at points of lowest (or weakest) dune elevation; washovers extend furthest landward where the configuration of the barrier surface allows flow to be channeled. In general, where washover flow energy is quickly dissipated, a net build up of sand in the washover area can occur. Where flow is channeled, the washover area can remain low relative to the surrounding land, representing a likely site for future storm washovers. The volume of and extent of the washover deposits depend both on the size of the storm surge and on the supply of sand in the beaches and dunes.

Areas where washover has occurred relatively recently are recognizable on the ground by characteristic vegetation patterns as well as by the land surface configuration. The susceptibility of a particular area to flooding by overwash from future storms can best be determined by topographic survey; its susceptibility to future inlet cutting depends on characteristics of adjacent sounds as well. Unvegetated washover areas can serve as temporary reservoirs for the eventual redistribution of sand since the bulk of the sand is blown back seaward contributing to the rebuilding of the beach and dune system (Leatherman 1976). After severe storms. However, the shoreline may be relocated landward of its former position if excessive amount of sand eroded were carried too far landward or seaward to be redeposited on the ocean shore.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b);
113A-113(b)(6)a; 113A-113(b)(6)b;
Eff. September 9, 1977.

SECTION .0900 TECHNICAL APPENDIX 3; INLET LANDS

.0901 IDENTIFICATION PROCEDURE FOR INLET LANDS

Inlets are extremely variable in their migration patterns and in their rates of movement. Inlets that are maintained in an essentially static position through artificial control are not hazardous to adjacent development as long as maintenance continues. Since AEC designation in these stabilized inlets would be illogical, they are not included. Stabilized inlets are: 1) Beaufort Inlet; 2) Masonboro Inlet, and 3) the north side of Oregon Inlet. Inlets that are not stabilized move at differing rates in one or more directions. Recognizing the unique migration pattern characteristics of inlets, AEC designation for non-stabilized inlets depends upon exhibited past history of the inlet.

History Note: Statutory Authority G.S. 113A-107(a), 113A-107(b);
113A-113(b)(6)d;
Eff. September 9, 1977.

.0902 DESIGNATION OF NON-STABILIZED INLETS

Aerial photographs were used to ascertain inlet history because information obtained from them was more consistent than information obtained by other means, i.e., charts. From A HISTORICAL REVIEW OF SOME OF NORTH CAROLINA'S COASTAL INLETS, by Jay Langfelder et al, we acquired a summary of aerial photographic history until 1972 for Mad through Barden Inlets inclusive which we updated with the most recent photography (1974) available to us. Using the best sequence of photographs accessible for Ocracoke through Oregon Inlets inclusive, we generated our own historical data. Since Drum Inlet had been opened by the U. S. Army Corps of Engineers in December, 1971, we could not get enough information to do our own calculations and relied upon Corps' information.

From the aerial photograph information, we determined the extent of migration of the inlet in both directions for the past 25 years (1949-1974) and the maximum average annual rate of migration in either direction since the earliest aerial photography for the inlet. Delineation of the AEC was based upon the following formula. For inlets that moved back and forth within their historical boundaries, we used whichever was less:

- A) The historical limit of the inlet in the past 25 years in either direction;
- B) Twenty-five years times the maximum average annual rate of migration was used.

The maximum average annual rate of migration was determined through an analysis of the average rate of movement of the inlet shoreline per year as derived from successive aerial photographs. The maximum or greatest annual rate figured was defined as the maximum average annual rate of migration. Maps portraying the designated boundaries of inlet lands are available at the CRC and the appropriate minor development permit office.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b);
113A-113(b)(6)d;
Eff. September 9, 1977;
Amended Eff. January 20, 1978.

SECTION .1000 TECHNICAL APPENDIX 4; PUBLIC WATER SUPPLIES

.1001 SMALL SURFACE WATER SUPPLY WATERSHEDS

(a) The Fresh Pond between Kill Devil Hills and Nags Head on Bodie Island and adjacent catchment area:

The Department of Human Resources proposed the fresh water lake on Bodie Island in Dare County as an area of environmental concern.

Both the towns of Nags Head and Kill Devil Hills have water treatment plants which take their raw water from the fresh water lake located between the two towns on Bodie Island. The lake is approximately one-quarter mile west of the N. C. 158 Bypass. The area to be designated is bounded to the north and south by lines located 1500 feet from the northernmost and southernmost tips of the lake and running parallel to the corporate limits of the towns which bisects the lake, to the east by a line located 250 feet west of the centerline of the N. C. 158 Bypass and running parallel to the bypass, and to the west by the power line which runs along the top of the barrier dune. This fresh water lake is supplied by groundwater from the surrounding landmass and rainfall. When the lake is drawn down six or seven feet, the slope of the groundwater will tilt toward the lake. With heavy pumping the catchment area will become part of the water supply.

This area is near the Cape Hatteras National Seashore Recreation Area. In addition, Kill Devil Hills is the site of the Wright Brothers Memorial, a national monument. As a major tourist attraction this area draws people from across the east coast. Contamination of the water supply could, therefore, have an effect not only on other areas of the state but the east coast as well.

(b) The Toomers Creek Watershed:

The Department of Human Resources proposed the Toomers Creek at Wilmington in New Hanover County as an area of environmental concern.

Toomers Creek is a tributary to the Cape Fear River and is classified as Class A-II swamp waters suitable as a source of water supply for drinking, culinary, or food processing purposes after approved treatment equal to coagulation, sedimentation, filtration, and disinfection, etc., and any other usage requiring waters of lower quality. Toomers Creek is utilized by the City of Wilmington as an auxiliary supply of raw water for drinking purposes.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b);
113A-113(a); 113A-113(b)(3)a;
Eff. September 9, 1977.

.1002 PUBLIC WATER SUPPLY WELL FIELDS

(a) Cape Hatteras Well Field:

The Department of Human Resources proposed the Cape Hatteras Water Association well field on Hatteras Island in Dare County as an area of environmental concern.

The Cape Hatteras Water Association is supplied with raw water from a well field located south of N. C. 12 on Hatteras Island between Frisco and Buxton. The area to be designated is bounded to the north, south, east, and west by a line located 500 feet

from the centerline of the well field. The well field consists of 35 wells in line and is approximately 20,000 feet in length in an east-west direction. The average yield per well is 19.8 gpm and the average drawdown is 4.7 feet. The swamp adjacent to the well field provides a large source of recharge. The aquifer is composed of thin beds of fine to medium quartz sand and extends from the land surface to a depth of 50 feet. At this point the soil grades vertically into a silt and clay zone which forms an aquiclude to a depth of 145 feet.

Part of this area is recognized as a National Seashore Recreation Area. Due to this fact contamination of the water supply could have an adverse effect on people other than the local residents of Hatteras Island. Water-borne disease organisms could be easily transported to other areas of the state or the east coast by tourists who are attracted to the area daily.

(b) Elizabeth City Well Field:

The Department of Human Resources proposed the well field at Elizabeth City in Pasquotank County as an area of environmental concern.

The City of Elizabeth City is supplied with raw water from a shallow well field in the southeastern section of the Dismal Swamp at the end of SR 1309 approximately one-half mile west of the corporate limits of Elizabeth City. The well field begins at SR 1306 and extends west into the Dismal Swamp. The area to be designated is bounded to the south by the Southern Railway until it intersects SR 1144, to the east by SR 1306, 1309, and 1333, and to the north and west by the Dismal Swamp. The well field consists of approximately 250 well points piped by vacuum systems which deliver the water to storage basins. The shallow wells deliver about 2 gpm each. In addition, there are four deep wells in the field with capacities of about 400 gpm each. Total capacity of the field is approximately 1.5 MGD. The swamp is the source of recharge.

History Note: Statutory Authority G.S. 113A-107(a);
113A-107(b); 113A-113(a); 113A-113(b)(3)a;
Eff. September 9, 1977.

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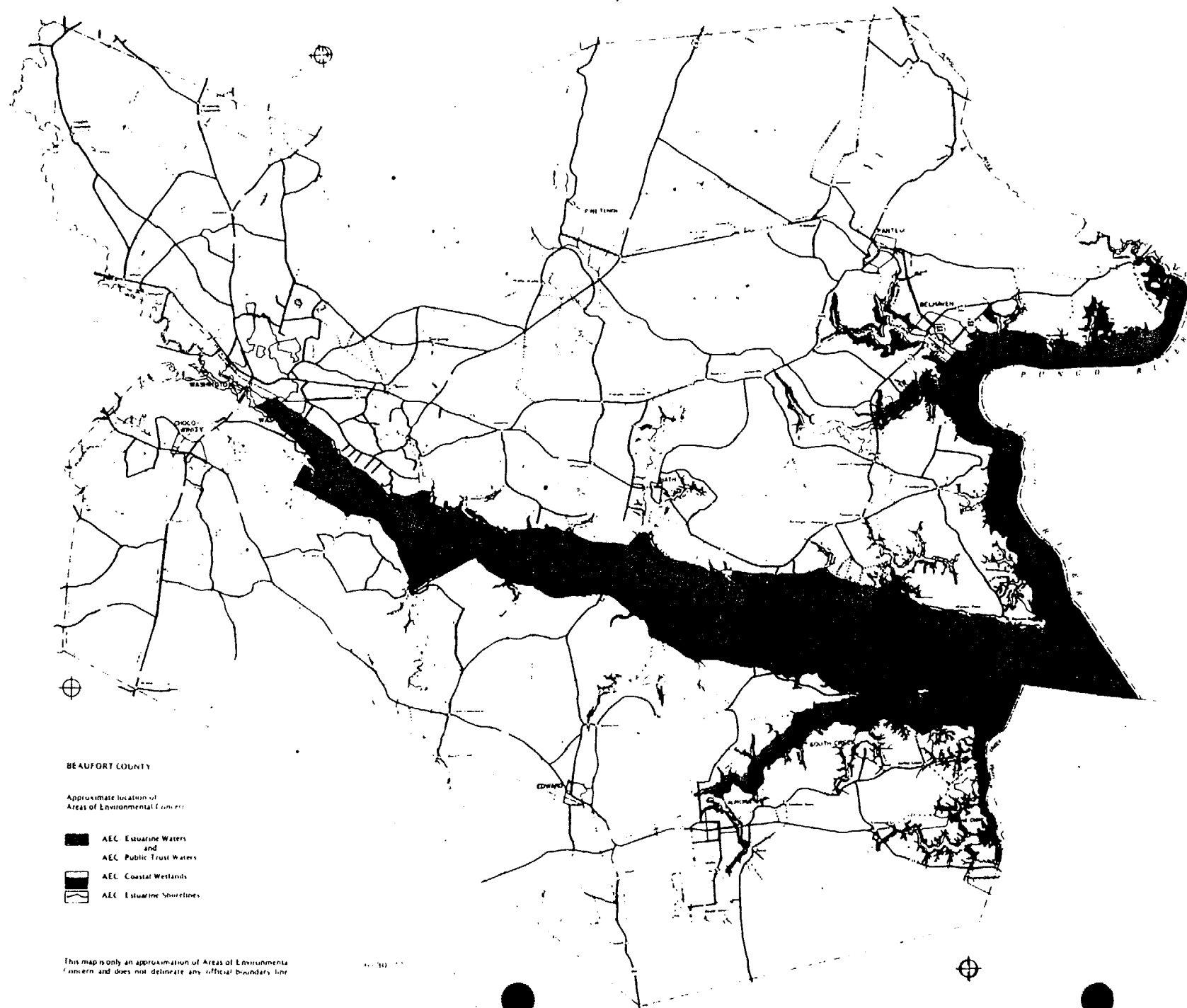
b. Pierce, J. W. "Tidal Inlets and Overwash Fans." In BARRIER ISLANDS edited by Maurice L. Schwartz. Dowden, Hutchinson and Ross, Inc. Stroudsburg, Pennsylvania. 1973.

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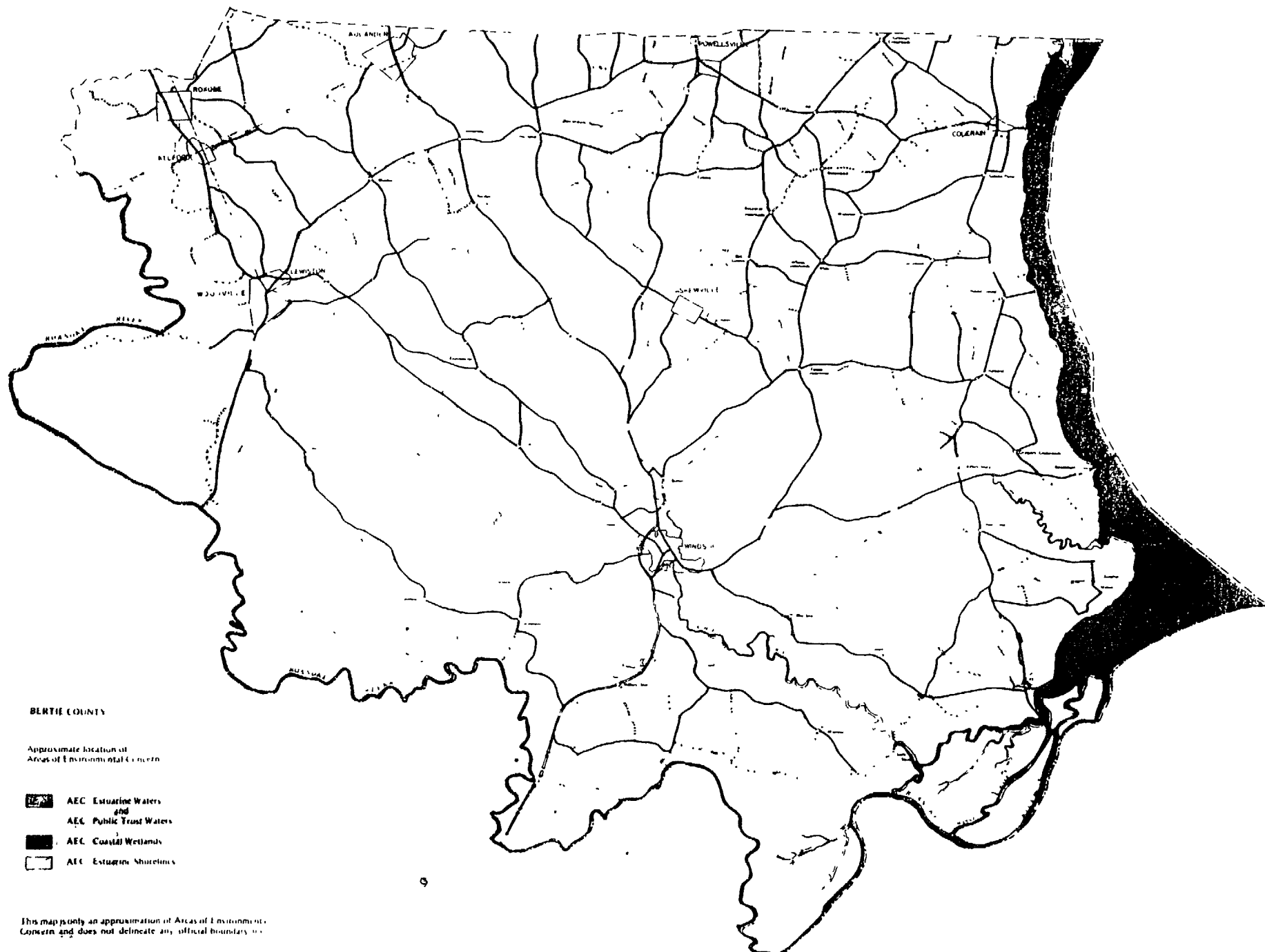


BEAUFORT COUNTY

Approximate location of
Areas of Environmental Concern

- AEC: Estuarine Waters and
AEC: Public Trust Waters
- AEC: Coastal Wetlands
- AEC: Estuarine Shorelines

This map is only an approximation of Areas of Environmental
Concern and does not delineate any official boundary line



BERTIE COUNTY

Approximate location of
Areas of Environmental Concern

-  AEC Estuarine Waters
and
AEC Public Trust Waters
-  AEC Coastal Wetlands
-  AEC Estuarine Shorelines

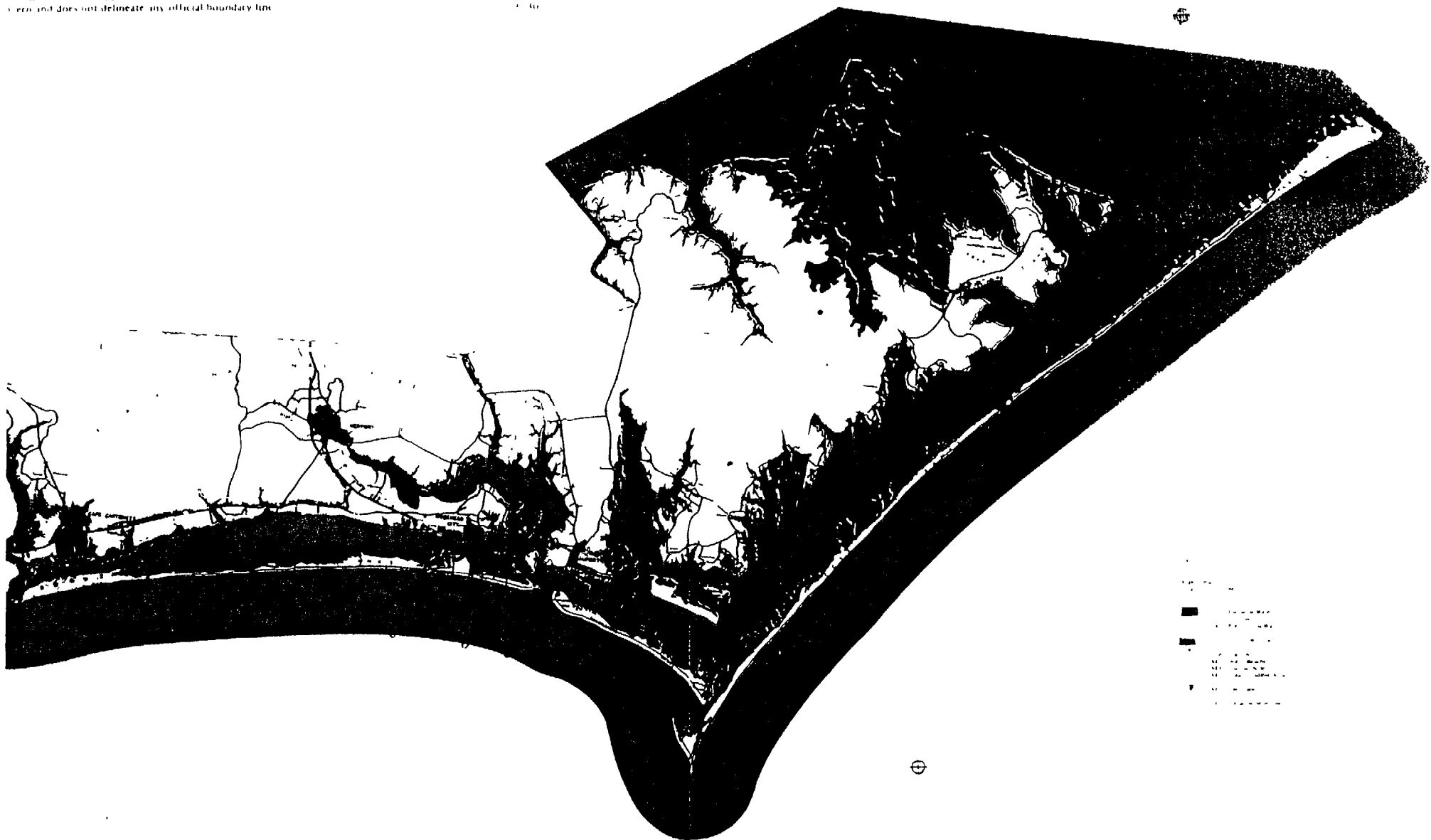


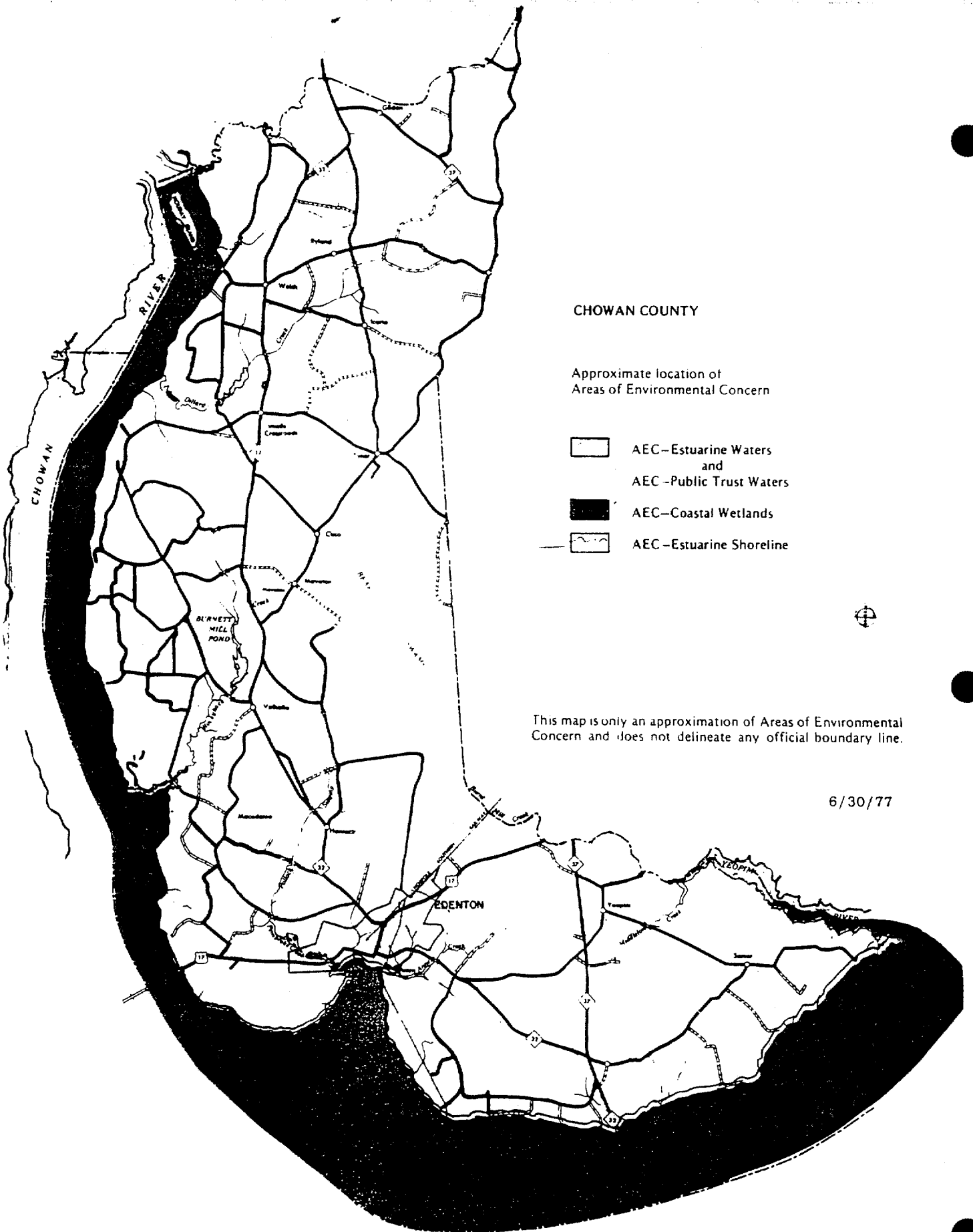


1. State Water
 2. Private Water
 3. State Water
 4. Private Water

1. State Water
 2. Private Water

1011 - Only an approximation of Area of Environmental
Concern and does not delineate any official boundary line





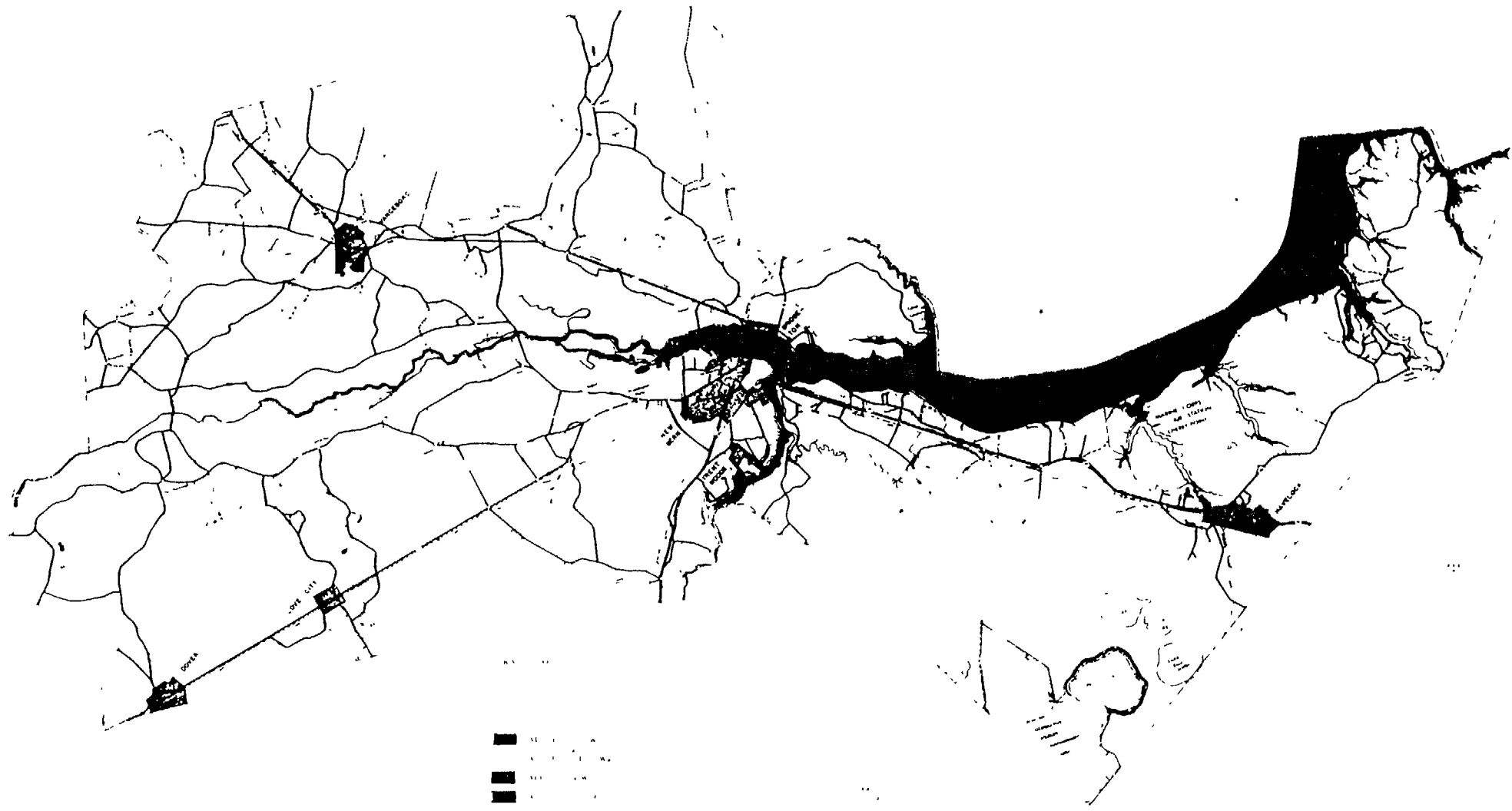
CHOWAN COUNTY

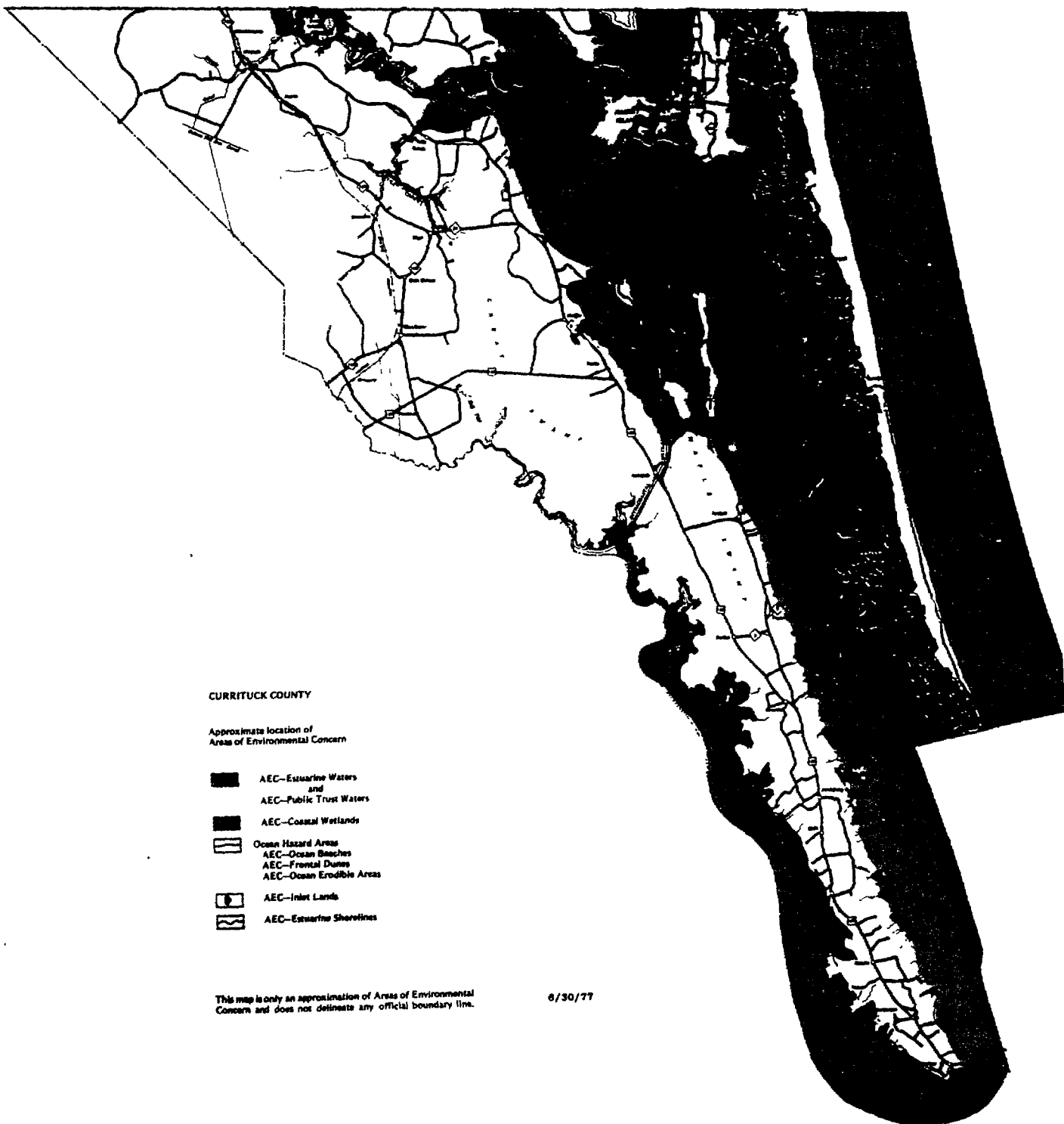
Approximate location of
Areas of Environmental Concern

- AEC—Estuarine Waters
and
AEC—Public Trust Waters
- AEC—Coastal Wetlands
- AEC—Estuarine Shoreline

This map is only an approximation of Areas of Environmental
Concern and does not delineate any official boundary line.

6/30/77





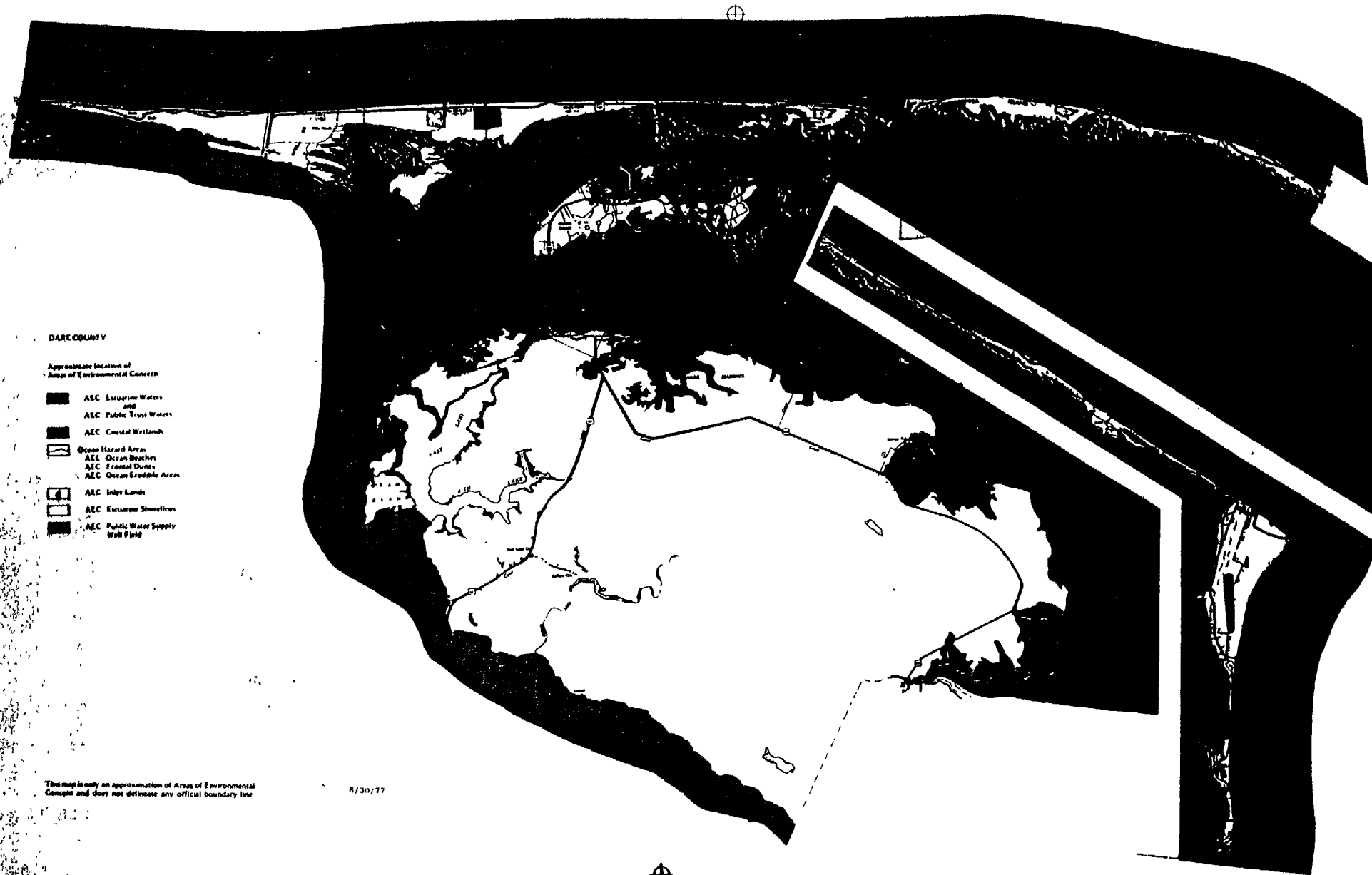
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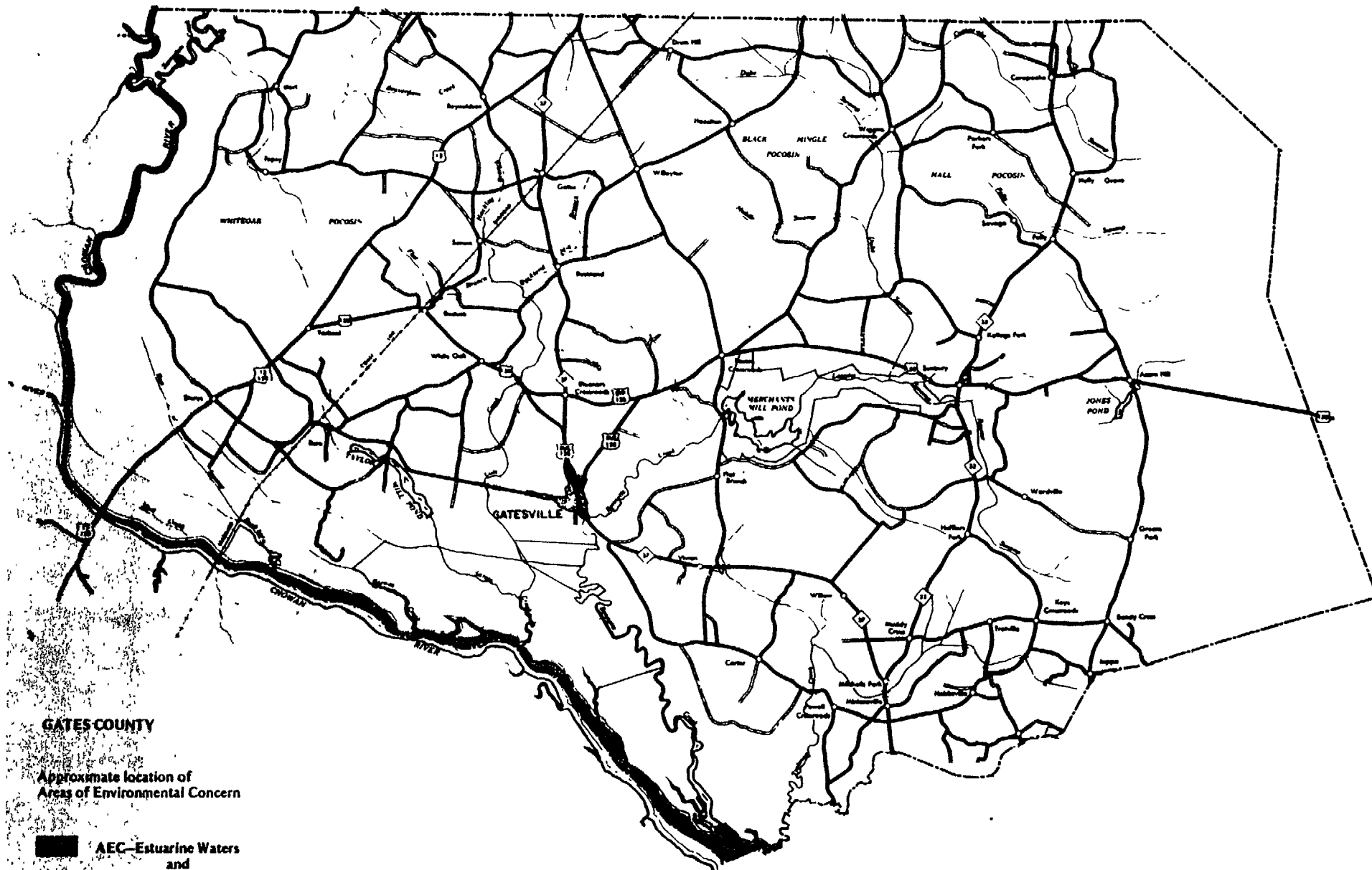
Approximate location of
Areas of Environmental Concern

-  AEC Estuarine Waters and AEC Public Trust Waters
-  AEC Coastal Wetlands
-  Ocean Hazard Areas
-  AEC Ocean Beaches
-  AEC Frontal Dunes
-  AEC Ocean Eroding Areas
-  AEC Inlet Lands
-  AEC Estuarine Shorelines
-  AEC Public Water Supply Well Field

This map is only an approximation of Areas of Environmental Concern and does not delineate any official boundary line

6/30/77





This map is only an approximation of Areas of Environmental Concern and does not delineate any official boundary line.

6/30/77

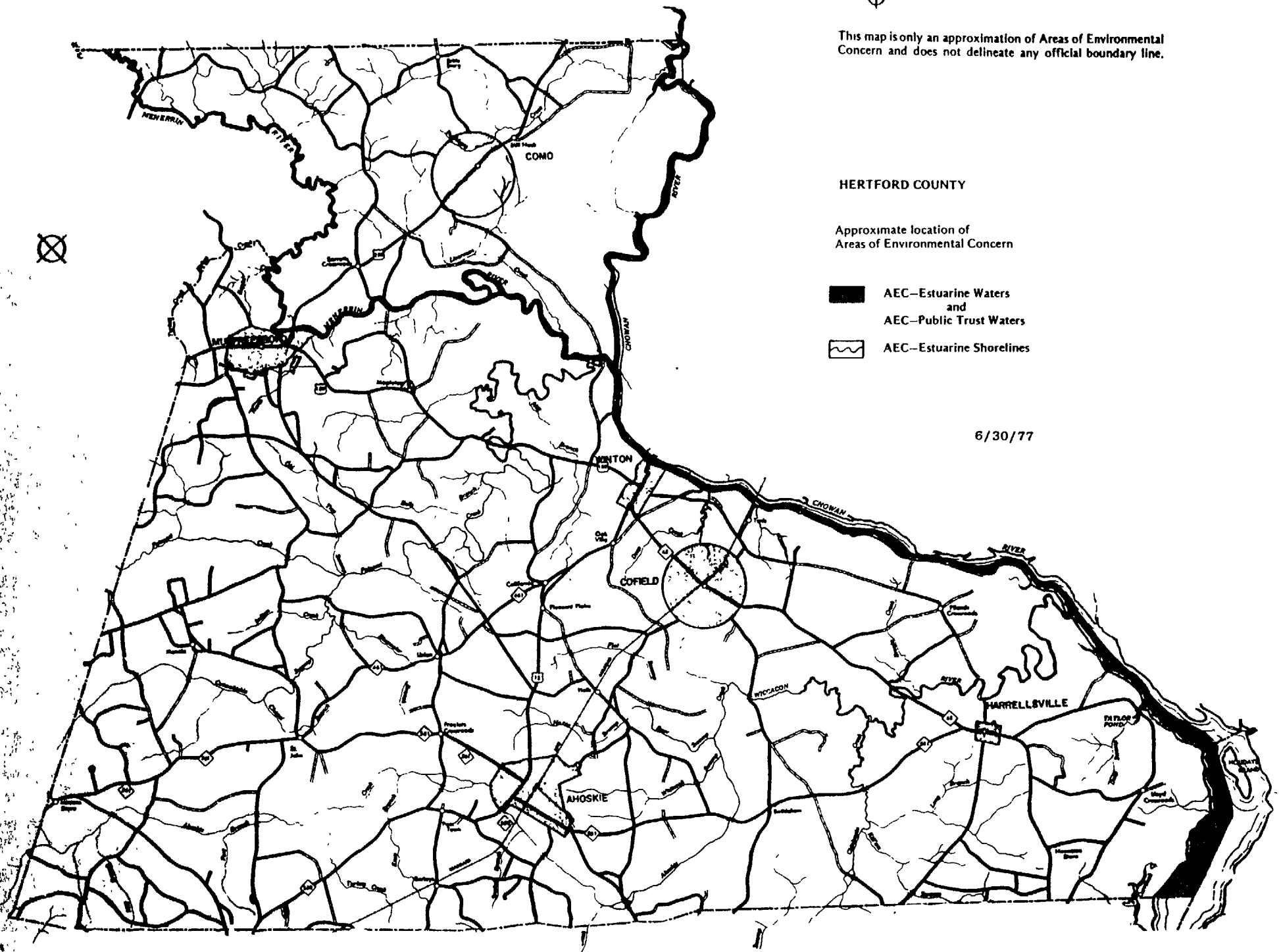
This map is only an approximation of Areas of Environmental Concern and does not delineate any official boundary line.

HERTFORD COUNTY

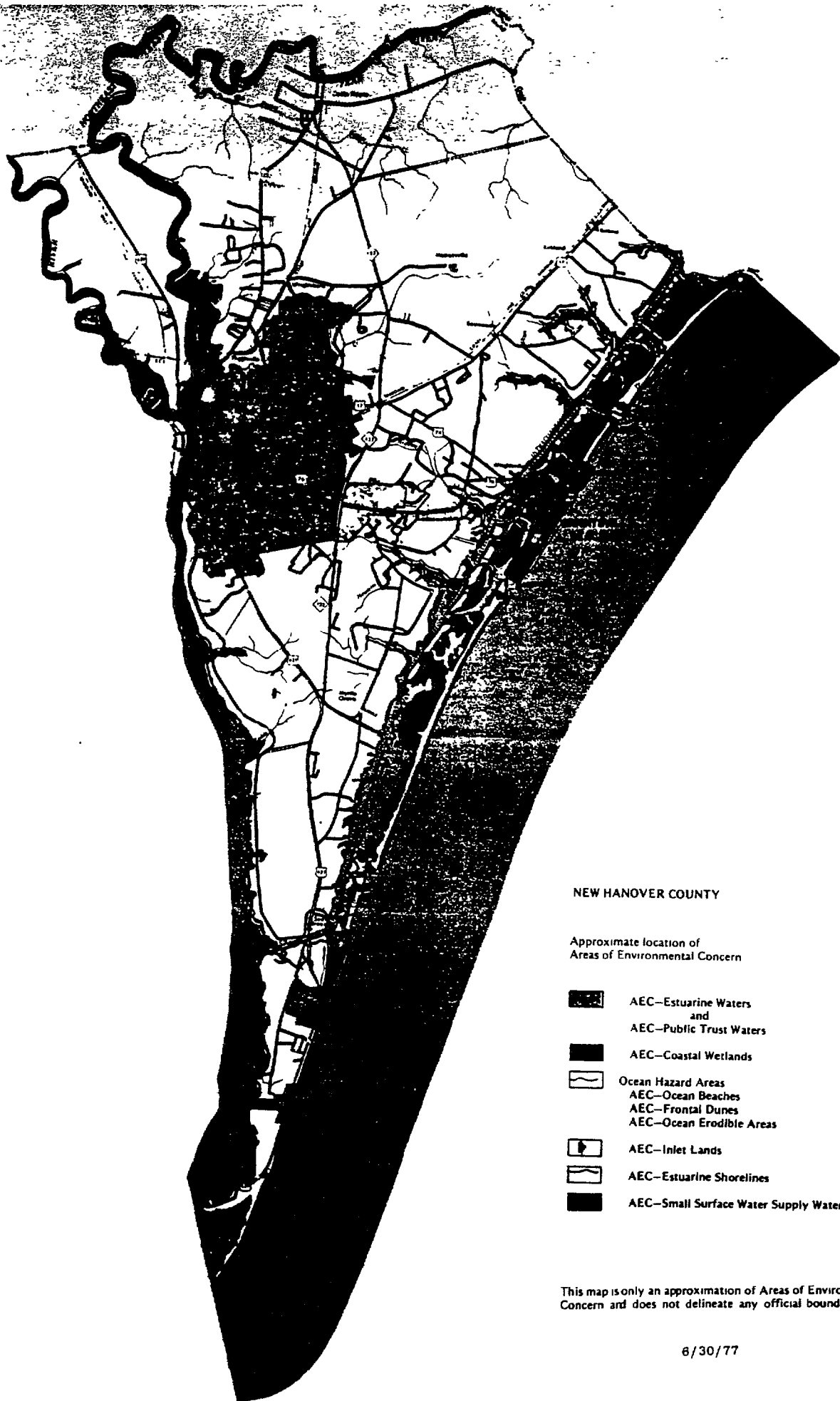
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and
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-  AEC—Estuarine Shorelines

6/30/77







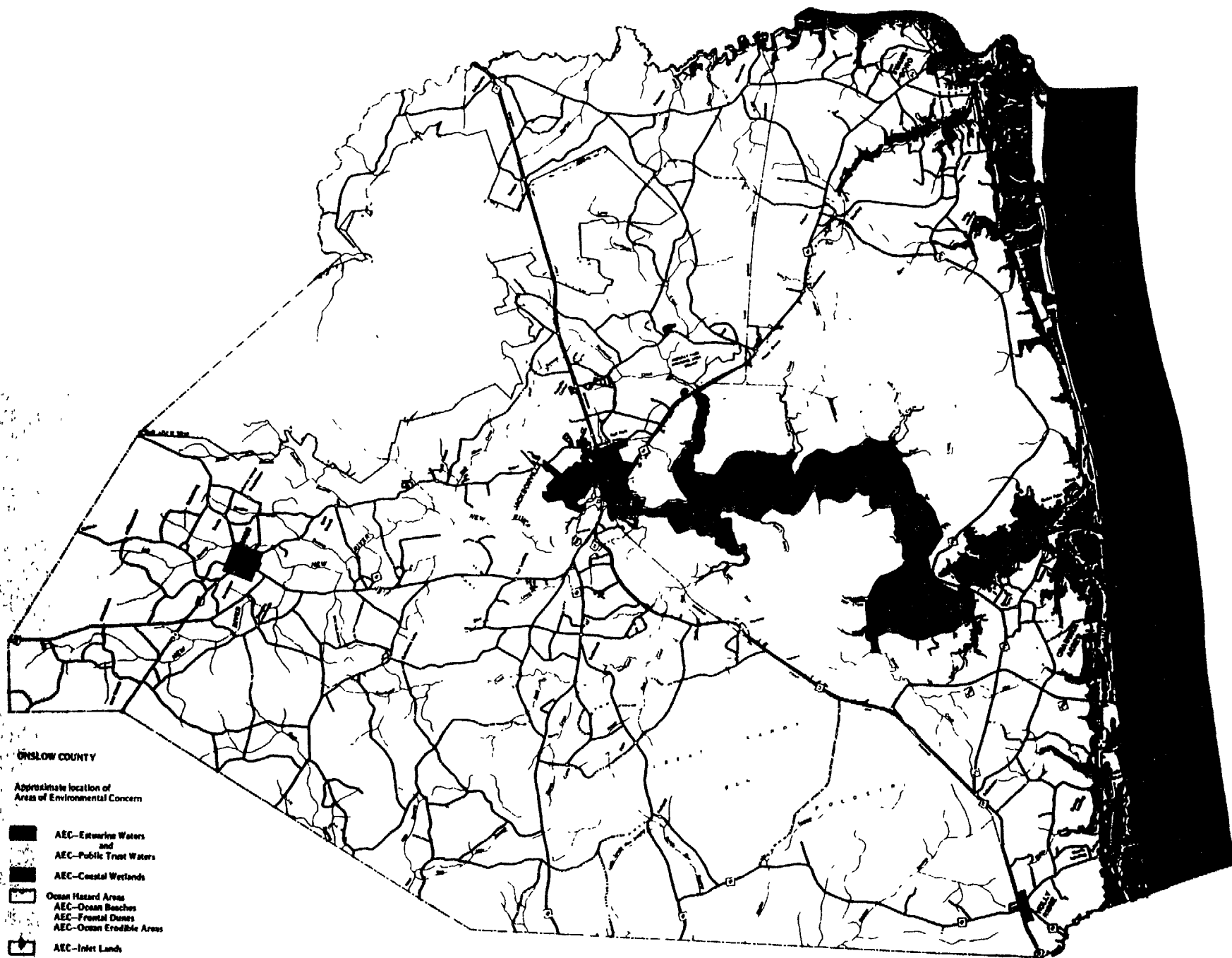
NEW HANOVER COUNTY

Approximate location of
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and
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-  Ocean Hazard Areas
AEC—Ocean Beaches
AEC—Frontal Dunes
AEC—Ocean Erodible Areas
-  AEC—Inlet Lands
-  AEC—Estuarine Shorelines
-  AEC—Small Surface Water Supply Watersheds

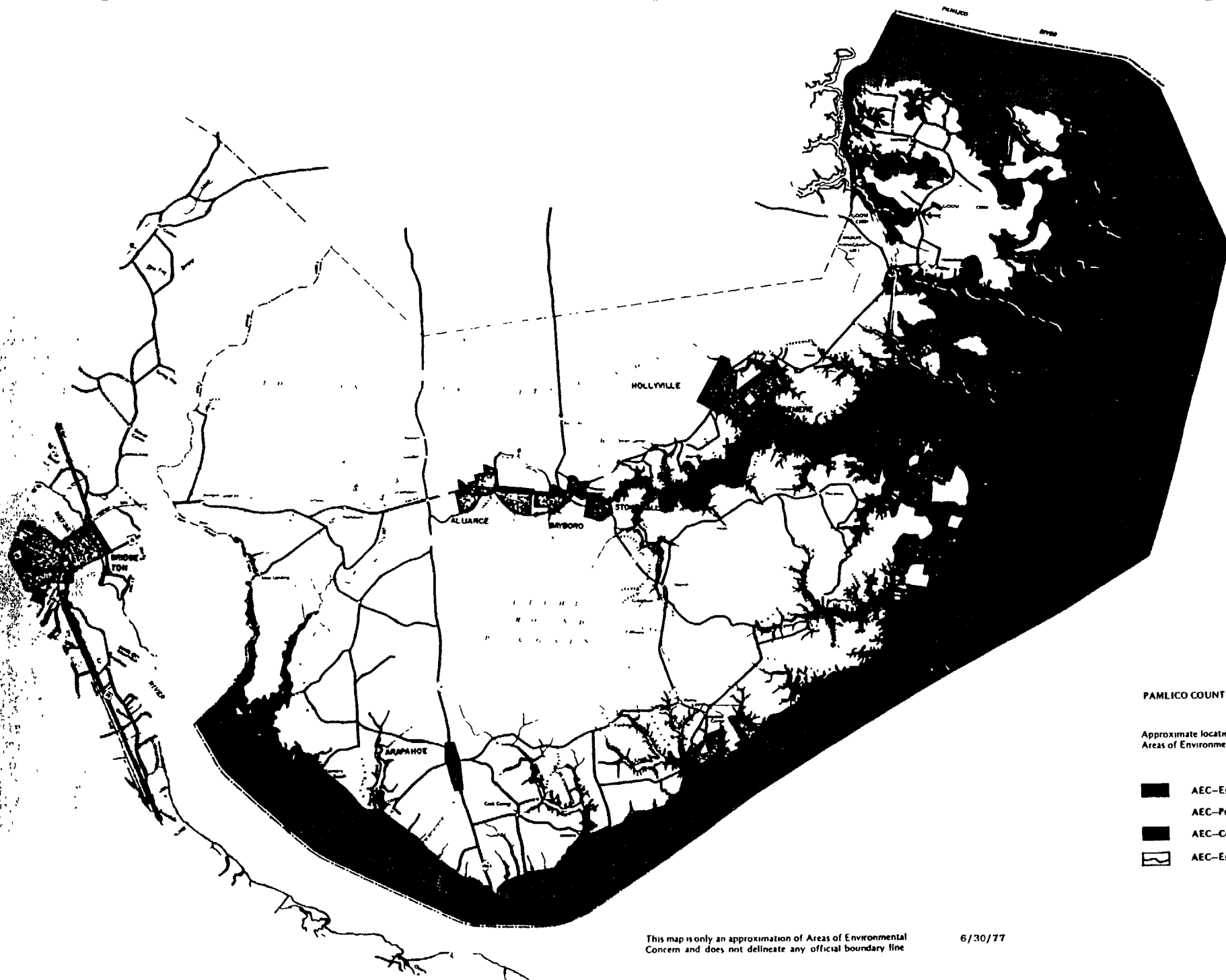
This map is only an approximation of Areas of Environmental
Concern and does not delineate any official boundary line.

6/30/77



This map is only an approximation of Areas of Environmental
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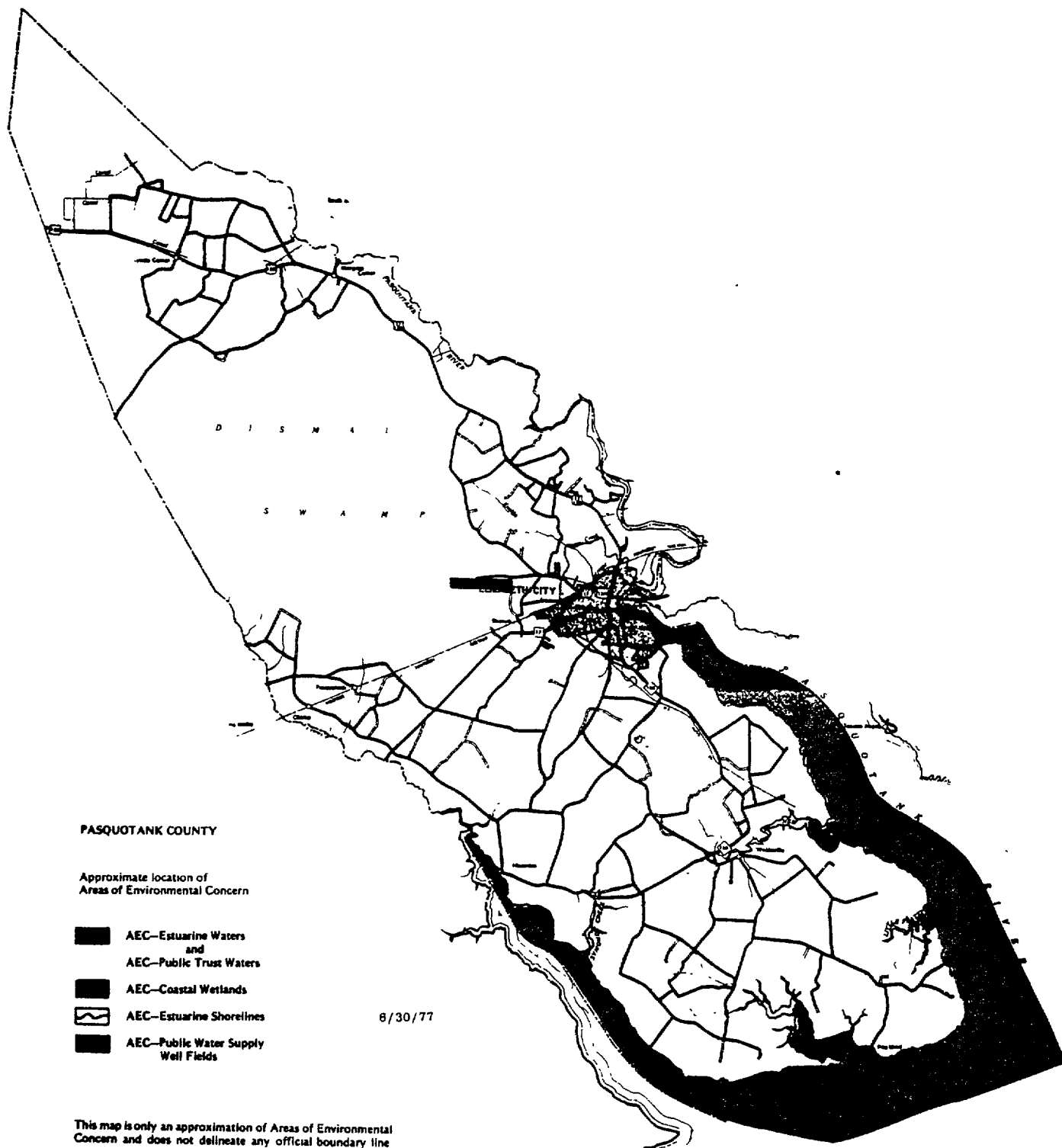
PAMLICO COUNTY

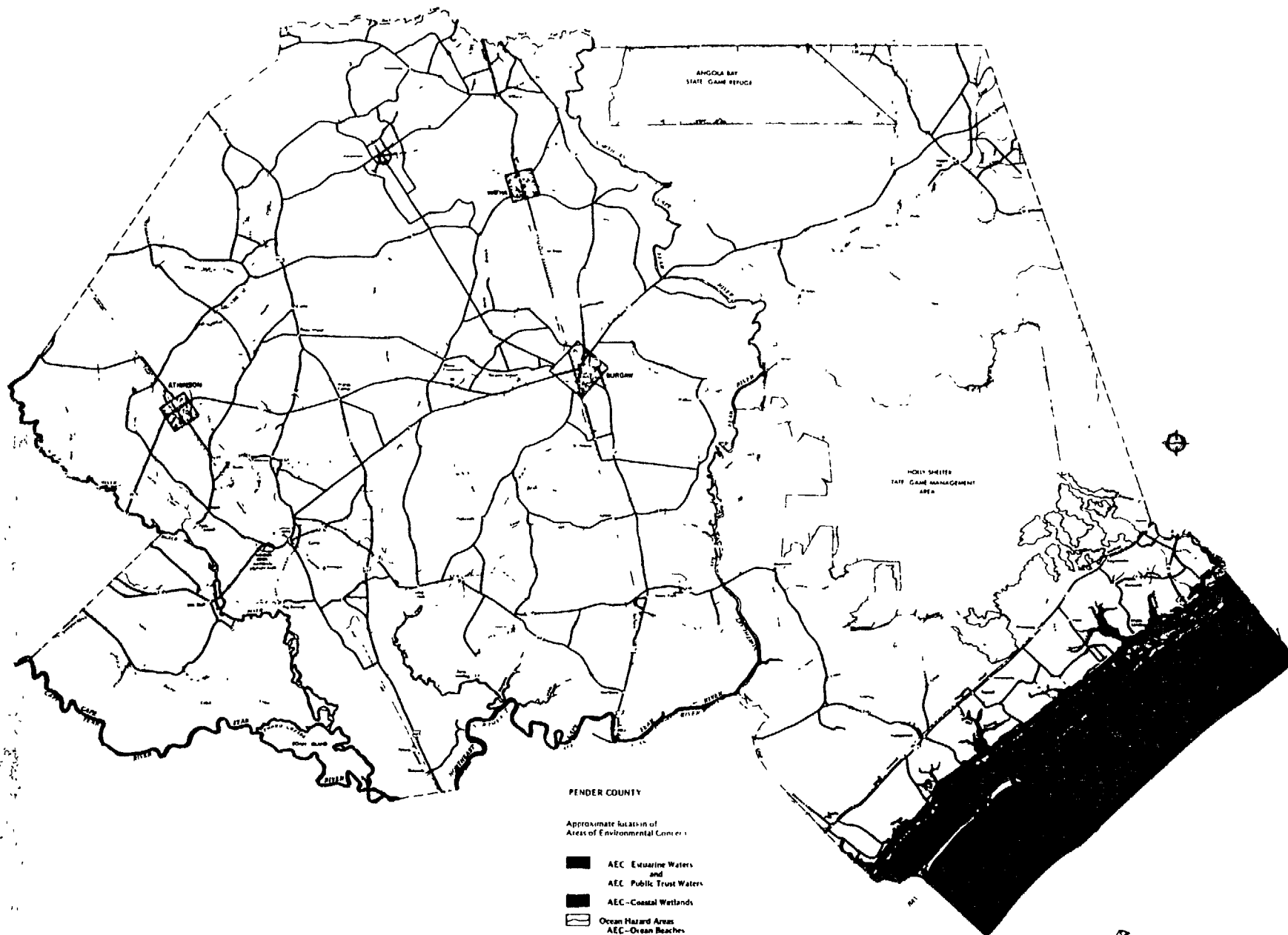
Approximate location of
Areas of Environmental Concern

-  AEC-Estuarine Waters
and
AEC-Public Trust Waters
-  AEC-Coastal Wetlands
-  AEC-Estuarine Shorelines

This map is only an approximation of Areas of Environmental
Concern and does not delineate any official boundary line

6/30/77





This map is only an approximation of Areas of Environmental Concern and does not delineate any official boundary line.

8/30/77

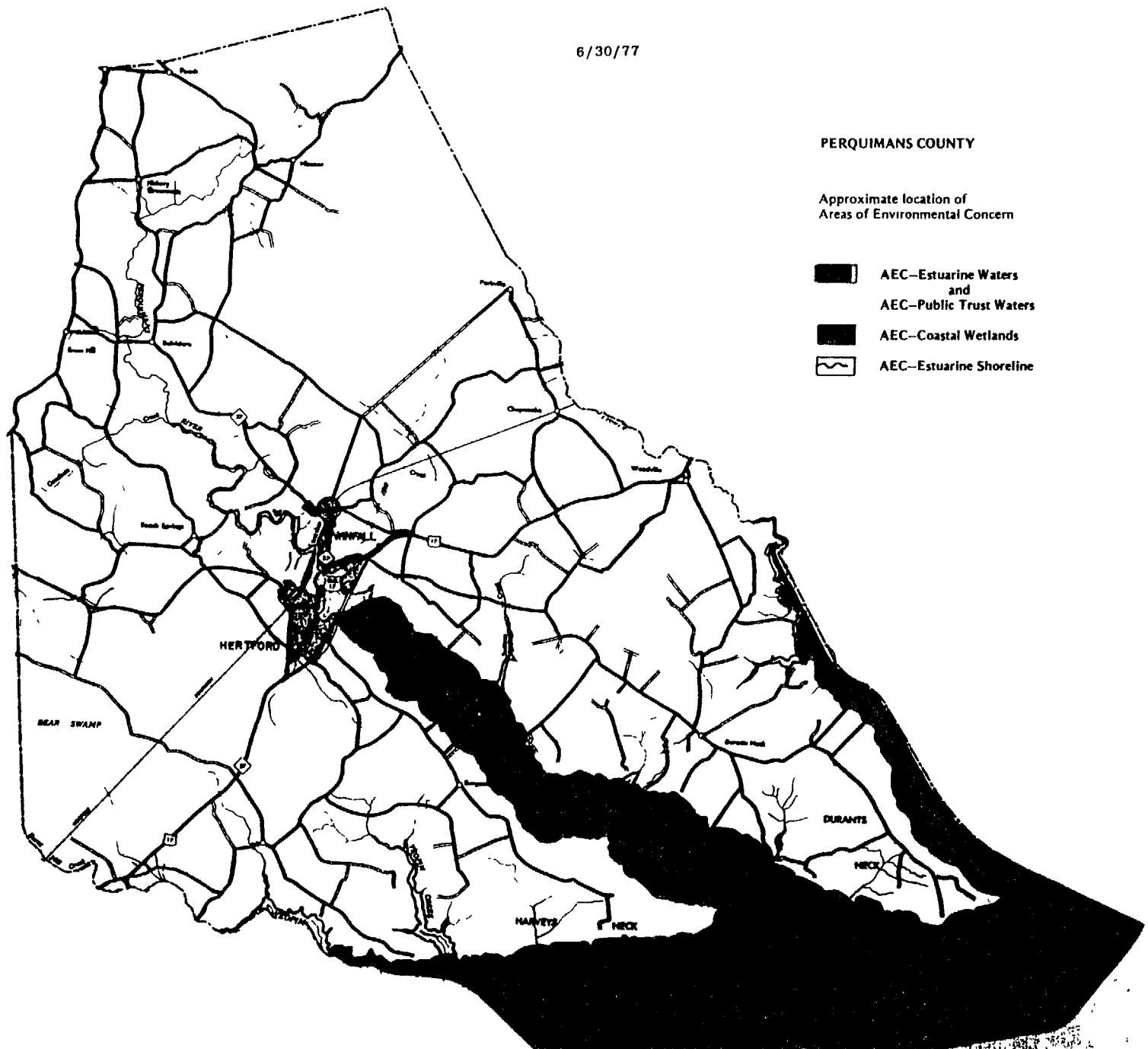
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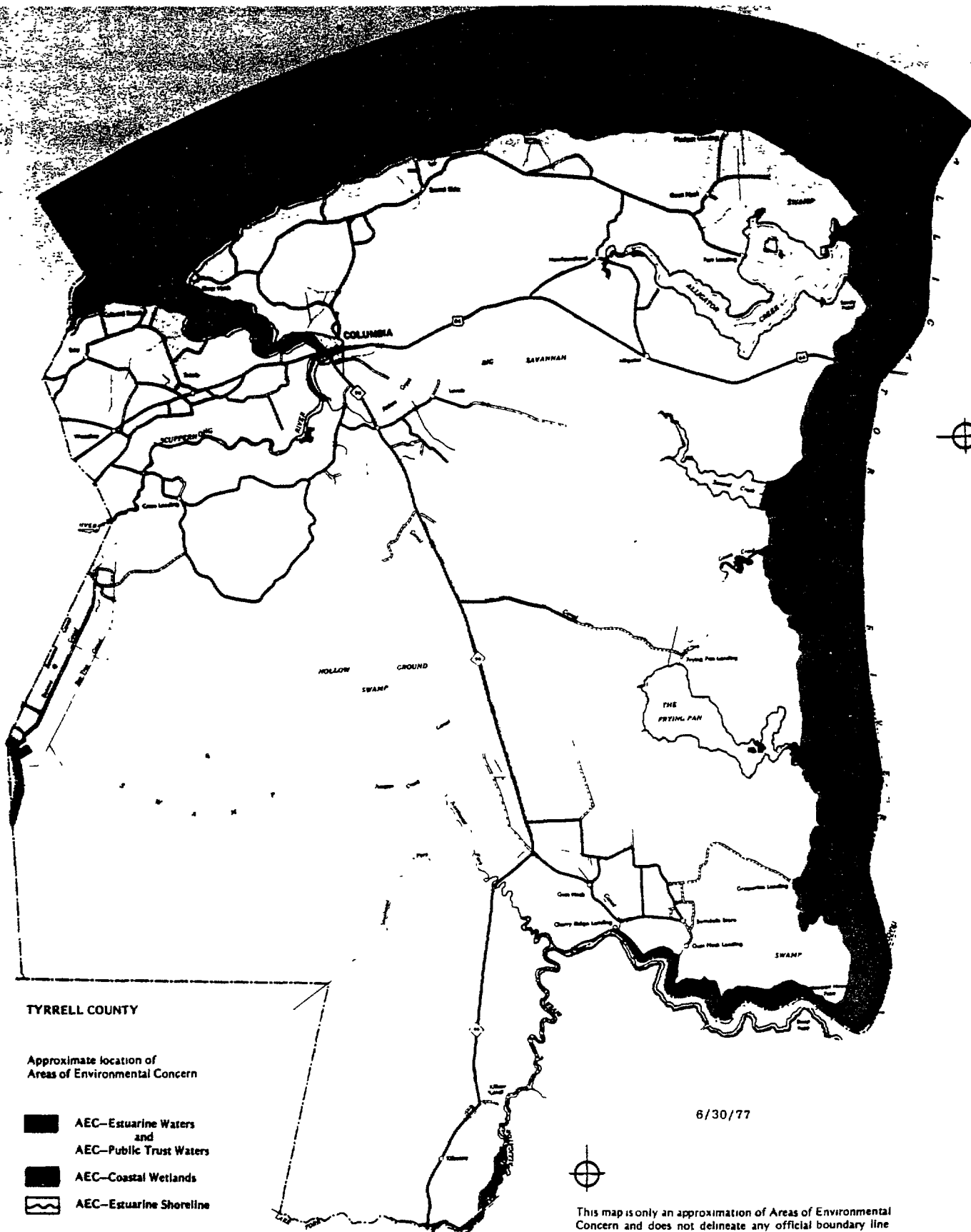
6/30/77

PERQUIMANS COUNTY

Approximate location of
Areas of Environmental Concern

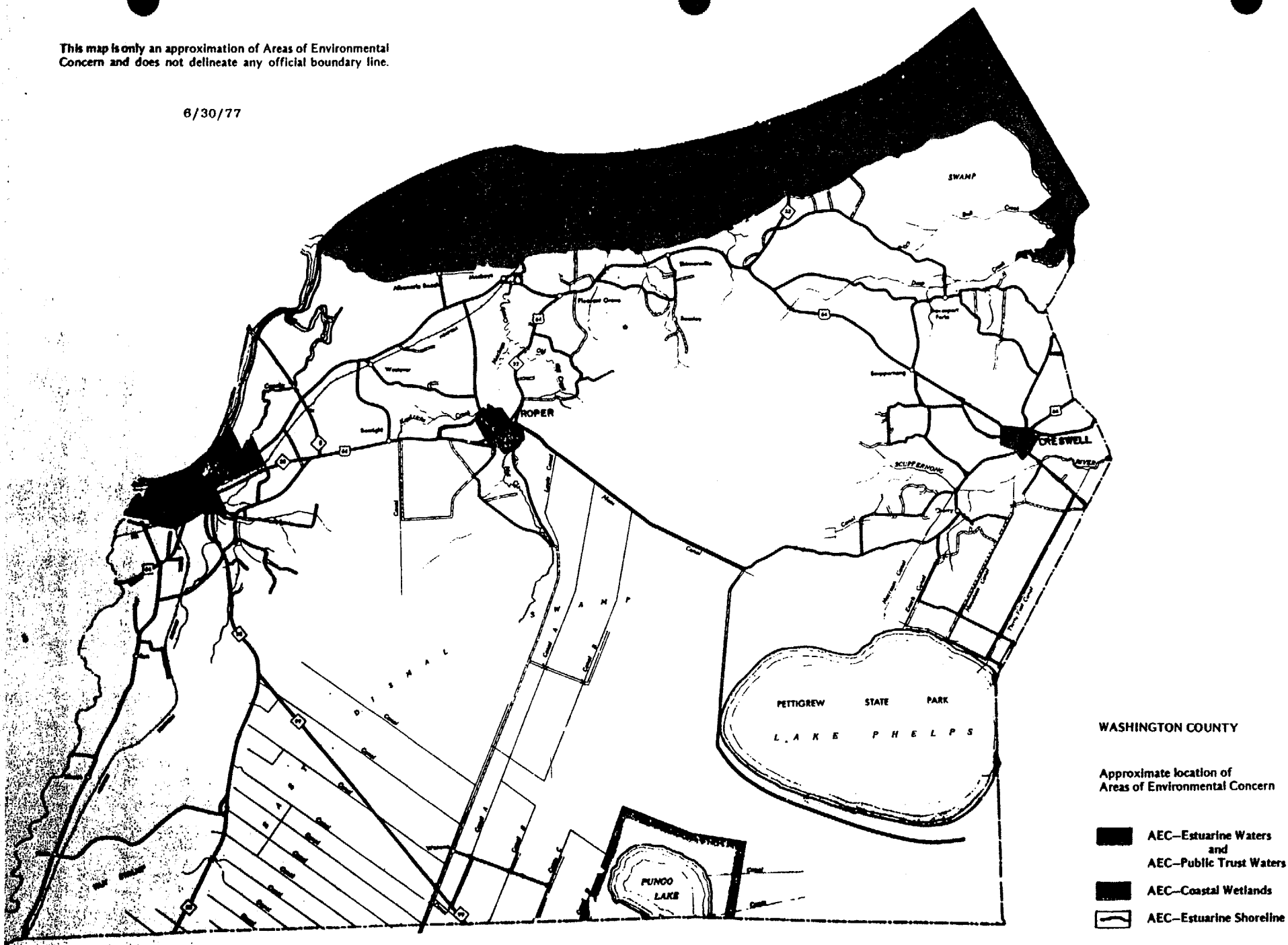
-  AEC—Estuarine Waters and AEC—Public Trust Waters
-  AEC—Coastal Wetlands
-  AEC—Estuarine Shoreline





This map is only an approximation of Areas of Environmental Concern and does not delineate any official boundary line.

6/30/77



APPENDIX C

APPENDIX C

OTHER LEGAL AUTHORITIES

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INTRODUCTION

Section I of Appendix C describes the various authorities relative to critical uses in N. C.'s coastal zone and outlines the administrative framework under which each operates. Section II sets forth the various standards which have been developed in response to these statutory authorities. Projects and actions occurring in the coastal zone will be evaluated according to these standards; therefore these criteria should be viewed as performance standards to which each critical use will be subjected.

The standards have been divided according to the different departments that administer them. Their order will also closely follow the statutory citations set forth on pp 129-64 as well as paralleling the Authorities Matrix (Chapter Five). The combination of these three components (Sect. I - Description of Authorities, Sect. II - Standards Developed Under Each Authority, and Authorities Matrix) should give the reader a better insight into the networking arrangement utilized by N. C.'s coastal management program to manage uses outside areas of environmental concern.

DESCRIPTION OF AUTHORITIES AND THE ORGANIZATION
OF THE AGENCIES THAT ADMINISTER THEM

The following is a description of the authorities that are relied upon to implement North Carolina's coastal management plan. These authorities have been referred to in the discussion of policies in Chapter Three, and in the matrix in Chapter Five describing the "breadth" of the authorities which apply to "critical uses." The discussion of each authority includes a reference to the statute(s) that legally establish that authority. More detail about each authority may be obtained by referring to the statute(s). The authorities are listed under the agency responsible for their administration. A brief description of each department and its major programs is also provided.

(1) The Department of Natural Resources and Community Development

This agency is responsible for administering by far the broadest range of authorities related to coastal management. Therefore, DNRCD has been designated by the Governor as the single agency to manage the program development and administration phases of North Carolina's coastal zone management program.

DNER (DNRCD) was created by the Executive Organization Act of 1971 (Article 12, G.S. 143A), and its present composition and powers are defined by the Executive Organization Act of 1973 (Article 7, G.S. 143B). By combining the State's programs for economic development and management of natural resources in one department, DNER continues a long tradition of similar organization in North Carolina. These functions were first combined in the State Geological and Economic Survey from 1905 to 1924 and later in the Department of Conservation and Development from 1924 to 1974. The duties of the Department are "to provide for management and protection of the State's natural resources and environment and to promote and assist in the economic development statewide" (G.S. 143B-276).

The Department is headed by the Secretary of Natural Resources and Community Development, assisted by two assistant secretaries. As provided by G.S. 143B-10(a), the Secretary "may assign or re-assign any function vested in

him or in his department to any subordinate officer or employee of his department."

The Department is functionally organized into seven divisions. These are the Wildlife Resources Commission (which is assigned to the Department for coordinating and reporting purposes only (G.S. 143B-281), the Division of Environmental Management, the Division of Marine Fisheries, the Division of Forest Resources, the Division of Earth Resources, the Division of Community Assistance, and the Division of Parks and Recreation. In addition, DNRCD includes the Board of Natural Resources and Community Development, the Wildlife Resources Commission, the Environmental Management Commission, the Marine Fisheries Commission, the North Carolina Mining Commission, the Soil and Water Conservation Commission, the Sedimentation Control Commission, the Wastewater Treatment Plant Operators Commission of Certification, and the Coastal Resources Commission; and a number of Councils and Committees.

The Department's basic program delivery mechanism is through its Divisions and the staff of the Wildlife Resources Commission. In order to facilitate contact with the Department and in order to move the point of initial contact with the Department closer to citizens and local governments, the Department operates seven field offices in Washington, Wilmington, Fayetteville, Raleigh, Mooresville, Asheville, and Winston-Salem. Each field office has a full complement of personnel on environmental management and community development. Other functions of the Department are represented by assigned liaison personnel from other divisions.

The principal responsibility for administering CAMA is assigned by statute to DNRCD. The Department was designated by the Governor as the single agency to manage the program development phase of North Carolina's coastal area management program. Furthermore, the Department has also been designated as the single state agency to administer the State's program as required by 15 CFR 923.23. In addition, DNRCD is assigned statutory responsibility for pollution control, management of forests, fish and wildlife, and parks and recreation and for community planning. This unique scope of authority achieved by virtue of DNRCD's wide array of constituent

agencies, represent the potential for the kind of coordination that is necessary in a complex program such as coastal zone management. Thus, North Carolina's program is to a great extent located within a single implementing agency. To the extent that the program goes beyond the boundaries of this single agency and includes portions of coastal and marine responsibilities of other departments, the Office of Marine Affairs will assist the Coastal Management Agency in overall coordination with the other agencies of state government.

As might be inferred from the statutory mission of the Department, DNRC administers a wide array of programs. These may be summarized as follows:

(A) Division of Environmental Management

This Division administers a comprehensive program of water and air quality control and programs of planning and enforcement to support these functions. The purpose of the program is to achieve and maintain for the citizens of North Carolina, a total environment of superior quality and to secure for the people the beneficial uses of water, air and integrally related natural resources. There are six principal sub-programs within the Division:

Water Quality - administers programs designed to attain and maintain a level of water quality adequate for beneficial uses of the State's waters, but of a minimum quality, where attainable, which will provide for a balanced population of fish, shellfish, and wildlife.

Planning and Management - efforts are primarily focused on comprehensive water resource planning and areawide water quality planning. This subprogram carries out a significant part of the Division's planning and advisory functions, most significantly, the Water Resources Framework Study and the State's 208 areawide Waste Treatment Management Study. The Coastal Management program will make every effort to coordinate with these programs, and where appropriate, to adopt the policies and practices established by both.

Air Quality - administers a program designed to attain and maintain air quality equal or better than National Primary and Secondary air quality standards, and preserve the quality of presently clean air through development and implementation of a realistic "no significant deterioration" program.

Groundwater Resources - the purpose of this program is the identification, evaluation, development, and management of the State's groundwater resources.

Laboratory - provides analytical support to the air quality, water quality, and groundwater programs.

Enforcement - maximize compliance with water quality, air quality, land quality, and groundwater statutes and regulations.

The majority of the quasi-legislative, rule-making and enforcement authorities involved in the environmental management program are vested by statute in the Environmental Management Commission.

The specific authorities administered by the Division of Environmental Management pursuant to the North Carolina General Statutes are as follows:

- Water Quality Control Statutes--Chapter 143, Article 21

This series of statutes provides the Division of Environmental Management with authority to direct various forms of water uses most likely to directly and significantly affect coastal waters. Specifically, G.S. 143-214.1 enables the Environmental Management Commission to classify the waters of the State and adopt standards applicable to each classification. Then in order to prevent degradation of these waters, certain regulations are authorized. G.S. 143-214.2 prohibits discharge of any radiological, chemical, or biological warfare agent or high level radioactive waste into the waters of the State. Discharges, including thermal discharges, into groundwaters or the Atlantic Ocean within the jurisdiction of the State are also prohibited.

G.S. 143-215.1 requires that a permit be secured by all persons desiring to make outlets into the waters of the State or otherwise become a "point source" for pollution of state waters, particularly including construction and alteration of sewage systems, treatment works, or other disposal systems. Actions upon permit applications may be based on criteria deemed necessary to prevent, so far as reasonably possible, any pollution or increased pollution of the waters of the State from additional or enlarged sources.

G.S. 143-215.2 authorizes the Environmental Management Commission to issue a special order pursuant to the above authorities (143-214.1 and 143-215) to any person who it finds responsible for causing or contributing to any pollution of waters of the State for which standards have been set.

The above statutes, specifically G.S. 143-213(24); 143-215; 143-215.1; and 143-215.3(a)(1), give the Environmental Management Commission authority to promulgate regulations for concentrated animal feeding

operations. These regulations allow staff to determine whether concentrated feeding operations cause a discharge of pollutants to occur to surface waters of the State either through man-made ditches or other devices, or to surface waters which originate outside of and pass over, across, through, or otherwise come in contact with animals confined in the operation. A permit is required for any operation found to cause such types of pollution.

National Pollutant Discharge and Elimination System

The EPA is authorized through Section 402 of the Federal Water Pollution Control Act of 1972 to set up and administer a permit program for point source discharge. This can be accomplished by a federal permit program or by certifying state permit programs if states can meet the criteria found in 40 CFR 124.

The combination of regulations pursuant to the authorities mentioned above have been found consistent with federal standards. Therefore, Environmental Management now implements the federally approved NPDES program whose standards essentially complement the existing state regulations. The NPDES program affords consistency of regulation to all persons discharging or proposing to discharge point source waste into surface waters. All state actions are subject to EPA veto when federal water quality standards are not adequately enforced.

A NPDES permit is required of any person who wants to:

- make any outlets into the waters of the State;
- construct or operate any sewer system, treatment works, or disposal system within the State;
- alter, extend, or change the construction or method of operation of any sewer system, treatment works, or disposal system within the State;
- increase the quantity of waste discharged through any outlet or processed in any treatment works, or disposal system to an extent which would result in any violation of the effluent standards or limitations established for any point source or which would adversely affect the condition of the receiving waters to the extent of violating

G. S. 143-215.95 et seq. gives the Secretary of DNRC authority to issue or deny permits for construction of new oil refining facilities (G.S. 143-215.100) and for continuation of existing facilities (G.S. 143-215.101(3)). The Secretary may impose appropriate terms and conditions and may deny permits upon finding that such facilities will have adverse effects on wildlife or fresh water, estuarine or marine fisheries; on air or water quality; or on the public health, safety and welfare which outweigh the project's benefits. The Secretary may require the installation of such facilities and protective measures as are necessary to prevent oil discharges to waters or lands of the State.

- Air Quality Control Statutes

G.S. 143-215.105 et seq. authorizes the Environmental Management Commission to create standards and classification for air contaminant sources. More specifically, G.S. 143-215.108 requires that persons engaging in specified activities likely to contravene air quality standards must apply for a permit. Denial of the permit requires a determination that permitting an additional source(s) or air pollution will result in air pollution within the area contrary to the public interest, health, safety, and welfare. G.S. 143-215.109 requires a permit for complex sources. G.S. 143-215.110 allows issuance of special orders for existing pollution sources in areas for which air quality standards have been set.

- Well Construction Act

G.S. 87-88 authorizes the Environmental Management Commission to issue permits for construction of wells with a capacity of greater than 100,000 gallons per day, or any wells in areas where ground water resources require protection for public welfare, health, and safety.

In addition to the above regulatory authorities, the Division of Environmental Management has the following advisory and planning powers:

any of the standards applicable to such water, or to any extent beyond such minimum limits as the Commission may prescribe, by way of general exemption from the provisions of this paragraph, by its official regulations;

- change the nature of the waste discharged through any disposal system in any way would exceed the effluent standards or limitations established for any point source or which would adversely affect the condition of the receiving waters in relation to any of the standards applicable to such waters;
- cause or permit any waste, directly or indirectly to be discharged to or in any manner intermixed with the waters of the State in violation of the water quality standards applicable to the assigned classifications or in violation of any effluent standards or limitations established for any point source, unless allowed as a condition of any permit, special order, or other appropriate instrument issued or entered into by the Commission under the provisions of this article;
- cause or permit any wastes for which pretreatment is required by pretreatment standards to be discharged directly or indirectly, from a pretreatment facility to any disposal system or to alter, extend or change the construction or method of operation or increase the quantity or change the nature of the waste discharged from or processed in such facility;
- enter into a contract for the construction and installation of any outlet, sewer system, treatment works, pretreatment facility or disposal system or for the alteration or extension of any such facilities.

- Water Use Act

G. S. 143-215.11 et seq. authorizes the Environmental Management Commission to designate water capacity use areas where the use of groundwater or surface water or both is at a level to require coordination and regulation to protect interests and rights of residents or property owners, or the public interest. It must be determined that

withdrawal of water from or discharges of water pollutants to the waters within the area has resulted or probably will result in a generalized condition of water depletion or water pollution within the area to the extent that the availability or fitness for use of such water has been impaired for existing or proposed uses and that injury to the public health, safety, or welfare will result from increased or additional withdrawals or discharges.

- Federal Water Resources Development Act

G.S. 143-215.39 empowers the EMC to encourage development of river and harbor, flood control, and other similar civil works projects that will benefit counties, municipalities or regions of the State. Local governments may enter cooperative agreements with federal agencies and acquire land, easements, etc. to facilitate such projects.

- Floodway Regulation

G.S. 143-215.51 et seq. enables local governments to delineate 100 year floodways and to establish a permit program for development in those floodways. The Environmental Management Commission is authorized to designate such floodways as it deems necessary if the local government has not done so. The purpose of the permit is to prevent obstructions that will increase the danger due to flooding. Certain uses, such as forestry, agriculture, open recreational area, boat dock and ramps, lawns, dams, bridges, and streets are permitted as of right.

- Oil Pollution Control Act--Chapter 143, Article 21A

This series of statutes is called the Oil Pollution Control Act of 1973. G.S. 143-215.83 makes it unlawful to discharge oil into any waters, tidal flats, beaches or lands within the State, or into any sewer, surface water drain, or other waters that drain into the waters of this State, unless a permit for such discharge has been secured. A person responsible for such discharge is held responsible for removal and clean up of the affected area.

- Regional Water Supply Planning Act

Chapter 162A, Article 2 (G.S. 162A-20 to 25) known as the Regional Water Supply Planning Act, authorizes the DNRCDC (EMC) and the Department of Human Resources (Division of Health Services) to identify sources of water and areas suitable for regional water supply systems, to review and approve plans for such systems, and to administer a state program of financial assistance for regional water supply planning.

- Regional Sewage Disposal Planning Act

Chapter 162A, Article 3 (G.S. 162A-26 to 30), known as the Regional Sewerage Disposal System Planning Act, authorizes the Division of Environmental Management to identify sewage disposal problems and plan for their solution on a regional basis. No state funds shall be dispersed for any sewerage disposal facility without first determining that the facility meets certain criteria in conformity with the State's regional planning approach.

- Development and Improvement of Harbors

G.S. 143-355 authorizes planning and execution of a long-range program for preserving, developing, and improving rivers, harbors, and inland ports. This includes preparing engineering studies, plans and specifications and inspecting construction of projects. It also authorizes the EMC to provide professional advice relating to tide-water development, river works, watershed development, and the administering of a sand dune rebuilding, hurricane protection, shore erosion, and long-range flood plain management program.

(B) Division of Marine Fisheries

The Division of Marine Fisheries and the Marine Fisheries Commission are responsible for management of the State's marine and estuarine fish and shellfish resources and have the authority to regulate the use of certain estuarine environments that are vital to the successful propagation of these species. The Division is required to administer and enforce all license requirements and taxes as set out in Article 14 of G.S. 113, to promulgate rules and regulations governing coastal

fisheries and enforce them, to develop and improve the cultivation, harvesting, and marketing of oysters and clams, and to process, administer, and oversee all dredge and fill permit requests. The Marine Fisheries Commission is the rule-making body of the Division. As such, it is responsible for the promulgation of rules and regulations implementing the provisions of G.S. 113. G.S. 113-128 et seq. sets out state policy and regulatory authority for commercial fishing in the coastal area. G.S. 113-131 states that "the marine and estuarine and wildlife resources of the State belong to the people of the State as a whole. The Department and the Wildlife Resources Commission are charged with stewardship of these resources." (DNRCD has jurisdiction over the conservation of marine and estuarine resources.) Local fishing laws are abolished and state jurisdiction over the Atlantic Ocean is stated as 200 miles or where water depth reaches 100 fathoms, whichever is greater. Regulatory, licensing, and enforcement powers are established for coastal fisheries in G.S. 113-182. These include regulations of methods and equipment for taking fish; seasons for fishing; size limits and maximum quantities; opening and closing of waters for fishing; and the cultivation, harvesting, transport, etc. of all marine and estuarine resources. The Division currently administers four programs:

Law Enforcement - The purpose of this program is to protect marine fisheries resources by enforcing the commercial and sports fishing laws and regulations in coastal waters as well as creating and maintaining public awareness of these laws and regulations so as to reduce violations. At present, about 50 inspectors patrol over 2,000,000 acres of coastal water and marsh, principally by small boats, augmented by several large patrol boats and two single engined seaplanes. In addition, these inspectors enforce departmental regulations pertaining to over 17,500 licensed fishermen and over 250 permitted dredge and fill activities. Inspectors also enforce restrictions within the more than 700,000 acres of water closed to shellfishing because of pollution. Over 650 violations of all sorts are found annually.

Research and Development - This program is responsible for obtaining biological and fisheries information needed to plan and implement intelligent fisheries management programs for the oceanic and estuarine

areas under the Division's jurisdiction. Estuarine inventory and monitoring is aimed at establishing nursery areas and documenting changes in fisheries populations. A shrimp management project enhances the possibility of harvesting more and bigger shrimp. The anadromous fish project accumulates information that will help in the management of those fish that swim up rivers to spawn. Staff are involved with North Carolina State University scientists in a lobster research project that is assessing the potential of the American lobster resource off North Carolina. Shellfish rehabilitation studies - so as to increase the harvest of oysters - concentrate on planting potential oyster-producing areas with shells for cultch material. The R/V DAN MOORE, the Division's sea-going research vessel, is used to locate, monitor, and research offshore fish stocks to increase actual or potential economic positions of commercial and sports fishing interests.

Estuarine Management - The purpose of this program is to implement the State dredge and fill law, G.S. 113-229. Through this work and effort it will reduce adverse alterations to the estuarine complex and to retain in a naturally productive state those areas of marsh and tidelands determined to be necessary for the sustained high yield of fish and shellfish. Standards and rules and regulations relating to dredge and fill work are adopted by the Marine Fisheries Commission, the the Commission hears appeals of staff decisions regarding permit applications.

Artificial Reefs - This program seeks to enhance fish populations by providing a desirable habitat by constructing artificial fishing reefs of suitable materials. It is anticipated that these reefs will enhance the quality of marine fishing, particularly for sports species.

The specific regulatory authorities administered by the Division of Marine Fisheries are as follows:

- Dredge and Fill Act

G.S. 113-229 authorizes the Department to require a permit for dredge and fill activities in estuaries, tidelands, marshlands, or state-owned lakes. This includes the Atlantic Ocean to a three-mile

limit as well as bays, sounds, and rivers seaward of the dividing line between coastal and inland fishing waters as designated by DNRCD and the Wildlife Resources Commission. Permits may be denied if there would be significant adverse effect on the use of water by the public; the value and enjoyment of property of any riparian owners; public health, safety, and welfare; conservation of public and private water supplies; wildlife or freshwater, estuarine, or marine fisheries. Denials may be appealed to the Marine Fisheries Commission.

- Wetland Protection Orders

G.S. 113-230 authorizes the Secretary of DNRCD; with the approval of the Marine Fisheries Commission; to adopt, amend, modify, or repeal regulations restricting or prohibiting the dredging, filling, or otherwise altering of coastal wetlands (primarily defined as marshlands under G.S. 113-229(N)(3)) and contiguous areas for the purpose of promoting public safety, health, and welfare, and protecting property, wildlife, and marine fisheries. Activities in coastal wetlands that can be affected by such orders include dredging, filling, or other alterations such as removal of materials.

- Fisheries Statutes and Registration of Grants in Navigable Waters

G.S. 113-201 to 206 empowers the Marine Fisheries Commission to make regulations to improve cultivation and harvesting of oysters and clams in both public and private beds. The Commission may lease public bottoms that do not contain natural oyster and clam beds. The Commission may refuse a lease for any reason relating to the conservation of marine and estuarine resources. A leasehold shall be terminated for failure to comply with the regulations for cultivation and harvesting.

(C) Division of Earth Resources

The purpose of the Earth Resources Division is to survey, study, and evaluate the State's land and mineral resources and to protect the land resources of the State through the enforcement of mining, sedimentation, oil and gas conservation, and dam safety laws.

There are five major programs in the Division:

Mineral Resources - This program seeks to gather, evaluate, and distribute timely information on the topography, geology, and mineral resources of the State and to promote their wide conservation and use by industry, commerce, agriculture, and government agencies.

Petroleum - This program oversees the exploration, conservation, and development of any oil and gas that may occur within the State, while protecting the environment and individual mineral owner equity.

Soil and Water Conservation - Promotes the conservation and wise utilization of the State's soil and water resources and provides flood protection for agricultural and urban lands of the State, while also developing recreational opportunities and water supplies for local government units. Statutory authorities derive from G.S. 139 and P.L. 83-566 and are discharged by the State Soil and Water Conservation Commission.

Geodetic Survey - Provides the basic geodetic control for use in accurate mapping and survey work.

Land Quality - Seeks to attain and maintain protection of land and waters of the State through controlling all mining operations and construction-related land disturbing activities and to assure the safety of all dams in the State, larger than 15 feet high or which impound more than 10 acre feet of water. Regulatory and quasi-legislative functions are performed by the Mining Commission and the Sedimentation Commission.

The regulatory authorities administered by the Division of Earth Resources are as follows:

- Dam Construction Act

G.S. 215.23 to 215.37 provides that before dam construction, repair, or alteration can begin, an application must be approved and a permit issued. While the purpose of this law is primarily to ensure the safety of persons and property directly threatened by the physical presence of impounded water, the legislation also recognizes the importance of the maintenance of minimum stream flows (G.S. 143-215.24). Thus, to be approved, applications must meet conditions which ensure safety and satisfy minimum stream flow requirements. Approval involves

dam supervision and design by a qualified engineer, inspection, supervision over maintenance and operation and review by specified state agencies.

- Mining Act

G.S. 74-46 et seq., the Mining Act of 1971, authorizes the Division to require permits and site inspections for all mining operations, to determine if the proposed operations will have adverse environmental effects. Where adverse effects are possible, the permit is either denied or approved with conditions or modifications to eliminate or minimize these adverse effects. Permits are subject to renewal at least every ten years and operations are inspected annually. During inspection, the perimeter of the mine and any adjacent drainage or waterways are examined to determine if any off-site damage is occurring or is likely to occur from any source of erosion or other pollution in the mine area. When a damage causing deficiency is found, the operator is notified and given 30 days to correct the condition. Reinspection is given 30 days to correct the condition. Reinspection is made at the end of that period to assure compliance.

- Oil and Gas Conservation Act

G.S. 113-381 to 415, the Oil and Gas Conservation Act, is intended to assure that petroleum exploration is conducted in a manner that is economically efficient and which presents minimal threat of adverse environmental consequences. A permit to drill, once received, remains valid until the well is plugged and abandoned. Inspection consists of several visits to the well site during drilling by a Division representative. A division representative also inspects the well site after the drilling operation is complete to ensure that all rules and regulations have been complied with before bond is released.

- Sedimentation Pollution Control Act

G.S. 113A, Article 4, the Sedimentation Pollution Control Act of 1973, authorizes a Sedimentation Control Commission under DNRCD which is

to set up rules and regulations for the control of erosion and sedimentation from land-disturbing activities. The Commission is further charged with developing a local erosion control ordinance and assisting local governments in the development of their own ordinances. The Sedimentation Control Commission approves local erosion control projects and the sponsoring locality may then develop ordinances and other regulatory tools. The local ordinances must be at least as strict as the state statute. If the local government does not decide to adopt such ordinances, then the Division of Resource Planning and Evaluation in DNRCD shall enforce the state statute.

The Act authorizes both general and mandatory standards. The general standards apply to all "land-disturbing activity," which is any use of the land that results in a change in the natural cover or topography and that may contribute to or cause sedimentation. The Act appears, however, to exclude agricultural and forestry activities (G.S. 113A-52(6)). The Act includes mandatory standards for land-disturbing activities (G.S. 113A-57), including leaving an adequate buffer between such activity and a natural watercourse of lake area; the revegetation of sloped areas; and erosion control on land adjacent to any land-disturbing activity undertaken on a tract of greater than one acre.

(D) Division of Parks and Recreation

This Division provides or assists in the provision of recreational opportunities to the people of the State and its visitors. The principal components of the program are the State Outdoor Recreation System, the State Zoological Park, and the Local Recreation Services Program.

State Outdoor Recreation System - Provides appropriate outdoor recreation opportunities to the citizens of North Carolina and its visitors in the form of State Parks, Recreation Areas, Natural Areas, Scenic Rivers, and trails, while preserving and protecting areas of outstanding natural, scientific, and scenic values.

State Zoological Park - Provides the people of North Carolina and its visitors a unique recreational and educational experience by providing them with a total natural habitat zoo.

Recreation Consulting Services - Assists local units of government, private recreation groups, and individual citizens in the establishment and improvement of recreation services and opportunities.

The primary authorities exercised by this Division concern the acquisition and management of park and recreation sites.

- Acquisition and Management of State Parks

G.S. 113, Article 2 outlines procedures to be followed in acquiring land for state parks. Land received by counties by tax sale may be received where suitable for park use. DNRCD may request a list of unredeemed tax delinquent lands and purchase them for an amount not to exceed the taxes due. A transfer of the deed must be approved by the Attorney General.

- Natural and Scenic Rivers Act

G.S. 113A-30 authorizes classification of natural and scenic rivers that meet certain criteria. Once designated, the environmental quality of the rivers is protected. Regulations may be established to implement the Act. Land may be acquired in fee, or interests can be acquired by scenic easement, donation, exchange, and other means, but such acquisition is the final responsibility of the Department of Administration.

- North Carolina Trails System Act

G.S. 113A-83, the North Carolina Trails System Act, authorizes establishment of routes for scenic and recreational trails. These may be designated on state-owned lands, or land may be acquired in fee, by scenic easement, lease, and other means.

(E) Division of Forest Resources

The programs of the Division of Forest Resources are designated to develop and maintain on a perpetual basis the productivity of the State's forests with regard to timber, watersheds, wildlife habitat, soils and

outdoor recreation. The Division works to establish a proper balance of resource use and development so that the economic and sociologic needs for the general public, forest landowners, the timber products industries, and the national interest can be met. The Division's authorities derive from various sections of the General Statutes, chiefly Articles 2, 2A, 3, 4, 4A, 4B, and 5 of G.S. 113. In addition, the Division cooperates with the U.S. Forest Service in the administration of a number of federal forestry programs.

There are five major subprograms administered by the Division:

Technical and Administrative Support - This program provides the administrative, engineering, and technical development functions required to deliver the Division's programs in the field and to maintain the scientific integrity of the field programs.

Forest Protection and Management - The primary activities of this program are to protect the forests of the State from damage and destruction by wildfire, insects, and disease and to make the State's forests produce the maximum economic and social benefits by the application of forest management principles on a planned, continuous basis. Major activities are in forest fire control, forest management, and forest pest control.

Forest Tree Nurseries - The objective of this program is the mass production and distribution of high quality planting stock to private and public landowners for the artificial reforestation of the State's 8.5 million acres of understocked forest land and for regeneration of timber stands after harvest.

Forestation - This program offers the trained manpower, specialized equipment, and supervisory personnel needed to carry out the forestation practices recommended by the Forest Protection and Management staff or by private consulting foresters. All types of forestry services are available, but major emphasis is on conversion and preparation of sites for reforestation, tree planting, prescribed burning, and timber stand improvement.

State Forests - This program seeks to educate the public to the economic and social values of the forest resources of the state forests,

and to observe the practices used to manage the forest for maximum development of those resources. There are six state forests throughout the State, none in the coastal area.

The primary authority exercised by this Division is the acquisition and management of state forests and demonstration forests.

- Acquisition and Development of State Forests

G.S. 113-29 et seq. authorizes the purchase and acceptance of lands for such purposes. A transfer of deed must be approved by the Attorney General. Regulations may be set for the development and use of such lands.

G.S. 113, Article 2 provides for funding of forest land administration and protection, fire and insect control, forest development and consultation.

(F) Division of Community Assistance

This Division provides services to lead regional organizations, counties, and communities in on-going programs of local planning and management and criminal justice planning and to assimilate new aspects of community assistance as they are developed.

There are currently three principal programs in the Division:

Local Planning and Management Services - This program assists local units of government to develop and improve their planning and management capabilities in order that they may plan more effectively for future growth and development. Staff members in this program, working out of the Washington and Wilmington Field Offices, developed about 50% of the local government land use plans required by CAMA.

Law and Order - This program seeks to improve the law enforcement and criminal justice system in North Carolina. A Statewide Comprehensive Plan is developed by this staff consistent with the Governor's Law and Order Commission and the Law Enforcement Assistance Administration.

Recyclable Waste Removal - The goal of this program is to remove unsightly and hazardous reclaimable debris, primarily in 29 western and 45 coastal counties.

- Promotion of Seashore Industry and Recreation

A very important authority administered by DNRCD is G.S. 113-1 et seq. which describes generally the powers and duties of the Department. These include investigations of the natural, industrial, and commercial resources of the State. Particularly important is G.S. 113-14.1 which authorizes DNRCD to exercise broad powers for promoting development of the seashore areas of the State.

- Investigation of Impact of New and Expanded Industry

G.S. 113-15.2 mandates the DNRCD to evaluate the effects of new and expanding industry on the natural and economic environment of the State. This is to be done as a part of DNRCD's process of promoting the development of Commerce and industry in the State.

(2) The Department of Administration

The Department of Administration (DOA) works with, and provides administrative services to all departments, commissions, and boards within state government. As the administrative arm of the Governor's Office, it performs central supervisory and management functions for state government: Program Planning and Fiscal Administration, Central Management Services, General Services, Human Resource Development, Special Commissions and Services, and Capital Improvements. Several DOA agencies and programs have close ties with coastal area management.

(A) Marine Science Council

This Council is charged with the following duties and responsibilities that directly contribute to an effective coastal management program:

- (1) To encourage the use and study of the ocean, estuarine and coastal waters of the state of North Carolina by the citizens and industries of the State;
- (2) To foster education and training in ocean science and technology in the State of North Carolina, including extension and continuing education;
- (3) To maintain liaison with corresponding authorities of nearby coastal states;
- (4) To develop and maintain continuing inventory of the ocean resources of the State of North Carolina and the industries and institutions that have significant competence in the science and industry of the oceans, including their personnel and facilities;
- (5) To coordinate efforts toward full development of the State's marine resources with proper attention being given to the need for conservation;
- (6) To coordinate plans for and work with relevant governmental agencies in the implementation of all federal, state, and local legislation relating to coastal and marine resources;

- (7) To review all research, education, and management programs relating to coastal and marine resources and to recommend revision when appropriate
- (8) To report annually on the last day of June to the Governor on all its activities undertaken in connection with the duties and responsibilities assigned in this section together with any recommendations for new legislation designed to accomplish the purposes of this Article.

The Council is attached to the Office of Marine Affairs for staff support.

(B) Office of Marine Affairs

The Office of Marine Affairs coordinates the planning and implementation of current and future state, federal, and local programs relating to the coastal and marine resources of North Carolina. (Executive Order No. 28)

The Office of Marine Affairs provides staff support to the Marine Science Council, initiates new marine programs and legislation, promulgates coastal and marine policy, administers state support for the Sea Grant research program and administers the three coastal branches of the Marine Resources Center. The facilities of these Centers are made available to all state and private agencies to support their marine related programs in the following areas: (1) public information, (2) education, (3) research, and (4) advisory service.

(C) The Land Policy Council

The Land Policy Council, although advisory directly to the Governor, is housed in DOA and served by a staff attached to the Division of State Planning. The Council (Article 9, G.S. 113A) is composed of 14 members and is charged with preparing recommendations to the Governor concerning development of a state land policy, a system of land classification, and other policies and procedures relevant to land use. The work of the Land Policy Council with regard to land classification and the land policies of state agencies "insofar as it applies to lands within the coastal area" must "take account of and be consistent with" the guidelines developed under CAMA (G.S. 113A-108). The Secretary of DNRC has served as a member of the Land Policy Council, and the Chairman and Vice-Chairman of the CRC have met with the Council to ensure coordination between the two bodies. At this time, the Land Policy Council has completed its recommendations and they are set forth in a publication called A Land Resources Program for North Carolina. These policy recommendations and the land classification system have been approved by the Governor by means of an Executive Order.

(D) The Inter-Governmental Relations Program

This is the central point in state government for the coordination of federal, state, intrastate, and state-local activities. It develops capabilities to mobilize and manage state and federal resources more effectively to support state and local policy objectives. The State Clearinghouse that performs A-95 reviews on behalf of the State is a part of this program.

The Secretary of DOA is a member of the Coastal Resources Advisory Council.

The specific regulatory authorities administered by the DOA are as follows:

- Easements to Fill in Submerged Lands

G.S. 146-6(c) authorizes the granting of easements to fill in submerged lands. Any owner of land adjoining any navigable water who desires to fill in the area must apply to the DOA for an easement. The applicant must also deliver to each adjoining riparian property owner a copy of the application. Unless the DOA finds that the proposed easement will impede navigation; interfere with the use of the navigable water by the public; or injure any adjoining riparian owner, the DOA is required to

issue an easement to fill. Once the DOA allows the fill, it may sell the filled land and determine the amount of consideration to be paid. However, the selling of the filled land and the amount of consideration is conditional and subject to the approval of the Governor and the Council of State.

Upon approval of the sale by the Governor and Council of State, a deed is executed in the name of the State of North Carolina, signed by the Governor, and attested by the Secretary of State.

- Easements, Leases, Sale of State Lands

G.S. 146-3 to 146-15 is a series of statutes regulating disposition of State lands.

G.S. 146-7 authorizes the sale of timber rights. DOA may sell timber rights at such times, upon such consideration, in such portions, and upon such terms, deemed proper by the DOA and approved by the Governor and the Council of State.

G.S. 146-8 authorizes disposition of mineral deposits in State submerged lands. After DNRCD requests that a mineral deposit be sold, leased, or otherwise disposed, the request must be approved by the DOA, the Governor, and the Council of State. Any disposition of submerged mineral deposits must be made subject to all rights of navigation and to any other terms and conditions as may be imposed by the State.

G.S. 146-9 authorizes disposition of mineral deposits in state non-submerged lands. The DOA may sell, lease, or otherwise dispose of mineral rights at such times, upon such consideration, in such portions, and upon such terms deemed proper by the DOA and approved by the Governor and the Council of State.

G.S. 146-10 authorizes leasing of non-submerged state lands. The DOA may lease or rent non-submerged lands at such times, upon such consideration, in such portions, and upon such terms as it deems proper and approved by the Governor, the Council of State, or by their designated agency.

G.S. 146-11 authorizes the granting of easements and right-of-ways in non-submerged lands. DOA may grant easements, right-of-ways, and other interests in state lands for the purpose of cooperating with the federal government; utilizing the natural resources of the State; or otherwise

serving the public interest. The terms and consideration for such rights are also determined by DOA.

G.S. 146-12 authorizes granting of easements in submerged lands for other purposes. DOA may grant adjoining riparian owners easements in submerged lands for such purposes and upon such conditions as it deems proper. However, no easement in front of a tract of land can extend further than the deep water line established by the governing body of an incorporated town nor can such easements obstruct or impair navigation. All easements must be approved by the Governor and the Council of State.

DOA, with the approval of the Governor and the Council of State, can revoke an easement in submerged lands for other purposes if the grantee or his assigns violates and conditions of the easement.

- Acquisition of Land for Public Purposes

G.S. 146-22.1 authorizes the acquisition of land. In order to carry out the duties of DOA as set forth in Chapters 143 and 146 of the General Statutes, DOA is authorized and empowered to acquire by purchase, gift, condemnation, or otherwise: lands necessary for public parks and forestry purposes; lands necessary to provide public access to the waters within the State; lands necessary for the development and preservation of the estuarine areas of the State; lands necessary for the development of waterways within the State; and lands necessary for acquisition of all or part of an area of environmental concern, as requested pursuant to G.S. 133A-123.

Note that these authorizations are a brief listing of the various statutory purposes for which the State Property Office may acquire land. Other agencies have more specific and detailed statutory authority to recommend or make acquisitions for these purposes. For example, the Division of Parks and Recreation is authorized by G.S. 113-29 et seq. to acquire land for state forests and by G.S. 113-34 to acquire land for state parks.

(3) The Department of Agriculture

The duties of the North Carolina Department of Agriculture (DOAG) are both service and regulatory. The authority of the DOAG is derived from the North Carolina General Statutes. The Board of Agriculture and Pesticide Board's regulations must also be administered by the Department. Work within DOAG reaches into a variety of fields; food and drug protection, pest control, the promotion of North Carolina's agricultural commodities throughout the world, animal health, agronomic services, consumer standards (weights and measures, gasoline and oil), the management of the Farmers' Market and the State Fair, as well as the operation of the North Carolina Museum of Natural History.

The chief administrative officer of the Department of Agriculture is the Commissioner of Agriculture. This is a statewide elected office and the Commissioner is a member of the Council of State. The Commissioner has been connected with the CAMA through representation on the Coastal Resources Advisory Council and has served as a principal member of the Land Policy Council.

- G.S. 143-443 through G.S. 143-470 are the statutes which authorize the North Carolina Pesticide Board to regulate the distribution, sale, use, storage, and disposal of pesticides in North Carolina. The controls on pesticides are both direct, by establishing regulations concerning the type of pesticide and the method of use, or indirect by the licensing of applicators. The Pesticide Board has the responsibility for establishing regulations to protect people, plants, wildlife, fish aquatic life, and beneficial insects from improper application. The implementation of the North Carolina Pesticide Law of 1971 and regulations thereto are delegated to the Pesticide Control Division of the North Carolina Department of Agriculture.

(4) The Department of Commerce

This Department's (DOC) major programs relate to supervision and regulation of financial and public utilities services, to alcohol and milk industry regulations and to the provision of services to the State's labor force.

The State Utilities Commission, composed of seven members appointed by the Governor and subject to confirmation by the General Assembly, is located in DOC. It is the body charged with regulatory rates charged by

utilities providing electric, telephone, gas, water and sewer services. The Commission also regulates transportation services, safety inspection of common carrier vehicles, utility franchising, and represents the State in related federal-state regulatory matters. The utility franchising element is of major concern to coastal management because it is the process by which franchises (Certificate of Public Convenience and Necessity) are granted to public utilities for electric generating and related facilities.

The Energy Policy Council was established in 1975 and placed in the Department. The Council is advisory to the Governor and General Assembly and does not have statutory authority over any operating programs of state government. It consists of 14 members including the Secretary of DNRCD, other agency heads, and legislative and public members. The principal duties of the Council are to develop an Energy Conservation Plan, an Energy Management Plan, an Emergency Energy Program, and an Energy Research and Development Program and to make recommendations regarding these to the Governor and General Assembly.

Promotion of economic development statewide is one of the missions of DOC. The purpose of the Economic Development program is to promote orderly and planned economic growth in the State and to raise the standards of living of the people of the State. The goal is pursued through encouraging industry to move into North Carolina, promoting and aiding in the expansion of industry already located in the State, providing scientific and technical research support for North Carolina industries, and promoting tourist travel in the State through advertising and the operation of Welcome Centers. The major Division programs are:

Food Industries Development - The purpose of this program is to provide investments, jobs, and other benefits in North Carolina by developing food, seafood, agri-business, and marine-related industries.

Industrial Development - This program promotes the development and assists in the location and expansion of desirable industry and new capital investment in North Carolina, thereby increasing quality industrial jobs, per capita income, and State and county tax base.

International Development - This program promotes North Carolina in foreign countries by reverse investment, trade, tourism, joint ventures, and licensing opportunities.

Minority Business Development - The purpose of this program is to provide assistance to minority and disadvantaged businesses in order for them to establish a viable and competitive economic base.

Science and Technology - This program stimulates scientific and technological industrial development, promotes and supports scientific research and development, and assists in the application of scientific knowledge to benefit the State.

Technical Services - Provides research support and coordinates economic planning and strategy for major divisional programs.

Travel Development - Seeks to increase tourist expenditures in North Carolina, to create additional employment and personal income for those employed by travel and travel-related industry, and to strengthen the overall economy of the State.

Community Development - Assists local governments and organizations and community leaders in creating job opportunities, expanding the tax base, and raising the per capita income.

- Public Utilities Act

G.S. 62-2 and 62-110 to 118 authorizes the Utilities Commission to grant certificates of public convenience and necessity for construction of a generating facility. Although the projects are relatively few, the environmental consequences are very significant. The direct effect on the environment can vary depending on the type and size of the plant. The secondary consequences concerning influence on other development is of great importance.

When acting upon any facility for the generation of electricity, the Utilities Commission takes into account the applicant's arrangements with other electric utilities for interchange of power, pooling of plant, purchase of power, and other methods for providing reliable, efficient, and economical electric service.

Inasmuch as "work by any utility and other persons for the purpose of construction of facilities for the development, generation, and transmission of energy to the extent that such activities are regulated by other law or by present or future rules of the State Utilities Commission regulating the siting of such facilities" is not development and therefore not subject to CAMA (G.S. 113A-103(5)(b)(3)), it is important to

clarify the roles of the Utilities Commission and DNER with regard to facility siting. The Utilities Commission can only authorize a utility to construct a facility by ruling that there is a need for such a facility and consequently issuing a certificate of public convenience and necessity for its construction. Although such approvals are for a specific site, the ultimate approval for location of an energy generating facility at a given site lies with the Environmental Management Commission located in DNRCD. Thus, through its powers to regulate uses of air and water (Articles 21 and 21B, G.S. 143), and through specific authority to locate oil refineries (Article 21A, G.S. 143), the Secretary of DNRCD can determine where energy generating facilities are to be located. Neither Commission can override the other; both must approve a specific facility at a specific location before the facility can be built. It is also significant to note that there are no arbitrary exclusions of energy generating facilities of any sort from any area of North Carolina. Each case is decided on its own merits.

- State Ports Authority

G.S. 143-217 et seq. authorizes the State Ports Authority to develop and improve certain designated harbors so that they might better handle waterborne commerce. This may be done by improving facilities and portions of the waterways. The authority is also charged to cooperate with the federal government concerning war operations and other federal needs. The authority is given the general powers of an incorporated public agency.

(5) The Department of Cultural Resources

The Department of Cultural Resources promotes cultural resources and provides services and programs in the arts, history and in any other area which will enhance and enrich the lives of North Carolina citizens. The Department's four major programs are Administration, Historic Resources, Art Resources, and Library Resources.

The Historic Services program staff administers the North Carolina Archives and History Act that "seeks to promote and encourage throughout the State knowledge and appreciation of North Carolina history and heritage." The Historic Sites Services and Archaeology sub-programs have strong ties to the coastal zone management program. Historical research is one of the major functions of the Historic Sites Services sub-program, and

through the efforts of its staff, historic places have been identified meeting the criteria for AEC designation specified in G.S. 113A-113(b)(4)). Certain of these have been designated as IAECs.

The Secretary of Cultural Resources is a member of the Coastal Resources Advisory Council.

- Acquisition and Management of Historic Properties

G.S. 121-9 authorizes the acquisition and administration of state historic sites. With approval of the Historical Commission, land may be acquired by purchase, gift, bequest, lease, etc. In cases of emergency, funds may be appropriated from a contingency fund or properties acquired by condemnation.

(6) The Department of Human Resources

This Department provides the necessary management, development of policy, and establishment and enforcement standards for the provision of services in the fields of general and mental health and rehabilitation with the basic goal being to assist all citizens to achieve and maintain an adequate level of health, social and economic well-being, and dignity. The Department administers six major programs: Administration and Support, Promotion of Mental Health, Vocational Rehabilitation Services, Services for the Blind and Deaf, Physical Health Services, and Aid to Families with Dependent Children and Food Stamps. The Secretary of Human Resources is a member of the Coastal Resources Advisory Council.

Several DHR programs, all under the cognizance of the Commission on Health Services, are closely involved with coastal management.

(A) Shellfish Sanitation

The Shellfish Sanitation program strives to prevent the spread of disease from contaminated shellfish by controlling the sanitary production, harvesting, and marketing of shellfish before they are shipped. Shellfish Sanitation staff members inspect growing area waters and notify the Director of DNRCD's Division of Marine Fisheries that areas are to be closed when permissible pollution levels are exceeded. Staff members also detect and order elimination of sewage disposal violations along the coast. The Shellfish Sanitation staff is housed in DNRCD's Marine Fisheries building in Morehead City.

(B) Salt Marsh Mosquito Control

This program reduces the number of salt marsh mosquitoes by providing assistance to local health departments and municipal control projects. Although mosquito control programs are exempt from the requirements of the State Dredge and Fill Act (G.S. 113-229), they are subject to the coordination requirements of CAMA (G.S. 113A-125(c)).

(C) Water Supply Protection

This program ensures that existing and new public water supplies are constructed and operated in a manner which makes them safe for use. Water supplies are protected by minimizing environmental health hazards that relate to location, design, construction, and operation of water systems. Any water system designed to serve over 10 persons must be reviewed prior to construction. Staff of this program provide the basic data required by CAMA (G.S. 113A-113(b)(3)(1)) when watersheds or aquifers presently serving as sources of public water supply, as identified by the Commission on Health Services, are proposed as AECs.

Statewide standards for installation of septic tanks that discharge less than 3,000 gallons daily are set by the Commission on Health Services. These regulations are enforced by local health departments. Inasmuch as regulations relating to septic tanks discharging more than 3,000 gallons daily are set by DNRCD's Environmental Management Commission, DNRCD and DHR have initiated an effort to develop a single set of standards to be jointly adopted by both Commissions. These standards have been approved by the Environmental Management Commission (September, 1976) and are in the late stages of consideration by the Commission on Health Services.

The Department of Human Resources administers the following regulatory authorities:

.- Ground Absorption Sewage Disposal Act

G.S. 130-160 et seq. and G.S. 130-166.22 authorizes the issuance of permits for septic tanks with a capacity of under 3,000 gallons by local health departments, in accordance with county health regulations. The Commission of Health Services has regulations adopted pursuant to G.S. 130-160, which require sanitary systems of sewage disposal, consisting of connections to a sewer system, approved septic tank

system or sanitary privy. These regulations are enforced by local health departments with technical assistance from Health Services. It is under this authority that the county sanitarian also issues permits for water wells serving more than ten persons.

G.S. 130-166.22, the Ground Absorption Sewage Disposal System Act of 1973, requires that before commencement of construction or relocation of any dwelling, or the location or relocation of any mobile home, a permit shall be acquired from the local health department authorizing the use of a septic tank or other ground absorption disposal system. The permit shall be issued only after a field investigation shows that such a system can be installed on the site without violating the rules and regulation of the local board of health governing such installations.

- Solid Waste Disposal

G.S. 130-166.16 to 166.21, the Solid Waste Disposal Law, authorizes the Commission for Health Services to promulgate rules and regulations for disposal sites and for approving of sites pursuant to G.S. 130-166.16. The Department can also accept and distribute funds from sources including the federal government for providing solid waste disposal sites. In accordance with the federal Solid Waste Disposal Act (P.L. 89-272), EPA has established standards for solid waste disposal sites. These federal standards are administered along with the state standards by the Division of Health Services, DHR. Statewide standards for the establishment, location, and maintenance of solid waste disposal sites and facilities are set by the Commission for Health Services. Local governments and county health departments are generally responsible for direct regulation of these standards. Before a solid waste disposal site and facility can be utilized, the standards must be met and the site approved by the Commission for Health Services.

Non-regulatory authorities, in the planning and financial assistance category, provided by the Division of Human Resources are as follows:

G.S. 130-206 to 220 authorizes the Commission for Health Services and the Solid Waste and Vector Control Branch of the Sanitary Engineering Sections of the Division of Health Services to facilitate

local government mosquito control projects by providing matching funds and consultation, thereby controlling mosquitoes which are potential disease vectors and a nuisance to the public. These projects often involve water management projects for the permanent control of mosquito breeding and space applications of approved insecticides for control of adult mosquitoes. Local governmental units apply for state assistance at the beginning of each fiscal year. Local water management projects are inspected bi-weekly, and space applications of insecticides are inspected bi-monthly. Detection activities consist of surveillance of suspected heavy-breeding areas and trapping and identifying mosquito species.

- Sewer and Sanitation Act

G.S. 130-157 et seq. provides for inspection and regulation of public drinking water supplies, including watersheds, and the approval of water supply systems. Municipalities are authorized to condemn lands needed for water supply systems. G.S. 130-160 prohibits any person from defiling a public water supply. G.S. 130-161.1 requires drinking water supplies to be approved by the Commission. G.S. 130-165 requires all sewage and industrial waste to be treated before being discharged above any public drinking water supply.

(7) Department of Transportation

This Department's (DOT) duties include providing the necessary planning, construction, and maintenance of an integrated statewide transportation system. These responsibilities include highways, railroads, airports, bicycles, and the State Ports Authority. The Secretary of Transportation and one other member of his Department are members of the Coastal Resources Advisory Council.

Coordination between DOT and coastal management has been effected in several ways. First, DOT planners have reviewed all local government land use plans and DNRC maintains a review of DOT's seven-year plan for highway development. Second, DOT and the State Ports Authority are both subject to the requirements of the state Dredge and Fill Act (G.S. 113-229) and to the other general environmental regulation requirements of DNRC.

- Highway Safety Act

G.S. 136-44.1 authorizes the Department of Transportation to develop and maintain a statewide road system. This includes formulation of policies concerning construction, improvement, and maintenance of these roads and highways.

- Streets and Highways In and Around Municipalities

G.S. 136-66.2 requires that every municipality, with the assistance of the Board of Transportation, develop a comprehensive plan for a street system to serve that municipality. After the plan is adopted, the Board of Transportation and the municipality shall decide which streets are part of the state system and which are part of the municipal system for purposes of future improvements and maintenance.

- Preservation of Scenic Beauty of Areas Along Highways

G.S. 136-122 et seq. authorizes the Board of Transportation to control areas adjacent to state highways by purchase of fees, easements, etc. for the purpose of promoting or restoring natural and scenic beauty along state highways. G.S. 136-126 et seq. authorizes regulation of outdoor advertising within 600 feet of the right-of-way of interstate or primary highways.

(8) Department of Justice

This Department, headed by the Attorney General of North Carolina, performs essential legal services in the name of the State. Among its principal duties, the Justice staff provides legal services to state departments, including DNRC, by instituting court actions, defending agencies and their Board and Commissions. Justice attorneys act as counsel in all civil judicial proceedings and in administrative proceedings.

CAMA specifies (G.S. 113A-124(d)) that the "Attorney General shall act as attorney for the Commission and shall initiate actions in the name of, and at the request of the Commission, and shall represent the Commission in the hearing of any appeal from or other review of any order of the Commission."

Other statutory authorities important to coastal management but not administered by the above agencies are as follows:

- G.S. 113A-135 authorizes the North Carolina Conservancy Corporation to purchase and develop lands for parks, recreation areas, and for general

conservation, including lands to be maintained in their natural, unaltered condition. The corporation is governed by a nine-member Board of Trustees appointed by the Governor, Lieutenant Governor, and Speaker of the House. The Board has the power to acquire land, but cannot spend funds without approval of the Department of Administration. The Corporation is dependent on state-appropriated funds and does not power to issue bonds.

- G.S. 113A-1 to 10 establishes the North Carolina Environmental Policy Act which is modeled after the National Environmental Policy Act of 1969 (see below, Section V.C.L., National Environmental Policy Act of 1969). Like the federal statute, the State Environmental Policy Act recognizes the value of the human environment and requires state agencies to prepare detailed environmental statements for every "recommendation or report on proposals for legislation and actions involving expenditure of public monies for projects and programs significantly affecting the quality of the environment of this State."

The Act also specifies that copies of environmental statements, together with comments made by agencies with jurisdiction by law or special expertise, be submitted to the Governor, to agencies designated by the Governor, and to multi-county regional agencies, and that they shall follow the North Carolina clearinghouse review process (see below, Section V.B.22., A-95 Review). Copies must also be made available to localities, institutions, and the public (G.S. 113A-4).

Authority to review state environmental statements was assigned to the Council on State Goals and Policy, an executive board of prominent citizens created by the Governor of North Carolina in 1972.

(9) Authorities Relating to Interstate Regional Interests

Several interstate bodies have been established by North Carolina and adjoining (and other) coastal states for the purpose of studying and resolving problems of mutual concern in order to promote better management of coastal resources by cooperative decision-making and policy formulation. Some of these bodies, and the interests they represent, are as follows:

(A) The Atlantic States Marine Fisheries Compact

In 1949, the Atlantic States Marine Fisheries Commission was established in order to promote the better utilization of the

fisheries (marine, shell, and anadromous) of the Atlantic seaboard, by developing a joint program for the promotion and protection of such fisheries and by the prevention of their physical waste from any cause. The Commission has the power to recommend the coordination of the police powers of the several states to promote the preservation of fisheries; the Commission is also directed to consult with and advise the pertinent administrative agencies in the participant states on problems connected with fisheries.

(B) North Carolina-Virginia Water Resources Management Committee

In 1974, the North Carolina-Virginia Water Resources Management Committee was established for the purpose of promptly resolving water resources problems arising in areas common between the two states. Identified problem areas needing cooperative planning include common river basins, coastal hazard areas, groundwater withdrawal areas, and potential reservoir developments. As called for in the arrangement^o established by the two states, each state will work directly with its political subdivisions in matters involving Committee action or interest. The Committee is authorized to invite representatives of federal, state, or local agencies, or representatives of any public or private interest to attend its meetings and to participate in any way the Committee deems necessary or desirable. The Committee is directed to submit reports when and as required to keep both Governors informed of Committee activities.

(C) North Carolina-South Carolina Water Resources Management Committee

In 1976, a virtually identical (to the above) arrangement was established between North and South Carolina.

(D) The Coastal Plains Regional Commission (CPRC)

The Coastal Plains Regional Commission is a Title 5 Commission serving northern Florida, Georgia, South Carolina, North Carolina, and southern Virginia, made up of the governors of the states it serves. The CPRC was established for the purpose of improving the standards of living in the coastal portion of these states by promoting economic development and land use planning.

The Commission participated directly in North Carolina's coastal management program initially by providing funds for local planning to

STANDARDS BY WHICH PROJECTS OR ACTIONS
ARE EVALUATED UNDER EACH AUTHORITY

DEPARTMENT OF NATURAL RESOURCES
AND COMMUNITY DEVELOPMENT

- I Permit to Discharge to Surface Waters and/or Operate Wastewater Treatment Facilities Discharging Into Surface Waters(G.S. 143-215)
- II No person shall do any of the following things without first obtaining a permit:
 - (1) Make any outlets into the waters of the State.
 - (2) Construct or operate any sewer system, treatment works, or disposal system within the State.
 - (3) Alter, extend, or change the construction or method of operation of any sewer system, treatment works, or disposal system within the State.
 - (4) Increase the quantity of waste discharged through any outlet or processed in any treatment works, or disposal system to an extent which would violate effluent standards.
 - (5) Change the nature of the waste discharged through any disposal system in any way which would result in a violation of effluent standards.
 - (6) Cause or permit any waste, directly or indirectly, to be discharged to or in any manner intermixed with the waters of the State in violation of water quality standards.
 - (7) Cause or permit any wastes for which pretreatment is required to be discharged directly or indirectly, from a pretreatment facility to any disposal system or to alter, extend or change the construction or method of operation or increase the quantity or change the nature of the waste discharged from or processed in such a facility.
 - (8) Enter into a contract for the construction and installation of any outlet, sewer system, treatment works, pretreatment facility or disposal system or for the alteration or extension of any such facilities.

Permits to carry out the above activities are referred as N. P. D. E. S. permits. The discharge of oil into state waters, tidal flats and beaches is also prohibited under G.S. 143-215.83; however, permits for this activity fall under the scope of the NPDES permit program.

- III The Water Quality Section of the Division of Environmental Management located within the Department of NRCD is the agency charged with this responsibility.
- IV Industries discharging or planning to discharge waste to surface waters requiring pretreatment prior to entering other treatment works should acquire an application for a permit. Reply time for authorization is 90-120 days following receipt. Standards by which applications are reviewed are as follows:
 1. Effluent limits and guidelines for existing sources and standards of performance and pretreatment standard for new sources adopted by EPA are the applicable N. C. effluent limitations and guidelines for wastewater discharges to surface water.
 2. Effluent limits in Effluent Limited Segments - for municipal wastewaters: effluent limitations expressed in mg/l as monthly average and weekly maximum average.

Effluent Characteristic	SECONDARY		BPCTCA	
	Monthly <u>Avg.</u>	Weekly Avg. <u>Max.</u>	Avg.	Max.
BOD (5)	30 mg/l	45 mg/l	Reserved	
TSS	30 mg/l	45 mg/l	Reserved	
Fecal Coliform	200/100 ml	400/100 ml	Reserved	
pH	Within the range of 6.0 to 9.0			

For industrial waste discharges - effluent limits for these categories are set forth by EPA and have been adopted by the EMC.

3. Issuance of a permit is determined on whether any applicable standards will be violated, thus contributing to pollution of state waters.

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SEPTIC TANKS WITH A CAPACITY OF OVER 3,000 GALLONS PER DAY
(G.S. 143-215.3)

A Permit must be secured before disposing of sewage from any single family or multiple family residence, place of business, or place of public assembly above 3,000 gallons design capacity, which does not result in a discharge to surface waters of the state. Exempted from this is industrial process wastewater for which a permit should be obtained from the local Health Department.

The Division of Environmental Management (DNRCD) is the State agency to which all permit applications should be made.

The Department of Environmental Management has a standard application form which all applicants must fill out. Information to be included so as follows: percolation data on soil; design data, plans of the complete system including plans for the septic tank; system layout and cross-section profile of nitrification lines. Most application processing can be done in 30 days, and no longer than 90 days.

Permits are issued in accordance with the following standards:

- a) No wastewater will be discharged into water classified "SA" for the taking of shellfish for market purposes nor to waters in such close proximity as to adversely affect such waters regardless of treatment proposed. Wastes discharged into waters tributary to waters classified "SA" shall be treated in such manner as to assure that no impairment of water quality in the "SA" segments will occur.
- b) No wastewaters will be discharged to waters classified "SB" unless these wastewaters are treated to the extent necessary to assure protection of assigned water quality standards.
- c) No discharge shall be allowed to any surface waters that experience excessive growths of microscopic or macroscopic vegetation or that, because of their relative size and lack of water exchange, are found by the Commission to be subject to such excessive growths.
- d) No discharge shall be allowed to the waters of the Atlantic Ocean except in compliance with regulations promulgated by the Environmental Management Commission pursuant to General Statutes.
- e) In all cases where connection to an existing area-wide sewerage system or where establishment of an area-wide sewerage system is feasible, such connection thereto or establishment thereof shall be required. If immediate establishment of such a sewerage system is not feasible, a phased approach to such system should be begun.
- f) Septic tank-nitrification systems will not be approved in high density areas. High density areas are hereby defined as those areas producing more than 1,200 gallons of wastewater per acre per day or which contain more than three residential units per acre.
- g) Interim Treatment and Disposal Facilities - In those cases where an approved area-wide collection and treatment system is not available and cannot be provided, and where discharge to the surface waters is prohibited in Sections 1, 2, 3, or 4, interim treatment and disposal facilities may be approved subject to their meeting the following requirements:

- 1) Wastewaters shall receive tertiary treatment (Biological treatment followed by acceptable solids removal) and adequate bactericidal treatment.
- 2) Wastewater treatment facilities (except septic tanks) shall be located at least 10 feet from adjacent property under separate ownership, developed or undeveloped, and at least 10 feet from on-property residential units if these units are to be sold, e.g., condominiums, residential subdivision houses.
- 3) Waste treatment facilities are to be equipped with effective noise and odor control devices and are to be enclosed by a solid or semi-solid open-topped structure or other approved structure. An automatically activated standby power sources must be provided. All essential operating units must be provided in duplicate.
- 4) Treated wastewaters may be disposed of in subsurface disposal facilities, which are to be located at least 500 feet from any impounded public surface water supply or public shallow (less than 50 feet deep) ground water supply, and at least 100 feet from private shallow ground water supply except when a study of the soil would indicate a lesser separation acceptable.
- 5) Site or subsurface disposal facility shall be located at least 100 feet from any surface water body, except that in the case of drainage ditches that are normally dry this distance may be reduced to 25 feet.
- 6) Subsurface disposal facilities are to be designed on the basis of site conditions and soil percolation rates. The loading rate shall not exceed $1\frac{1}{2}$ gallons per square foot or trench bottom, except upon a finding by this office, based upon data submitted by the applicant, that a higher loading rate is justified. Trenches may be up to 3 feet wide and parallel trenches must be separated at least 8 feet center to center.
- 7) Subsurface disposal areas are to contain at least 1,000 square feet of open "green area" for each residential unit served, or 2,500 square feet per thousand gallons per day of waste flow. The term "green area" contained herein is defined as an area either in its natural state or which has been modified by planting vegetative cover of grasses or low growing shrubbery. Not more than 25 per cent of the required area may be covered with non-traffic bearing paved surfaces such as tennis courts, walkways or patios. Subsurface disposal areas shall not be used as parking lots, driveways, or for other vehicular traffic uses.
- 8) Treated wastewater may be disposed of in spray irrigation systems which shall be located at least 200 feet from any adjoining property buffered by trees to prevent excessive drift. Such areas shall be surrounded by fencing with warning signs to discourage human use or trespass, and designed according to good engineering practices with the application rate not to exceed $\frac{1}{4}$ inch per acre per day.
- 9) The appropriate local governing body(ies) in the area in which the proposed project is located shall be notified of the proposed action at least fifteen (15) days before a permit for the proposed action is issued.

Withdrawal of Surface or Ground Waters In Capacity Use Areas (G.S. 143-215.15)

A permit is required prior to the withdrawal or utilization of surface or ground waters, as the case may be, in excess of 100,000 gallons per day (gpd) in areas designated as capacity use. Some areas of the State are zoned as water use capacity areas by the Environmental Management Commission (EMC). The Commission may declare, delineate, and modify capacity use areas of the State where it finds that the use of groundwater or surface water or both require coordination and limited regulation for the protection of the interest and rights of residents and property owners of designated areas.

Industries planning to operate water use capacity areas must obtain a permit if plans are to withdraw, obtain, or utilize surface waters or ground water or both in excess of 100,000 gallons per day (gpd). The permits are administered by the Ground Water Section of the Division of Environmental Management. There are no Federal or local permits required to operate in areas designated as water use capacity areas.

As soon as the investor knows how much water the operation will require and what it will be used for, an application for a water use permit in a water use capacity area should be filed with Ground Water Section (GWS) of the Division of Environmental Management. If less than 5 million gallons per day (mgpd) will be used the applicant will normally receive a reply within 90 days after submitting a completed application. However if the operation requires more than 5 million gallons per day it may take up to 6 months for a reply.

The Environmental Management Commission may adopt regulations relating to water use in capacity use areas. In adopting such regulations, and in considering permit applications modifications, and revocations, the following must be considered.

1. The number of persons using an aquifer or stream and the object, extent and necessity of their respective withdrawals or users;
2. The nature and size of the stream or aquifer;
3. The physical and chemical nature of any impairment of the aquifer or stream, adversely affecting its availability or fitness for other water uses (including public use);
4. The probable severity and duration of such impairment under foreseeable conditions;
5. The injury to public health, safety or welfare which would result if such impairment were not prevented or abated;
6. The kinds of businesses or activities to which the various uses are related;
7. The importance and necessity of the uses claimed by permit applicants (under this section), or of the water uses of the area (under G.S. 143-215.14) and the extent of any injury or detriment caused or expected to be caused to other water uses (including public use);
8. Diversion from or reduction of flows in other watercourses or aquifers; and
9. Any other relevant factors. (1967, c. 933, s. 5; 1973 c. 108, s. 89; c. 698, s. 15; c. 1262, s. 23)

Oil Refining Facility Permits (G.S. 143-215.100)

No facility which is to be used or is capable of being used for the purpose of refining oil shall be initiated or constructed without having first secured a permit.

The Secretary of DNRCD has responsibility for permit issuance.

No standard application form is in effect.

Standards under which a permit can be issued or denied include:

- a. The installation will have substantial adverse effects on wildlife or on fresh water, estuarine or marine fisheries; or
- b. The operation of the installation will violate standards of air or water quality promulgated or administered by the Environmental Management Commission; or
- c. The installation will have a substantial adverse effect on a publicly owned park, forest, or recreation area.

In addition the Secretary can impose such conditions and terms as he deems necessary.

Air Pollution Abatement Facilities and Sources G.S. 143-215.108.

A permit must be obtained to do any of the following:

- (a) Establishing or operating any air contaminat source;
- (b) Building, erecting, using or operating any equipment which may result in the emissionof air contaminants or which is likely to cause air pollution;
- (c) Altering or changing the construction or method of operation of any equip-ment or process from which air contaminants are or may be emitted; and
- (d) Entering into a contract for the construction and installation of any air cleaning device to be constructed, installed or operated.

Industries planning to engage in the above activities must comply with the county, regional or state regulations. The state's primary agency for air quality control is the Air Quality Section (AQS) of the Division of Environmental Management within DNRC. As provided in the general statutes, the Environmental Commission has allocated some county and regional agencies authority to conduct their own program. Applications should be made with the respective agencies when planning to operate in the affected counties. At present, there are no such local agencies in the coastal area. All operations not locating within the area under the local programs must file application with the AQS.

Applications for such permits are on a standard form. Information which must be included is as follows: nature of operation, description of processes whose emissions are to be controlled, type and narrative description of control devices, contaminants emitted, disposition of collected pollutants, and detailed plans and specifications. Applications generally take 60 days to process and no longer than 90. Appeals can be made to the Environmental Management Commissison.

Permits to emit air contaminants are based on standards set by NRC. They are as follows:

A. Ambient Air Quality Standards

1. Sulfur oxides- .03 ppm annual mean; .14 ppm maximum 24 hour concentration; .5 ppm maximum 3 hour concentration.
2. Suspended solids- 60 micrograms/cubic meter annual mean; 150micrograms/cubic meter maximum 24 hourr concentration.
3. Carbon monoxide- 9 ppm maximum 8 hour concentration; 35 ppm maximum 1 hour concentration.
4. Photochemical oxidants- .08 ppm maximum 1 hour concentration.
5. Hydrocarbons- .24 ppm maximum 3 hour concentration.
6. Nitrogen dioxide- .05 ppm annual mean.

*Note: all maximum concentrations listed above are not to be exceeded more than once per year.

B. Emission Control Standards- controls have been set for a variety of sources including:

1. Particulates from fuel burning sources
2. Particulates from wood burning indirect heat exchangers
3. Partciulates from refuse burning equipment
4. Particulates from hot mix asphalt plants
5. Particulates from chemical fertilizer manufacturing plants
6. Particulates from pulp and paper mills
7. Particulates from mica or feldspar processing plants
8. Particulates from sand, gravel, crushed stone operations

9. Particulates from lightweight aggregate processes
10. Particulates from portland cement plants
11. Particulates from ferrous jobbing foundries
12. Particulates from miscellaneous industrial processes
13. Emissions from plants producing sulfuric acid
14. Emissions from stationary sources
15. Control of nitrogen dioxide emissions
16. Control of open burning
17. Control of visible emissions
18. Control of asbestos, beryllium and mercury are based on the national emission standards for hazardous substances.

Permit applications will be evaluated according to the standards listed above. If a source will be found to violate any of the above, a permit will not be issued.

CONSTRUCTION OF COMPLEX SOURCES (G.S 143-215.109)

A permit must be obtained before constructing or modifying any facilities which would result in any of the following:

- a) Open parking lots, including shopping center lots, having 1,500 or more vehicle capacity, and parking decks, including shopping center decks and parking garages, having capacity of 750 or more vehicles.
- b) Subdivisions, housing developments, apartment complexes, and trailer courts having 500 or more units resulting in a population density of 7,680 per square mile (12 persons per square acre) or more.
- c) Stadiums or sports arenas having a seating capacity of 25,000 or more or 8,000 vehicle parking spaces or more.
- d) Drive-in theaters having 700 or more parking spaces.
- e) Amusement parks and recreation areas designed to serve 25,000 persons per day or more or to accomodate parking of 8,000 vehicles or more

Industries planning to construct or modify complex sources equal to or above the limitations set forth by EMC must acquire a permit from Air Quality Section. Although the local pollution control agencies have been delegated the authority to permit complex sources by the Environmental Management Commission, no local agency has yet implemented this program.

Processing of applications usually take 60 days; however, no longer than 90.

Applications must be filed in triplicate on form AQ-81. The applicant must supply information on the location, design, construction, and operation of the facility, as well as data on emittants, the nature and amounts of pollutants to be emitted, and anticipated emissions by associated mobile sources.

No permit application will be approved that:

- 1) interferes with the attainment or maintenance of any ambient air quality standard, or
- 2) would result in violation of applicable portions of the implementation plan control strategy.

WELL CONSTRUCTION (G.S. 87-88)

A permit is required for the construction of any well with a designed capacity of 100,000 gallons per day or greater any well added to an existing system of 100,000 gallons per day and for any well constructed in an area where the EMC finds, after public hearings, such permit to be reasonably necessary to protect groundwater resources and the public health, safety and welfare. Wells constructed by an individual on his own or rented land do not require a permit if the well is for a single family dwelling and for domestic use only. Applicants planning to construct wells should contact the groundwater Section of the Department of Environmental Management (DNRCD).

The Groundwater Section has developed a standard application form for all permit applications. Information to be included: location of property, purpose of well, total capacity, construction type, estimated depth, all other existing wells within a 1000 ft. radius and well location. Also proposed construction specifications should be included on a diagram. Applications are usually processed in 7 days, but no longer than 15 days.

Well Permit Application Standards

1. Generally, except when otherwise approved by the Department, or in areas as may be designated by the Department, the source of water for any well intended for domestic use shall be at least twenty (20) feet below the surface of the ground, and from a water-bearing zone or aquifer that is not polluted.
2. A water use permit must be obtained if the well will be located in a capacity use area; and generally the well must be located:
 - (a) At a site not generally subject to flooding.
 - (b) At a minimum horizontal distance of fifty (50) feet from any water-tight sewage and liquid-waste collection facility (such as cast iron pipe).
 - (c) At a minimum horizontal distance of one hundred (100) feet from any other sewage or liquid-waste collection and disposal facility and any other source of potential pollution or contamination.
 - (d) At a minimum horizontal distance of ten (10) feet from any property boundary.
 - (e) At a site that permits access for maintenance, repair, treatment, testing, and such other attention as may be necessary.
3. Public Water-Supply Wells Must Be Located:
 - (a) At a site approved by a delegated representative of the North Carolina Commission for Health Services.
 - (b) Insofar as possible, on a lot having minimum dimensions of 200 feet by 200 feet and that is owned or controlled by the person supplying the water.

- (c) At a minimum horizontal distance of fifty (50) feet from any water-tight sewer constructed of cast-iron pipe with caulked or leaded joints.
 - (d) At a minimum horizontal distance of one-hundred (100) feet from any other sewer and any other source of potential pollution or contamination.
 - (e) At a site that is well drained.
4. No source of potential pollution or contamination such as septic tanks and drain fields shall be located within one-hundred (100) feet of a well without prior permission from the Department or agency designated the Department.

I. Regional Water Supply Planning G.S.162A-20.

II. This program is designed to provide financial assistance to local governments and regional authorities in order to assist with the cost of developing comprehensive regional plans and county plans for water supplies. The state role is one of providing a framework for comprehensive planning of regional water supply systems and coordinating local actions.

III. The Department of Natural Resources and Community Development and the State Board of Health have a shared responsibility of administering the program. The Department of Administration administers the Regional Water Supply Planning Revolving Fund and funds may be disbursed to any county, municipality, or sanitary district for the purpose of meeting the cost of advance planning and engineering work necessary to develop a comprehensive plan. However, before any funds are authorized, all applications are evaluated according to the following standards:

1. The proposed area is suitable for development of a regional water supply system from the standpoint of present and projected populations, industrial growth potential, and present and future sources of raw water.
2. The applicant proposes to undertake long-range comprehensive planning to meet present and projected needs for high quality water service through construction of a regional water supply system.
3. The applicant proposes to coordinate planning of the regional water supply with land use planning efforts in the area.
4. The applicant proposes to employ an engineer licensed to practice in the state to prepare a regional plan.

In addition, the Department of Administration shall not release any money until the following conditions have been met:

1. It has been determined that there is a reasonable prospect of federal or state aid in financing the proposed work.
2. Firm assurances from the applicant have been made that the project will be undertaken if feasible.

I. Regional Sewage Disposal Planning G.S. 162A-26.

II. This program is designed to provide financial assistance to local governments and regional authorities in order to assist with the cost of developing comprehensive regional plans and county plans for sewage disposal. The state role is one of providing a framework for comprehensive planning of regional sewage systems (through provision of funds), coordinating local actions, and providing technical expertise.

III. The Department of Natural Resources and Community Development is responsible for administering the program. Its major functions are as follows:

1. Identifying major sources of sewage for regional systems and sewer system interconnections as may be desirable and feasible.
2. Identifying geographical areas of the state suitable for the development of regional sewage disposal systems.
3. Establishing priorities for regionalization.
4. Developing plans for connecting proposed regional sewage disposal systems to major sources of sewage and for such sewer system interconnections as may be desirable and feasible.
5. Reviewing and approving plans for proposed regional sewage disposal systems and for proposed municipal and countywide systems which are compatible with the regional plan.
6. Administering a state program of financial assistance to local governments and regional planning agencies for the development of comprehensive plans for regional sewage disposal systems or county systems.
7. Provide technical assistance to local and regional planning agencies and to consulting engineering firms.

Also a Regional Sewage Disposal Planning Revolving Fund is administered by the Department of Administration for the purpose of funding counties, municipalities or sanitary districts who wish to develop plans. However, before any funds will be authorized, applications will be evaluated by the following standards:

1. The proposed area is suitable for development of a regional sewage disposal system from the standpoint of present and projected populations, industrial growth potential, and present and future sources of sewage.
2. The applicant proposes to undertake long-range comprehensive planning to meet present and projected needs for high quality sewage disposal through the construction of a regional sewage disposal system.
3. The applicant proposes to coordinate planning of the regional sewage disposal system with land use planning in the area, in order that both efforts be compatible.
4. The applicant proposes to employ an engineer licensed to practice in the state of North Carolina to prepare a regional sewage disposal plan. This plan will include all information deemed appropriate by the department.

Dredge and Fill in Estuarine Waters, Tidelands, Etc. (G.S. 113-229)

Before engaging in excavating and/or filling works in estuarine waters, marshlands, tidelands, or State-owned lakes a permit must be obtained from both State and Federal governments.

These permits are EXCLUSIVE to the coastal region of the State. They are administered by the Division of Marine Fisheries of the Department of Natural Resources and Community Development and the U.S. Army Corps of Engineering at the State and Federal levels respectively.

When planning to engage in such activities an application for a permit should be completed and submitted after consultation with personnel in the Division of Marine Fisheries. This application will also serve as an application for the Federal permit. Applications at the State level normally require from 50 to 60 days for processing. After receiving a COMPLETED application, the State must act upon it within 90 days. If the State fails to act upon it within this time period the permit is automatically approved. The Division of Marine Fisheries has the right to reset the 90 day period when it is found that the application is INCOMPLETE and that additional information is needed prior to initiating the processing procedures.

There is no time limitation on Federal action, although the Federal permit normally relies heavily on the State application.

The Division will use the following criteria to assess whether to recommend permit issuance, permit issuance with conditions, or permit denial. Elements of a project which are not addressed in the following criteria may also be considered in assessing a project and making recommendations.

- (1) Channels must be aligned or located so as to avoid highly productive shellfish beds, or beds of submergent vegetation.
- (2) Projects should be designed so as not to create stagnant water bodies.
- (3) Marinas and boat basins must be developed on adjacent high ground so as not to disturb valuable wetland areas.
- (4) Excavation of canals in high ground should employ the use of a temporary earthen plug or other methods to minimize siltation of adjacent water bodies.
- (5) Project construction should be accomplished during periods of least significant biological activity.
- (6) The project should be located so as not to adversely impact upon a primary nursery area.
- (7) Channels and boat basins generally must not involve any excavation in highly productive salt cordgrass (*Spartina alterniflora*) marshes.
- (8) Materials must not be excavated from highly productive tidelands, bottoms, and marshlands for the sole purpose of obtaining fill.
- (9) Bulkhead alignment, for the purpose of shoreline stabilization, should

approximate the mean high water (MHW) line or, in the absence of tidal influences, the normal water line (NWL).

- (10) Bulkheads should be constructed inland of marshland and marshgrass fringes.
- (11) Bulkhead fill material should be obtained from an up-land source. If the bulkhead is a part of a project involving excavation, the material so obtained may be used as backfill.
- (12) Drainage canals located through any marshland should not exceed 6 feet wide by 4 feet deep unless it can be shown by hydraulic engineering that larger dimensions are required.
- (13) Spoil derived from the construction or maintenance of drainage canals through regularly flooded marsh must be placed on high ground.
- (14) Spoil derived from the construction or maintenance of drainage canals through irregularly flooded marsh should result in spoil being placed on high ground. Projects of this type will be considered on a case by case basis.
- (15) All excavated materials should be confined on high ground landward of regularly or irregularly flooded marshland. In addition, all dredge spoil must be confined on high ground behind adequate dikes or other retaining structures to prevent the materials from entering any marsh or adjacent waters.
- (16) In a hydraulic dredging operation the terminal end of the dredge pipeline should be positioned at or greater than 50 feet from any part of the dike and a maximum distance from spillways to allow adequate settlement of suspended solids.
- (17) Effluent from diked areas receiving disposal from hydraulic dredging operations should be contained by pipe, trough, or similar device to a point at or below the mean low water line to prevent gully erosion and resultant unnecessary siltation.

(b) When project design is in conflict with these criteria and there is not feasible way that the project can be made to conform to the criteria, in making its decision the Department will take into account demonstrated public benefit which will result from the project as offsetting the adverse effects of the project. In such cases the applicant must show that the project could not be undertaken on another site so as to achieve similar public benefits without conflicting with the criteria, that the project results in public benefit, and that the public benefits clearly outweigh the long range adverse effects of the project.

Fisheries Statutes G.S. 113-181.

Coastal fisheries within the waters of North Carolina are subject to rules and regulations promulgated out of necessity to conserve the marine and estuarine resources of the state. In some cases permits will be required for activities or, those not requiring permits will be subject to certain requirements or licensing procedures.

The Division of Marine Fisheries located within the Department of Natural Resources and Community Development is the agency charged with administering this program. The Division of Marine Fisheries (through the Marine Fisheries Commission) is authorized to authorize, license, regulate, prohibit, prescribe or restrict all forms of marine and estuarine resources in coastal fishing waters with respect to:

1. Time, place, character or dimensions of any methods or equipment that may be employed in taking fish;
2. Seasons for taking fish;
3. Size limits and maximum quantities of fish that may be taken, possessed, transported, bought or sold or given away.

Also the Marine Fisheries Commission is authorized to authorize, regulate, prohibit, prescribe or restrict and the Division of Marine Fisheries is authorized to license:

1. The opening and closing of coastal fishing waters, except as to inland game fish, whether entirely or only as to the taking of particular classes of fish, use of particular equipment, or as to activities within the jurisdiction of the Department;
2. The possession, cultivation, transportation, importation, exportation, sale, purchase, acquisition and disposition of all marine and estuarine resources and all related equipment, implements, vessels and conveyances as necessary to implement the work of the department in carrying out its duties.

Other regulations of the Division of Marine Fisheries include:

1. Unlawful possession, transportation and sale of fish
2. Possession and transportation of prohibited oyster equipment
3. Fishing near ocean piers
4. Trash or scrap fishing
5. Protection of sea turtles and porpoises
6. Leasing public bottoms for oyster and clam cultivation purposes
7. Propagation of shellfish
8. Registration of grants in navigable waters
9. Additional regulations necessary to carry out G.S. 113-181.

DAM CONSTRUCTION OR ALTERATION (G.S. 143-215.66)

Approval must be obtained prior to the construction, repair, alteration or removal of a dam which is 15ft. high or more, 10 acre feet or more in volume or \$5,000 or more for construction. Also, if the Federal Power Commission or an agency of the U.S. Government builds, licenses or supervises the project no state approval is required.

Individuals or industries proposing to construct, alter, repair, or remove a dam must go through the Land Quality Section (LQS) or DNRCD, Division of Earth Resources. For coastal applicants, applications should be sent to DNRCD regional offices at Washington and Wilmington where they will be initially reviewed and forwarded to Raleigh.

No formal application form is available. Instead, applicants must submit plans and specifications prepared by a registered engineer. An appeal process has been set up by which appeals can be made before the EMC. Applications should be sent in 60 days before construction, and processing will take between 45-60 days.

Specific standards have not been set. The dams are approved on a case-by-case basis, with the primary considerations being maintenance of minimum stream flow and assurance that the dam is safely designed and constructed. All dams subject to regulation must be designed and supervised by a license engineer, and must receive a certificate of final approval when completed.

MINING PERMITS (G.S. 74-51)

A permit must be obtained before engaging in any land-disturbing activity of an acre or more designed to accomplish the following: (1) breaking of the soil surface to facilitate or accomplish the removal of minerals, ores, or other solid matter; (2) any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, soils and other solid matter from its original location; (3) the preparation or other treatment of minerals ores or other solid matter so as to make them suitable for commercial, industrial or construction use.

Permits are administered by the Land Quality Section (LQS) of the Division of Earth Resources (DNRCD)

A reclamation plan must accompany the application . A surety bond must also be filed with the DNRCD according to the number of acres undergoing mining activity. Normal processing time for a permit is 30-60 days (no longer than 60). Appeals of denied permits can be made to the N. C. Mining Commission.

Permits will be denied based on the following standards:

- (1) Operation will have an unduly adverse affect on wildlife or fresh water estuarine or marine fisheries.
- (2) Operation will violate standards of air quality, surface water-quality or groundwater quality promulgated by DNRCD.
- (3) Operation will constitute a substantial physical hazard to a neighboring dwelling house, school, church, hospital, commercial or industrial building, public road or other public property.
- (4) Operation will have a significantly adverse effect on the purpose of a publicly owned park, forest or recreation area.
- (5) Previous experience with similar operations indicates a substantial possibility that the operation will result in substantial desposits of sedimint or acid water pollution.
- (6) That the operator has not corrected all violations which he may have committed under any prior permit. In addition permit is conditioned upon an acceptable reclamation plan.

Permit to Drill An Exploratory Oil or Gas Well (G.S. 113-381)

Before any exploratory drilling for oil and gas can take place at any location in the State a permit must be obtained.

The Division of Earth Resources (DNRCD) handles permit applications

Any person wishing to drill for oil or natural gas must register with the Land Quality Section of the Division of Earth Resources, DNRCD and must file a \$5,000 bond. Before drilling actually begins, notice must be given to DNRCD on prescribed forms; a 50.00 fee for each well must be paid, and the person must obtain a permit. Holders of petroleum leases must file each year with the office of the Register of Deeds a list showing which leases have been renewed for the ensuing year. The drilling operator upon completion or shutting down of any well must file a complete log of the drilling and development of each well.

Information to be included on each application includes:

- (1) Name and well number.
- (2) Operator - Name and address.
- (3) Property owner - Name and address.
- (4) Location - County, and Township, longitude and latitude, plat with 1" equals 4 miles or larger scale showing drilling unit boundaries with respect to well location, nearest well if any, buildings if any, and surface obstructions if pertinent.
- (5) Projected total depth.
- (6) Proposed casing program - size, weight and setting depth.
- (7) Proposed disposal of waste water, drilling fluid, etc.
- (8) A copy of proof of custody or control of the lands involved, either by being a fee owner or having a valid lease agreement.
- (9) A statement of responsibility signed by an authorized person accepting liability for violation of rules and regulations of the Department is also required.

Standards

- (a) Unless altered or changed by special rules, the following rules and regulations on drilling procedure shall apply to all wells drilled.
- (b) All fresh water strata shall be protected by suitable and sufficient casing and cement. The casing shall extend from the surface to the first impervious layer not less than 50' below all fresh water strata. The casing shall be so centralized and the annulus of such size that cement can be injected to fill the entire annular space behind the casing back to the surface.
- (c) If a flow or producing string of casing is set, it shall be cemented with sufficient volume to fill the annular space back of the casing to a point at least 500' above the casing shoe and at least 50' above the producible reservoir nearest to the surface. If drilling is to continue following cementing operations, the cement shall set a minimum of 24 hours

before the plug is drilled. The flow string shall be tested by either of the two methods below.

- (1) Pressure test: If a pressure test is used, the pressure should be raised to a pressure calculated by multiplying the length of casing in feet by 0.2 not to exceed 1500 psi and after 30 minutes if the pressure has dropped 10% or more, the casing has failed to meet the requirements.
 - (2) Bailer test: If the bailer test is used, the fluid level shall be lowered to a point midway between the casing base and the top of cement column behind such casing, and if after 12 hours the fluid level rises or subsides 2% or more of the length of the water column, the casing has failed to meet the requirements.
- (d) In all proven areas, the use of blowout preventers shall be in accordance with practice established in drilling the pool under development. In unproven areas, all drilling wells should be equipped with a master gate or equivalent, an adequate blowout preventer and a properly sized flow line valve. "Adequate" shall be taken to mean that consideration has been given to the depth of the test and pressures likely to be encountered at those depths. The entire control equipment shall be in good working condition at all times and shall have been tested to working pressures at least 50% above the hydrostatic pressures anticipated in the well.
 - (e) All wells shall be drilled in such a manner so that vertical deviation of the hole does not exceed 3 degrees between the bottom of the hole and the top of the hole, and shall not deviate in such a manner as to cross property or unit lines, unless an exception is granted by the Department. An inclination survey shall be filed with the Department for each well subsequently produced for oil or gas.
 - (f) Slush or mud pits shall be constructed prior to commencement of drilling operations and should be of adequate size to confine all anticipated drilling mud and cuttings. Precautions should be taken to prevent the contamination of streams and potable water. All such pits should be refilled or otherwise returned to prior condition upon termination of drilling operations.
 - (g) The operator shall not, except in extreme emergencies or with permission of the Department, permit oil or salt water to be temporarily stored in earthen reservoirs.
 - (h) Any rubbish or debris shall be disposed of so as not to constitute a fire hazard.
 - (i) Christmas tree fittings or well head connections, flow lines and treating facilities, shall have a working pressure in keeping with anticipated working pressures generated by the well as determined from drillstem tests or other pressure testing procedures acceptable to the Department.

- I Geophysical Exploration Permit (G.S. 113-391)
- II A permit is required for all seismic exploration work as well as well as conducting geological, geophysical and other surveys and investigation related to the discovery and location of oil, gas or other mineral prospects in State-owned waters.
- III Applications for such permits should be sent to the Division of Earth Resources (DNRCD)
- IV There is not standard application form; instead application is made by letter to the DNRCD. This must be accompanied by a detailed map showing the exact area in which the explorations are to take place. Also, permittees will also obtain appropriate assent from the lessee if and where the area under investigation is leased to other than the permittee.
- V Standards under which permits are issued as follows:
 - (a) When more than one shot is fired in the same hole and there is any reasonable doubt in the mind of either the seismic agent or the field manager of the party as to the legal depth of the hole after the shot is fired, the hole will be measured for depth before reloading to ascertain that it is the required depth in accordance with the table of charges and depth.
 - (b) All 2 x 2's used for survey lines must be clearly stamped with the name of the company using the stakes at approximately three-foot intervals.
 - (c) All holes drilled in geophysical operations in land areas must be filled, by the persons or agency drilling these holes, before leaving the location.
 - (d) No explosives shall be discharged within 300 feet of any oyster reef or bed, including any state-owned natural reefs, or within 300 feet of any dock, pier, causeway or other fixed structure, without written permission signed by the owner and/or lessee of the reef or bod, approved by the department.
 - (e) All shot charges suspended in the water by floats shall be off such type and packaged in such manner that same will disintegrate and neutralize in the water within a short time, and any suspended charge which fails to discharge shall be immediately removed from the water if same can, in the opinion of the party chief or manager, be done without endangering the life of any member of the party, but, in no event, shall any such undischarged suspended charge be abandoned without destroying the floats attached thereto. Where inflated floats are used, all charges will be suspended from dual floats either of which will be capable of retaining the charge at the proper depth.
 - (f) Boats, marsh buggies or other types of marsh vehicles must be so used as to cause the minimum disturbance of an injury to lands, waterbottoms, and wildlife and fisheries thereon. All such vehicles shall be clearly painted or otherwise distinctively marked so as to be easily seen and identified.
 - (g) Agents assigned to seismic crews are to be employees of and under the supervision of the department.

- (h) The department on request, will have access to all records, such as shot point location maps, shooters' logs and tracings, but only to the extent necessary to determine that all protective requirements have been complied with.
- (i) The interpretation of these rules and regulations by the department will be accepted by the seismic operator and the seismic agent.
- (j) The party chief will instruct the members of his party as to these rules and regulations, and to the duty and authority of the department and the seismic agent.
- (k) The party chief will assist the seismic agent to fill out the required form by furnishing all necessary data. In addition a daily report on exploration work must be filed by the seismic agent with DNRCD. Also a surety bond ranging from 5,000-25,000 must be filed with the Department.

SEDIMENTATION EROSION CONTROL - (G.S. 113A-54)

Approval must be secured prior to engaging in any land disturbing activity of one contiguous acre or more. Exceptions to this include 1) those done for the purpose of fighting fires; 2) stockpiling of raw or processed sand, stone, gravel in material processing plant and storage yards (provided sediment control measures have been utilized to protect against off-site damages); 3) activities undertaken on agricultural land for the production of plants and animals; 4) activities undertaken on forestland for the production and harvesting of timber and timber products; 5) activities regulated by the Mining Act of 1971.

The state agency responsible for monitoring sedimentation control is the Land Quality Section of the Division of Earth Resources (DNRCD). If no approved local or county sedimentation control plan is in effect this Division is the one to which applications should be sent. Presently there are nine (9) approved county or local plans. These are: Havelock, Jacksonville, Nags Head, New Hanover County, Wilmington, Wrightsville Beach, Carolina Beach, Ocean Isle, and Pender County.

There is no standard application form; however, the Land Quality Section has developed guidelines which a plan should contain. Each plan will have a narrative section and a section with maps, drawings, etc. depicting erosion control methods, etc. The applicant should include a project description, description of sedimentation control measures, for restoring stability to the disturbed area. 14 to 21 days are required for a decision, and an appeal may be made to the EMC.

Standards are flexible, but the following minimum standards must be applied.

- 1) No land-disturbing activity shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the edge of the watercourse of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearer the land-disturbing activity in connection with the construction of facilities to be located on, over or under a lake or natural watercourse.
- 2) The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within 30 working days or completion of any phase of grading, be planted or otherwise provided with ground cover, devices, or structures sufficient to restrain erosion.

- 3) Whenever land-disturbing activity is undertaken on a tract comprising more than one acre, if more than one contiguous acre is uncovered, a ground cover sufficient to restrain erosion must be planted or otherwise provided within 30 working days on that portion of the tract upon which further active construction is not being undertaken. This standard shall not apply to cleared land forming the basin of a reservoir later to be inundated.

- I Natural and Scenic Rivers (G.S. 113A-30)
- II Program designed to protect and preserve portions of North Carolina rivers which possess outstanding natural, scenic, educational, geological, recreational, historic, fish and wildlife, scientific and cultural value of great present and future benefit to the people of North Carolina.
- III The Natural Heritage Program (Planning and Evaluation section) located in the Division of Parks and Recreation (NRCD) administers this program.
- IV Standards for inclusion in the natural and scenic rivers system are based on the following minimum criteria:
 - (1) River segment length - must be no less than one mile.
 - (2) Boundaries - of the system shall be the visual horizon or such distance from each shoreline as may be determined to be necessary by the Secretary, but shall not be less than 20 feet. Provided, that this shall not be construed to authorize the Secretary to acquire, except by donation or gift, more than 320 acres of land per mile for inclusion within the boundaries.
 - (3) Water quality - shall not be less than that required for Class "C" waters as established by the North Carolina Environmental Management Commission.
 - (4) Water flow - shall be sufficient to assure a continuous flow and shall not be subjected to withdrawal or regulation to the extent of substantially altering the natural ecology of the stream.
 - (5) Public access - shall be limited, but may be permitted to the extent deemed proper by the Secretary, and in keeping with the property interest acquired by the Department and the purpose of this Article. (1971, c. 1167, s. 2; 1973, c. 1262, ss. 23, 86.)
 - (6) Environmental Quality - shall present natural features and processes undisturbed by man.

Regulations Governing the Management of Natural River Areas

The management of a natural river area shall give primary emphasis to protecting the values which make it outstanding while providing river related outdoor recreation opportunities in a natural setting.

- (1) Motorized land travel will be prohibited. Existing structures that are not harmonious with the natural character of the area shall be screened or made more harmonious.
- (2) New structures shall be prohibited unless they are clearly in keeping with the natural river area classification and management objectives and conform with the approved management plan for the area.
- (3) Management facilities may be permitted if no significant adverse affect occurs to the natural character of the area.
- (4) No dredging or sand and gravel operations shall be permitted.
- (5) Felled trees that partially block passage down the river or obstruct stream flow may be removed.

- (6) No clearcutting of trees shall be allowed on lands owned by the State and designated as a Natural River Area.
- (7) No streamside trees providing shade to the river shall be cut unless they present a hazard to public health and safety.

Regulations Governing the Management of Scenic River Areas

1. A scenic river area should be managed so as to maintain and provide outdoor recreation opportunities in the near-natural setting. The basic distinctions between a natural and scenic river area are degree of development, type of land use, and road accessibility. In general, a wide range of agricultural, water management, silvicultural, and other practices would be compatible with a designated scenic river area, providing these practices are carried on in such a way that there is no substantial adverse effect on the scenic character of the river and its immediate environment. The diversity and volume of recreational use will dictate more intensive management practices on segments designated as scenic.
2. In designated scenic river areas, motorized vehicles would be allowed on designated sections of the land area, and development must be harmonious with the scenic features. Unobtrusive fences, gauging stations, and other management facilities may be permitted if they cause no significant adverse effect on the scenic character of the area.
3. Public use facilities would be permitted. Recreation activities that may be consistent with the management of a Scenic River in the System are the same as those for Natural River Areas plus scenic driving and bicycling. Reasonable restraints may be necessary on volumes of use.
4. Scenic Rivers can have roads paralleling some portions of the river. Where such roads are public, it is suggested that they be designated as scenic roads, providing scenic drives for travelers. Overlooks, roadside picnic areas, and undeveloped tent and trailer camping are complementary activities.
5. Bicycle trails should be developed in conjunction with scenic roads (Class II or III bicycle trails). Only where a connector is required between two separate roads should a separate bike path (Class I bicycle trail) be considered.
6. Bicycle rest areas should be provided. In many instances these may be in conjunction with roadside picnic areas, overlooks, or rest stops for other activities. Overnight camping facilities for cyclists should be provided at appropriate intervals. Again, camping facilities for cyclists may in many instances be in conjunction with (and the same as) camping facilities developed as an adjunct to other activities such as hiking, horseback riding, and boating.
7. Hiking, backpacking, and horse trails would be similar to those for Natural Rivers. Direct vehicular access would be permitted at appropriate points along a Scenic River. Such access points could include any of the facilities allowed at public access areas of Natural Rivers. In addition, Scenic River access points could include undeveloped tent and trailer camping.

Boating or floating along Scenic Rivers would be similar to that for Natural Rivers except that boat access facilities would be permitted at intermediate points along the river.

8. The designated rest stops and overnight facilities for all of the primary activities along a Scenic River would generally be somewhat more developed than those of a Natural River. Rest stops could include picnic tables, toilet facilities, and grills. Overnight facilities would be somewhat less primitive for a Scenic River because tent pads, grills, and picnic tables may be provided in addition to toilet and water facilities.
9. Hunting and fishing consistent with State regulations is permissible.
10. Integrated public and private investment on designated scenic river areas is encouraged.

Trails System Act (G.S. 113A-83)

This program is designed to institute a State System of scenic and recreation trails thereby providing for outdoor recreation needs of North Carolina and in promoting public access to travel within, and enjoyment of the outdoor natural and remote areas of the State.

The program is handled by the Division of Parks and Recreation (DNRCD).

Standards by which trails are evaluated and selected are as follows:

The location of all North Carolina State Trails regardless of use type should:

- (1) Meet the guidelines formulated by the Trails Committee in terms of physical factors, biologic and hydrologic factors, and human use and interest factors.
- (2) Be of a length to afford a meaningful recreation experience and to justify efforts and costs of development and maintenance.
- (3) Form linkages within or between population centers, parks and recreation areas, local, State and federal preserves and other existing or proposed trail segments which will offer trail users diverse recreation, natural environment and/or cultural experiences.
- (4) Possess scenic views which are equal or superior to the characteristic landscape of the surrounding land uses and contain elements of beauty, contrast and interest. The presence and frequency or extent of unique and/or diverse geologic and biologic features will also be evaluated.
- (5) Possess access sufficient for and commensurate with anticipated trail use and maintenance requirements. Use should be limited in areas of high wilderness value.
- (6) Offer potential for combining other related and compatible forms of outdoor recreation along with supportive activities such as camping and picnicking.
- (7) Be compatible with the projected as well as the present area land uses, or offer adequate buffer to insulate the trail user and/or the area land uses where these uses may be in conflict.

Also, there are certain criteria the Committee has deemed significant which are not common to all trail types.

In addition to the generalized criteria, canoe trails (rivers, streams, creeks,) should:

- (1) Maintain canoeable water depth and/or flow normally throughout the year. The degree of canoeing difficulty may range from very easy (Class 1) on smooth, pastoral rivers to extraordinarily difficult (Class 6) on more dangerous rivers with many long and violent rapid and falls (Standard International Canoe Difficulty Rating Scale).
- (2) Possess a water quality rating according to the Water and Air Quality Control Committee of not less than Class C and preferably Class B or better.

In addition to the generalized criteria, off-road vehicle (ORV) trails should:

- (1) Minimize damage to soil, watershed vegetation, or other resources of the public lands.
- (2) Minimize harassment of wildlife or significant disruption of wildlife habitat.
- (3) Minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise, safety and other factors.
- (4) Avoid officially designated Wilderness Areas or Primitive Areas. They shall only be located in areas of the National Park System, Natural Areas, or National Wildlife Refugees and Game Ranges if the respective agency head determines that off-road vehicle use in such locations will not adversely affect their natural, aesthetic, or scenic values.

I Acquisition and Management of State Forests & Parks (G.S. 113-34)

- II This program is designed to acquire lands which can be used as state forests or parks. Their purpose is to provide timber and practical examples of water conservation and game refuges (forests) and areas for the further enjoyment by the public of recreational endeavors.
- III The Governor of the state is authorized upon the recommendation of the Department of NRCD to accept gifts of land as state forests. However, the DNRCD is the agency charged with the responsibility of administering the lands. DNRCD has the power to purchase lands for the production of timber and can acquire by condemnation lands necessary to the effective operation of the state forestry and park activities.

IV Lands will be acquired for the following purposes:

1. State forests - timber production and culture; experimental, demonstration, educational or protection purposes; water conservation purposes; park purposes; and game refuges.
2. State parks - public recreation purposes, natural areas and state parks

V Areas acquired for recreational or natural area purposes have been broken into three categories; state parks, natural areas, and state recreational areas. Criteria for inclusion are as follows:

State Parks Sites: Acquisition of land for new state park sites will be limited to scenic and recreational parks or state scientific parks. Every state park site shall:

1. Completely include the scenic or natural features the area is established to protect.
2. provide sufficient buffer area to protect the scenic or natural features from encroachment
3. provide a reasonably satisfactory habitat for indigenous wildlife
4. permit the development of recreational and public use area without damage to the primary purpose of preservation.
5. be at a minimum 400 acres of land well adapted to state park use.

Natural Areas: Acquisition of land for natural areas is based on the following criteria:

1. The site should best portray the natural processes that have formed the earth and its plant and animal life.
2. the site should portray some specific natural process so as to be unique
3. the site should contain outstanding examples of nature plant and animal communities or other outstanding natural objects, conditions and phenomena.
4. the site should be large enough to completely include the natural features the area is established to protect, provide sufficient buffer area to protect the natural features from outside encroachment, and permit the development of interpretive devices.

State Recreation Areas: Acquisition of land for these purposes shall be based on the following criteria:

1. Sites selected as State Recreation Areas shall possess features of unusual value for outdoor recreational activity in natural surroundings. This requirement refers to the presence of topographic features, open space, vegetation, streams, lakes, reservoirs or seashore, which afford excellent potential for outdoor recreation facilities.
2. In general, State Recreation Areas should be large areas, including within their boundaries a total of 500 or more acres of land and water surface. Although there may be certain special cases where a smaller area should be considered, no site shall be selected where available acreage is found inadequate for proper development, resource management, and control.
3. State Recreation Areas should be located and designed to achieve a comparatively high recreation carrying capacity, consistent with the type of recreation primarily to be served.
4. State Recreation Areas should be located regionally and should be readily accessible to as large a population as possible while offering developable recreation potential in attractive surroundings.
5. The scale of investment, development, and operational responsibility should be sufficiently high to require direct state involvement to assure optimum public benefit.
6. Within State Recreation Areas, outdoor recreation shall be recognized as the dominant or primary management purpose. Any other natural resource utilization shall be compatible with fulfilling the recreation mission, and none will be carried on that is significantly detrimental to it.
7. State Recreation Areas should be established primarily in those areas where other programs (Federal, State, local, private) will not fulfill high priority needs in the foreseeable future.

DEPARTMENT OF ADMINISTRATION

I Easements to Fill (G.S. 146-6(c))

- II Easements to fill are required in all incidences where the applicant proposes to raise lands above the normal high water mark of navigable waters by filling.
- III The State Property Office located within the Department of Administration is the agency charged with administering this program. Easements to fill by the Department of Administration are subject to approval by the Council of State.
- IV Applications must be made in writing to the State Property Office. An application for a Dredge and Fill permit will also be treated as an application for an easement if it is determined that one is needed. Application should be accompanied by a fee of \$100.00 and generally take 30-45 days to process.
- V Easements to fill will be issued if the following conditions are met:
 - (1) the project will not impede navigation
 - (2) the project will not interfere with the use of navigable waters by the public
 - (3) the project will not injure any riparian owner.
- Standards for project review that may involve other easements over water are:
 - 1. The Department of Administration may grant to adjoining owners easements in land covered by navigable waters or by the waters of any lake owned by the state for such purposes and upon such conditions as it may deem proper. (Approval of the Governor and Council of State is necessary)
 - 2. Such easements shall include only the front of the tract owned by the riparian owner to whom it is granted; it shall extend no further than "deep water" (to navigable channel) and shall in no respect obstruct or impair navigation.
 - 3. The State Property Office will consider if all aspects of the public interest will best be served by the requested right of way, structure, or other privilege to be granted by the easement.
 - 4. Piers or docks which provide riparian access to navigable waters are allowed and no easement is required. Such structures may be covered by a weather proof shelter so long as the use of the sheltered area is in keeping with the provision of riparian access to the water.
 - 5. An easement is required for any structure built over navigable waters other than those providing simple riparian access. Those requiring an easement include but are not limited to multiple boat slips, finger piers and needlessly lengthy piers.
 - 6. Such easements will not be granted for structures or facilities that can be located over land. Examples of structures not allowed include: utility buildings, dwellings, hotels, restaurants, businesses, apartments, etc.
 - 7. Easements are not required for commercial fishing nets, fish offals, ramps, boathouses, duck blinds, and navigation aides.
 - 8. The Department of Administration may grant easements for the purpose of cooperating with the federal government, utilizing the natural resource of the state, or otherwise serving the public interest.

I Easements, Leases, Sale of State Land (G.S. 146-3)

I This program is designed to dispose of state-owned lands through the procedures of sale, lease or easement. The only exception to this is the following:

- (1) No submerged lands may be sold, but easements given;
- (2) No natural lake belonging to the State on January 1, 1959 and having an area of 50 acres or more may be in any manner disposed of.

I The property and construction office within the Department of Administration is the agency charged with administering this program. With the approval of the Council of State this agency can dispose of State land.

IV Standards by which land is disposed of:

- (1) If it is determined that there exists no other state need for the property; and
- (2) it is determined to be in the best interests of the State, and
- (3) the bid given for the land (in the case of a sale) is not less than the advertised price.

- I Acquisition of Land for Public Purposes (G. S. 146-22)
- II This program is designed to acquire through purchase, condemnation, lease, or rental those state lands necessary to carry forth the public interest. Exempted from this definition are vacant or unappropriated lands, swamplands, lands acquired by the state by virtue of being sold for taxes, and submerged lands.
- III The Department of Administration will make all acquisitions on behalf of the State or any state agency; however, such acquisition must be approved by the Governor and Council of State.
- IV The process by which lands can be acquired is as follows:
 - (1) Agency must file with the Department an application setting forth its need for the requested acquisition.
 - (2) The Department must investigate all aspects of the requested acquisition (including the availability of necessary funds)
 - (3) After investigation, the Department must determine that the best interests of the State require that the land be acquired.
- V Lands that the Department is empowered to acquire are as follows:
 - (1) Lands necessary for the construction and operation of State buildings and other governmental facilities.
 - (2) Lands necessary for construction and operation of parking facilities.
 - (3) An area in the City of Raleigh bounded by Edenton Street, Person Street, Peace Street, the right-of-way of the main line of Seaboard Coast Line Railway and North McDowell Street for the expansion of State governmental facilities, the public interest in, public use of, and the necessity for the acquisition of said area, being hereby declared as a matter of legislative determination.
 - (4) Lands necessary for the location, expansion, operation and improvement of hospital and mental health facilities and similar institutions maintained by the State of North Carolina.
 - (5) Lands necessary for public parks and forestry purposes.
 - (6) Lands involving historical sites, together with such adjacent lands as may be necessary for their preservation, maintenance and operation.
 - (7) Lands necessary for the location, expansion and improvement of any educational, penal or correctional institution.
 - (8) Lands necessary to provide public access to the waters within the State.
 - (9) Lands necessary for agricultural, experimental and research facilities.
 - (10) Utility and access easements, rights-of-way, estates for terms of years or fee simple title to lands necessary or convenient to the operation of state-owned facilities.
 - (11) Lands necessary for the development and preservation of the estuarine areas of the State.
 - (12) Lands necessary for the development of waterways within the State.

DEPARTMENT OF AGRICULTURE

- I Pesticide Application (G.S. 143-434)
- II Any person who offers for sale, delivers or sells any pesticide, herbicide, defoliant, dessicant, plant growth regulator, nematocide or rodenticide must first be registered. This section also regulates air/ground application and disposal of pesticides.
- III The Pest Control Section located within the Department of Agriculture is the agency charged with this responsibility.
- IV There are 3 different applications which are required by the Pesticide Section depending on intended usage of the product. They are:
 - (1) Application for registration of pesticides - name, address, brand of pesticide, label accompanying the product, copy of all claims made for the product, instructions for use warning or caution statements where necessary. (\$25.00 should be remitted for each pesticide that is being registered.) Additional information may be required such as directions for use, specific pests to be controlled, complete formula of the product.
 - (2) Application for pesticide dealers license - name, address, name of employees who will sell pesticides. (\$25.00 is required for an annual license)
 - (3) Application for pesticide applicator's license - name, address, method of application (ground or air), names of persons who will apply pesticides. (\$25.00 required to obtain license)
- V Standards by which applications are evaluated are as follows:
 - (1) A new registration must meet the requirements as set forth in the North Carolina Pesticide Law of 1971 and appropriate regulations thereto
 - (2) A new registration must meet the requirements as set forth in the rules, regulations, and policies adopted herein by reference.
 - (3) A careful review and evaluation of a new registration is made by the pesticide section of the pest control division in reference to the following criteria:
 - (a) Its composition is such as to warrant the proposed claims for it.
 - (b) Its label or labeling and other material required to be submitted comply with the requirements of both federal and state pesticide laws;
 - (c) It will perform its intended function without unreasonable adverse effects on the environment; and
 - (d) When used in accordance with widespread and commonly recognized practice, it will not cause unreasonable adverse effects on the environment.
 - (4) A new registration will be accepted for registration if it meets the criteria for registration set forth in the preceding references and parameters or is approved for special local needs.

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DEPARTMENT OF COMMERCE

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- I Public Utilities (G. S. 62-110)
- II No public utility or other person shall begin the construction of any steam, water, or other facility for the generation of electricity to be directly or indirectly used for the furnishing of public utility service without first obtaining from the Public Utilities Commission a certificate of convenience and necessity. Exempted from this requirement are businesses that are not defined as a public utility.
- III The Public Utilities Commission located within the Department of Commerce is the agency to be contacted.
- IV Companies wishing to construct a plant must file a notice of intent with the Commission 120 days before making an official application. After making formal application a review process will begin (including public hearings), and a final decision on the application will take approximately 6 months after original filing of the application. Appeal of all applications is to the Court of Appeals.
- V In reviews of applications for certificates of public convenience and necessity, the following criteria will be considered in evaluating power plant sites:
 - 1. A determination of a plant's necessity must be established (need will generally be found if the reserve capacity is falling 15-20% short).
 - 2. Once need has been established other factors include:
 - (a) Environmental impact-impacts on air and water quality, impact on wetland areas, impact on fish and wildlife resources and habitats.
 - (b) Economic impacts - fiscal and employment impacts, impacts on public services.

DEPARTMENT OF CULTURAL RESOURCES

Acquisition and Management of Historic Properties (G.S. 121-9)

For the purpose of protecting or preserving property of historical, archaeological, architectural, or other cultural importance, the Department of Cultural Resources is empowered to acquire, preserve, restore, maintain, operate, and dispose of such properties and adjacent lands. Such actions must be approved by the North Carolina Historical Commission. Property may be acquired by gift, grant, bequest, etc., or the Department may use condemnation in appropriate cases. In the case of real property, the Department must not acquire any greater interest than is necessary to protect and preserve the property.

This program is handled by the Division of Archives and History, within the Department of Cultural Resources.

Standards by which property is evaluated and selected are as follows:

- (1) Whether the property is historically authentic;
- (2) Whether it is of such educational, historical, or cultural significance as to be essential to the development of a balanced State program of historic and archaeological sites and properties;
- (3) The estimated total cost of the project under consideration and the apportionment of said cost among State and nonstate sources;
- (4) Whether practical plans have been or can be developed for the funding of the nonstate portion of the costs;
- (5) Whether practical plans have been developed for the continued staffing, maintenance, and operation of property without state assistance.
- (6) The property must be determined to be of statewide historical significance (done through research, documentation, etc.)
- (7) The site must be able to be interpreted in order that educational value be achieved.
- (8) The total cost of site acquisition, improvement, operation must be considered.

DEPARTMENT OF HUMAN RESOURCES

Septic Tanks Under 3,000 Gallons Per Day (G.S. 130-166-22)

No person shall commence the construction or relocation of any dwelling nor shall any person locate, relocate or cause to be located or to be relocated any mobile home intended for use as a dwelling, other than one in a mobile home park, on a site in an area not served by a public or community sewage disposal system without first obtaining an improvements permit from the local health department having jurisdiction.

The local health department is the issuing agency for septic tank permits; however, should a locality not have such the Sanitary Engineering Section of the Division of Health Services should be contacted (in the Department of Human Resources). All 20 counties are enforcing this.

Each county has a standard application form which must be filled out. Information to be included: proposed improvement, size of property, type water, average percolation rate, soil type, water table depth, distance to well, number bedrooms, capacity of tank, number and length of nitrification lines. Appeals of permit decisions are made to the appropriate local Board of Health.

Permits are issued based on standards relating to character (texture, structure, restrictive horizons and drainage) and porosity of the soil, percolation rate, topography, depth to water table and depth to rock or any other impervious formation and location or proposed location of any water supply wells.

- (a) Every septic tank system and privy shall be located at least the minimum horizontal distance from the following:
- (1) Any private water supply source-----100 feet, or maximum feasible distance, but in no case less than 50 feet.
 - (2) Any community water supply source-----100 feet.
 - (3) Streams classified as A-II-----50 feet.
 - (4) Waters classified as S. A. -----100 feet from normal high tide mark.
 - (5) Any other stream, canal, marsh, or coastal waters-----50 feet.
 - (6) Any Class I or Class II impounded reservoir used as a source of drinking water-----100 feet from normal high water line.
 - (7) Any other lake or impoundment-----50 feet from normal high water line.
 - (8) Any building foundation-----10 feet.
 - (9) Any basement-----15 feet.
 - (10) Any property line-----10 feet
 - (11) Top of slope of embankments or cuts of 2 feet or more vertical height-----15 feet.
 - (12) Any water line-----10 feet.

SOLID WASTE (G.S. 130-166.16)

Approval must be obtained from the Department of Human Resources before operating a solid waste disposal site or facility, which includes any land, people, or equipment used for the purpose of disposing of solid wastes by burning, sanitary landfill, or any other method.

A person desiring to operate a solid waste site or facility should write the Sanitary Engineering Section of the Division of Health Services (Department of Human Resources).

A request for approval must be accompanied by an approval letter from the local governmental agency having zoning authority over the area where the operations are to be located.

Plans for the design, construction, and operation of new sites and new facilities or modifications to existing sites or facilities are to be prepared by a professional engineer or other experts, and should include the following information in triplicate.

For sanitary landfill sites

- 1) Map or aerial photograph of sufficient scale to provide the following:
 - a) Entire property owned or leased by the person proposing the sanitary landfill;
 - b) Land use and zoning within one-fourth mile of the disposal site;
 - c) Location of all homes, industrial buildings, public or private utilities, and roads; and,
 - d) Location of wells, watercourses, dry runs, rock outcroppings, and other applicable details regarding the general topography.
- 2) Soil borings shall be made to provide sufficient information for an evaluation of subsurface conditions that exist at the site.
- 3) Soil classifications shall be made by the use of the Unified Soil Classification System, the U. S. Department of Agriculture Classification, or other available systems that provide an adequate soil description.
- 4) Identify watercourses within or adjacent to the sanitary landfill areas and if no watercourse is involved, indicate the watershed by name which will receive the drainage from the site.
- 5) Any other information pertinent to the proposed site.

FOR SANITARY LANDFILL OPERATIONAL PLANS:

- 1) A plot plan of the proposed site showing dimensions, entrance and access roads.
- 2) The location of existing utilities and structures.
- 3) Contour maps of the original topography on a scale no greater than 200 feet per inch and five-foot contours.
- 4) Sufficient cross-sectional drawings or contour maps so that the proposed finished elevations of the filled area can be accurately determined. Cross-section drawings showing original elevations, the proposed excavation depths, and depths to the water table, if encountered.
- 5) The location of proposed utilities, on-site structures for equipment storage or employee usage, and weighing facilities, if planned.
- 6) The proposed method of landfilling, such as trenching, ramping and diking, or area filling.
- 7) Provisions for controlling of fill slopes on the outer face of peripheral dikes and face of the finished sanitary landfill.
- 8) Provisions for controlling erosion on all completed areas.
- 9) Procedures for promoting vegetative growth as soon as possible on all completed areas.
- 10) Sufficient buffer width along man-made or natural water-courses to confine visible siltation within the buffer zone.
- 11) Measures, structures, and devices designed and constructed so as to provide effective control for calculated peak rate of runoff from such storm frequency as indicated by the degree of protection needed in the design area.

The following standards must be met for approval and operation of a sanitary landfill.

- 1) Operational plans must be approved and followed.
- 2) Solid waste shall be restricted to the smallest area feasible, compacted as densely as practical into cells, and a proper slope on the working face shall be maintained.
- 3) Solid waste shall be covered after each day of operation, or as specified by the division of health services, with a compacted layer of at least six inches of suitable cover.
- 4) Within one month after final termination of disposal operations at the site or a major part thereof, the area shall be covered with at least two feet of compacted earth adequately sloped to allow surface water runoff in a controlled manner without excessive erosion.
- 5) The finished surface of the filled area shall be covered with adequate topsoil and seeded with native grasses or other suitable vegetation immediately upon completion or as soon as practical. If necessary, seeded slopes shall be covered with straw or similar material to prevent erosion.

- 6) Adequate erosion control measures shall be practiced.
- 7) An attendant shall be on duty at the site at all times while it is open for public use.
- 8) The approach road to the site shall be of all-weather construction and maintained in good condition.
- 9) Dust control measures should be implemented where necessary.
- 10) Surface water shall be diverted from the operational area.
- 11) Disposal of solid waste in water is prohibited.
- 12) Open burning of solid waste is prohibited.
- 13) Equipment shall be provided to control accidental fires or arrangements made with the local fire protection agency to immediately provide fire-fighting services when needed.
- 14) Spoiled foods, animal carcasses, abattoir waste, hatchery waste, and other animal waste delivered to the disposal site shall be compacted and covered immediately and separately from the routine solid waste.
- 15) No hazardous wastes shall be disposed of in a sanitary landfill except as may be permitted by the division of health services.
- 16) Effective vector control measures shall be applied to control flies, rodents, and other insects or vermin when necessary.
- 17) Appropriate methods such as fencing and diking shall be provided to confine possible windblown material within the area.

PUBLIC WATER SUPPLY SYSTEM REQUIREMENTS (130-161.1)

Approval must be obtained from the Department of Human Resources before constructing and operating any public water supply facility that furnishes water for drinking and household purposes to ten or more residences or businesses, or combination of residences or businesses. Adjacent water systems under single ownership serving a total of ten or more residences or businesses must also obtain such approval.

The Sanitary Engineering Section of the Division of Health Services (Department of Human Resources) approves water supply system should be submitted. At least 30 days should be allowed for approval.

Requirements that each public water supply system must meet are as follows:

1. It must meet the standards and criteria promulgated for the design and construction of such system, including water works facilities, appurtenances and pipe size of distribution lines.
2. A disinfection method approved by the Health Services Commission must be employed.
3. It must be designed so that it will provide safe and reliable supply to all anticipated service areas, and will permit interconnection to a regional system.
4. Plans and specifications must be done by a licensed engineer and approved by HSC prior to construction.
5. Supply system plans must contain arrangements made for continued operation, maintenance and service.

Minimum design criteria for water supply wells are as follows:

1. Well construction shall conform to well construction regulations and standards of the Division of Environmental Management (DNRCD) and make provision for the following features: upper terminal, sanitary seal, concrete slab or well house floor, and waste discharge pipe.
2. Criteria for yield:
 - (a) Wells shall be tested for yield and drawdown. A report or log of at least a 24-hour drawdown test to determine yield shall be submitted to the division of health services for each well.

- (b) Wells shall be located so that the drawdown of any well will not interfere with the required yield of another well.
- (c) The combined yield of all wells of a water system shall be sufficient to provide the average daily demand in not more than 12 hours pumping time.
- (d) The capacity of the permanent pump to be installed in each well shall not exceed the yield of the well as determined by the drawdown test.
- (e) A public water system using well water as its source of supply and designed to serve 50 or more residences or connections shall provide at least two wells.

Other Standards for Public Water Supply Systems are Listed Below:

(1) Public surface water supplies requiring disinfection

- (a) A surface supply may be used as a public water supply with disinfection if it complies with the provisions of this section.
- (b) Such water supply shall be derived from uninhabited wooded areas.
- (c) The entire watershed shall be either owned or controlled by the person supplying the water or be under the control of the federal or state government; however, no such new water supply shall be created except where the water system owner shall own in its entirety the watershed from which the water will be obtained.
- (d) The water after disinfection shall be of potable quality as determined by bacteriological and chemical tests performed by an approved laboratory. The presence of contaminants shall not exceed the limits set forth in Section .1600 of these rules.
- (e) The water source shall have an A-I classification as established by the Environmental Management Commission and shall meet the quality standards for that classification.

(2) Removal of dissolved matter and suspended matter

Any surface water which is to receive treatment for removal of dissolved matter and/or suspended matter in order to be used as a public water supply shall be obtained from a source which meets the A-I or A-II stream classification standards established by the Environmental Management Commission and shall be properly protected from objectionable sources of pollution as determined by a sanitary survey of the watershed made by an authorized representative of the Department of Human Resources. The source supply shall be sufficient in capacity to satisfy the anticipated needs of the users for the period of design.

(3) Public well water supplied

Any site or sites for any water supply well to be used as a public water supply shall be investigated by an authorized representative of the division of health services. Approval by the division of health services is required in addition to any approval or permit issued by any other state agency. The site shall meet the following requirement for approval:

- (a) The well shall be located on a lot so that the area within 100 feet of the well shall be owned or controlled by the person supplying the water. Variances in the well lot area may be permitted where emergency conditions exist as determined by a representative of the division of health services.

(4) Surface water facilities

- (a) Unimpounded Stream. Both the minimum daily flow of record of the stream and the estimated minimum flow calculated from rainfall and run-off shall exceed the maximum daily draft for which the water treatment plant is designed with due consideration given to requirements for future expansion of the treatment plant.
- (b) Pre-Settling Reservoirs. Construction of a pre-settling or pre-treatment reservoir shall be required where excessive bacterial concentrations or wide and rapid variations in turbidity and/or chemical qualities occur.
- (c) Impoundments. Raw water storage capacity shall be sufficient to reasonably satisfy the designed water supply demand during periods of drought.
- (d) Clearing of Land for Impoundment. The area in and around the proposed impoundment of Class I and Class II reservoirs shall be cleared as follows:
 - (1) The area from two feet above and five feet below the normal full level of the impoundment shall be cleared and grubbed of all vegetation and shall be kept cleared until the reservoir is filled, provided that the area two feet above the normal full level may be reduced if the clearing at that elevation would exceed a horizontal distance of 50 feet from the full level. Secondary growth should be removed periodically and in all cases prior to flooding. A margin of at least 50 feet around the area shall be provided.

DEPARTMENT OF TRANSPORTATION

- I Streets and Highways in and Around Municipalities (G.S. 136-66.2)
Highway Safety (G.S. 136-44.1)
- II The Department of Transportation has the responsibility to and maintain a statewide system of roads and highways commensurate with the needs of the State as a whole. This includes responsibility for planning, constructing, maintaining and improving state roads and highways.
- III The Division of Highways located within the Department of Transportation has the major responsibility for planning highways within the state. In doing this there are two objectives that must be followed: (1) consideration of the economic, social, and environmental effects and (2) consideration of the overall public interest. In fulfilling this directive the Division has prepared the "North Carolina Highway Action Plan". This plan is in response to FHPM 7-7-1 of the Federal Highway Administration, and it is used by the Division to plan for and implement its highway program within the state. Listed below is a summary of requirements for general acceptance of location and right of way authorization for different levels of action.

Major Actions Significantly Affecting the Quality of the Human Environment

- 1. Acceptance of General location by FHWA (FHPM 7-7-2, par. 6)
 - A. Adoption of final EIS by Regional Highway Administrator
 - B. 90 days have elapsed since the draft EIS was circulated for comment and furnished to CEQ
 - C. 30 days have elapsed since the final EIS was made available to CEQ
 - D. FHWA acceptance of the corridor public hearing transcript and the certifications required by 23 U.S.C. 128. The Project Management Branch will be responsible for making this submission to FHWA
- 2. Right of Way Authorization (Separate Location and Design Hearings Held)
 - A. Planning Board approval of design hearing report
 - B. Compliance with requirements of FHWA noise standards and procedures including all necessary FHWA approvals
 - C. FHWA acceptance of design public hearing transcript
 - D. Completion of right of way plans

Right of Way Authorization (Combined Location and Design Hearing Held)

- A. FHWA acceptance of General Location as described in (1) above
- B. Compliance with requirements of FHWA noise standards and procedures including all necessary FHWA approvals
- C. Completion of right of way plans

Major Action Having No Significant Effect on the Quality of the Human Environment

1. Acceptance of General Location by FHWA (FHPM 7-7-2, par. 6)
 - A. Adoption of final negative declaration by FHWA Division Administrator
 - B. FHWA acceptance of the corridor public hearing transcript and the certifications required by 23 U.S.C. 128. The Project Management Branch will be responsible for making this submission to FHWA
2. Right of Way Authorization (Separate Location and Design Hearings Held)
 - A. Planning Board approval of design hearing report
 - B. Compliance with requirements of FHWA noise standards and procedures including all necessary FHWA approvals
 - C. FHWA acceptance of design public hearing transcript
 - D. Completion of right of way plans

Right of Way Authorization (Combined Location and Design Hearing Held)

- A. FHWA acceptance of general location as described in (1) above
- B. Compliance with requirements of FHWA noise standards and procedures including all necessary FHWA approvals
- C. Completion of right of way plans

Nonmajor Action (Public Hearing Held)

1. Acceptance of General Location by FHWA (FHPM 7-7-2, par 6)
 - A. FHWA acceptance of the public hearing transcript and the certifications required by 23 U.S.C. 128. The Project Management Branch will be responsible for making that submission to FHWA.

Right of Way Authorization

- A. Planning Board approval of design hearing report
- B. Compliance with requirements of FHWA noise standards and procedures including all necessary FHWA approvals
- C. Completion of right of way plans

Nonmajor Action (No Public Hearing Held)

1. Acceptance of General Location by FHWA
 - A. Not required

2. Right of Way Authorization

- A. Planning Board approval of the design is not required. The Branch Manager responsible for the preparation of the plans for the project is also responsible for the design
- B. Compliance with requirements of FHPM noise standards and procedures including all necessary FHWA approvals
- C. Completion of right of way plans

In addition, for major projects that are FHWA actions the following criteria must be addressed concerning impacts:

- 1. Secondary impacts - effects on existing facilities, need for new facilities, etc.
- 2. Primary impacts -
 - a. Natural, ecological or scenic resources impacts
 - b. Relocation of individuals
 - c. Social impacts
 - d. Air quality
 - e. Noise impacts
 - f. Water quality impacts
 - g. Wetland and coastal zone impacts
 - h. Stream modification or impoundment impacts
 - i. Flood hazard evaluation
 - j. Construction impacts

Also, the relationship between the proposed action and land use and public facility plans, policies, and controls of the affected community must be considered. (includes local CAMA land use plans.)

Preservation of Scenic Beauty and Management of Advertising and
Junkyards Along Highways (G.S. 136, Article 11 and Article 12)

The North Carolina Board of Transportation is authorized to regulate outdoor advertising and junkyards in the vicinity of interstate or primary highways in the State of North Carolina. It is also authorized to purchase certain areas for the promotion of scenic quality along highways. The administration of these programs and the standards are criteria associated with them are as follows:

Outdoor advertising devices - No outdoor advertising shall be erected or maintained within 600 feet of the nearest edge of the right-of-way of the interstate or primary highways in this State so as to be visible from the main-traveled way thereof after July 6, 1967, except the following:

- (1) Directional and other official signs and notices, which signs and notices shall include those authorized and permitted by Chapter 136 of the General Statutes which include but are not limited to official signs and notices pertaining to natural wonders, scenic and historic attractions and signs erected and maintained by a public utility, electric or telephone membership corporation, or municipality for the purpose of giving warning of or information as to the location of an underground cable, pipeline or other installation.
- (2) Outdoor advertising which advertises the sale or lease of property upon which it is located.
- (3) Outdoor advertising which advertises activities conducted on the property upon which it is located.
- (4) Outdoor advertising, in conformity with the rules and regulations promulgated by the Board of Transportation, located in areas which are zoned industrial or commercial under authority of State law.
- (5) Outdoor advertising, in conformity with the rules and regulations promulgated by the Board of Transportation, located in unzoned commercial or industrial areas. (1967, c. 1248, s.4; 1973, c. 507, s.5.)

Any person wishing to construct a sign subject to regulation under this statute must obtain a permit from the District Engineer of the Division of Highways for the county in which the sign is to be located.

Standards for approval of advertising devices may be found in 19NCAC 2H, Section .0200. These regulations deal with the size, spacing and lighting of signs.

The Board of Transportation may acquire by purchase, gift or condemnation, all outdoor advertising and associated property rights prohibited under these regulations that were in lawful existence July 6, 1967 or lawfully erected after that date.

Junkyards - No junkyard shall be established, operated or maintained, any portion of which is within 1,000 feet of the nearest edge of the right-of-way of any interstate or primary highway, except the following:

- (1) Those which are screened by natural objects, plantings, fences or other appropriate means so as not to be visible from the main-traveled way of the highway at any season of the year or otherwise removed from sight or screened in accordance with the rules and regulations promulgated by the Board of Transportation.
- (2) Those located within areas which are zoned for industrial use under authority of law.
- (3) Those located within unzoned industrial areas, which areas shall be determined from actual land uses and defined by regulations to be promulgated by the Board of Transportation.
- (4) Those which are not visible from the main-traveled way of an interstate or primary highway at any season of the year.

Any person wishing to establish a junkyard subject to regulation under this statute must obtain a permit from the District Engineer in the County in which the junkyard is to be located. The Board is authorized to make rules and regulations concerning location, planting, construction and maintenance of and materials used in screening or fencing, and to promulgate regulations for determining unzoned industrial areas in which junkyards may be located. The Board of Transportation may also acquire junkyards by gift, condemnation, purchase or exchange.

APPENDIX D

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APPENDIX D

- (1) PUBLIC PARTICIPATION/
INTERGOVERNMENTAL INVOLVEMENT/
FEDERAL CONSULTATION
- (2) COMMENTS RECEIVED ON THE
FINAL DRAFT OF THE NORTH
CAROLINA COASTAL PLAN
- (3) LOCAL PERMIT OFFICER'S TRAINING
COURSE AGENDA

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FEDERAL CONSULTATION

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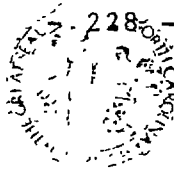
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Subsection 303 (d) of the Federal Coastal Zone Management Act requires that Federal agencies affected by the development and implementation of a state's coastal management program be afforded an opportunity for full participation in the development process. Measures for insuring proper and timely participation are left to the discretion of each state; however, it is required that, whatever measures are chosen, full documentation must be made.

Chapter Two addresses in considerable detail North Carolina's approach for involving federal agencies in the program development process. This appendix outlines this approach by setting forth the relevant communication through documents, correspondence, comments, etc. of those agencies interacting with North Carolina. Included are correspondence and summaries from Federal agencies on critical aspects of program development such as: local land use plan participation and review, interim Areas of Environmental Concern Designation, final Areas of Environmental Concern Designation, and state draft management plan review. Other relevant information is documented as well.

The references contained in this appendix have been arranged in an order such that the reader can logically follow the flow of participation efforts made by North Carolina. Every effort has been made to afford full participation to agencies involved, and all relevant comments have been included as a part of North Carolina's Coastal Plan.

I. EARLY FEDERAL CONSULTATION



State of North Carolina
Department of
Natural and Economic Resources
Raleigh 27611

JAMES E. HOLSHOUSE, JR.
GOVERNOR

November 7, 1975

JAMES C. HARRINGTON
SECRETARY
TELEPHONE
AREA CODE 919-529-4934

Dear

On Friday, November 21, North Carolina will hold a meeting formally introducing the State's Coastal Area Management Program to designated Federal agency representatives who will be participating in the Federal consultation process outlined by Section 307 of the Coastal Zone Management Act of 1972. As a designated contact from your agency, you are cordially invited to attend.

The State of North Carolina is most anxious that Federal consultation be a meaningful experience, one from which all parties will benefit, and not a meaningless exercise in fulfillment of a legal requirement. We feel it should encompass a process that becomes increasingly more specific, and thus hopefully more relevant.

It is our hope that this meeting will orient you to North Carolina's Coastal Area Management Act (CAMA) and to its governmental structure, outline the State's implementation activities under CAMA, and start discussion of mutual State-Federal consistency problems and interests. As the next step in the process, we will be offering you the opportunity to participate in the review of Draft Local Land Use Plans in Raleigh on December 3 and 4, while they are being evaluated by a staff team prior to submission for review by the North Carolina Coastal Resources Commission. If your agency chooses to become involved in this evaluation, you will be involved in the first stage of North Carolina's Coastal Management Program to reach a point on paper where it can be considered and discussed.

Page 2

November 7, 1975

The meeting will be held in Raleigh at the North Carolina State University Club, 4200 Hillsborough Street (just west of the Raleigh Beltline between Meredith College and the State Fair Grounds), beginning with registration at 9:00 a.m. and ending around 4:00 p.m. A registration fee of \$3.50 will include lunch. In addition to all designated Federal agency representatives, key State staff and members of the North Carolina Coastal Resources Commission are also being invited. If you need any further information, please contact Mark Sullivan, Chief of the Land Use Planning Section, at 919-829-2914.

It is our hope that you will be able to attend and work closely with us to assure the optimum attainment of both the State and the National interest in North Carolina's Coastal Area.

Sincerely,

James E. Harrington

AGENDA

INTRODUCTORY FEDERAL CONSULTATION MEETING
Sponsored by the North Carolina Department of Natural & Economic
Resources

November 21, 1975

- 9:00 Registration
- 9:30 Welcome, Introduction, and Overview
Secretary James E. Harrington, N.C. Department of Natural
and Economic Resources (DNER)
- 9:50 THE N.C. COASTAL AREA MANAGEMENT ACT OF 1974 (CAMA)
Mark Fogel, Special Assistant to the Secretary DNER
- 10:05 ORGANIZATION OF N.C. STATE GOVERNMENT AND ADMINISTRATION
OF CAMA - Dr. Arthur W. Cooper, Assistant Secretary for
Resource Management, DNER
- 10:25 BREAK

IMPLEMENTATION OF CAMA

- 10:45 The Coastal Resources Commission
Chairman Thomas D. Eare
- 11:00 The Coastal Resources Advisory Council
Chairman Jerry Hardesty
- 11:15 The Local Planning Emphasis
- 11:30 Areas of Environmental Concern as a Framework for Regulation,
William A. Ramey, Assistant Attorney General, Environmental
Protection Section
- 11:45 The Unified Permitting Emphasis
Amos Dawson, DNER
- 12:15 LUNCH

FEDERAL CONSULTATION AND CONSISTENCY

1:30 Requirements of the Coastal Zone Management Act of 1972
Mike Payne, Office of Coastal Zone Management, NOAA

2:00 Discussion Led by Dr. Cooper

- Offer of the opportunity to participate in draft plan review December 3 & 4.
- What sort of joint meeting, review procedures, and exchanges of planning information would be useful? Other consultation suggestions?
- What changes do you want in how we do business with you?
- How much of the State and Federal permitting machinery can be meshed?
- What problems or potential difficulties should be "red-flagged" for intensive discussion?
- Discussion of the excluded Federal lands question.

November 21, 1975

Raleigh, N.C.

<u>Given Contact</u>	<u>Attendee</u>	<u>Affiliation</u>
	Joe Brown	National Park Service Asheville, NC
John Dunning, Superin- tendent, Cape Hatteras National Seashore	Wm. A. Harris	National Park Service P. O. Box 457 Manteo, NC 27954
Col. Homer Johnstone District Engineer	Edwin G. Long, Jr.	Wilmington District U.S. Army Corps of Engineers P. O. Box 1890 Wilmington, NC 28401
Louis D. Strom Regional Director	V. M. Lutrick (Raleigh) <i>Gen. Sup.</i> <i>EC-101</i> <i>2000 N. Main Ave</i>	General Services Administration 1775 Peachtree Street, NW Atlanta, GA 30309
Lawrence E. Shirley	Same <i>Mr. 2700</i>	Bureau of Mines U.S. Dept. of Interior P. O. Box 2828 Raleigh, NC 27602
	Charles C. Carrington	Naval Facilities Engineering Command Atlantic Division Fifth Naval District Norfolk, Virginia 23511
Commandant	Tony D. Hinson	Naval Facilities Engineering Command Sixth Naval District Charleston, SC 29408
Ralph C. Heath District Chief	Same	Water Resources Division U.S. Geological Survey P. O. Box 2857 Raleigh, NC 27602
Walter Belter	Jeff Swinebroad	Energy Research and Development Administration 20 Massachusetts Avenue NW Washington, DC 20545
Todd Reese State Director	Bruno Mangum	State ASCS Office U.S. Dept. of Agriculture P. O. Box 27327 Raleigh, NC 27611
Regional Engineer	Kenith H. Miller	Federal Power Commission 730 Peachtree Street Atlanta, GA 30308

<u>Given Contact</u>	<u>Attendee - 233 -</u>	<u>Affiliation</u>
Regional Administrator	Larry Zimmerman	Federal Energy Administration 1655 Peachtree Street NE Atlanta, GA 30309
Robert W. Cormak Forest Supervisor	E. T. Grushinski	U. S. Forest Service P. O. Box 2750 Asheville, NC 28802
Robert Fiore	Kim M. Fene	National Park Service Bureau of Outdoor Recreation U.S. Dept. of Interior Atlanta, GA 30303
Dr. Charles Nelson	Same	Bureau of Land Management U.S. Dept. of Interior Suite 3200, The Plaza Tower 1001 Howard Avenue New Orleans, Louisiana 70113
Jesse L. Hicks State Director	Mitchell E. Clary Assistant State Conservationist	Soil Conservation Service U.S. Dept. of Agriculture P. O. Box 27307 Raleigh, NC 27611
Commander	William J. Burns	U.S. Air Force
	Harry E. Morgan	U.S. Air Force
Otto Florschutz	Same	U.S. Fish and Wildlife Service P. O. Box 581 Washington, NC 27889
Lee Brand	Same	Economic Development Administration U.S. Dept. of Commerce 1401 Peachtree Street NE Atlanta, GA 30303
James Bitting	Same	Dept. of Housing and Urban Development 1375 Peachtree Street NE Atlanta, GA 30309
Thomas Ramsey	Same	U.S. Dept. of Housing and Urban Development Greensboro Area Office 2309 W. Cone Blvd. NW Plaza Greensboro, NC 27408
	Ed Harrington	"
	Wayne R. Workman	"
	Rawland Eno	"

<u>Contact</u>	<u>Attendee</u>	<u>Affiliation</u>
	Dale L. Jones	Economic Development Administration U.S. Dept. of Commerce 1401 Peachtree Street NE Atlanta, Georgia 30303
	Michael Payne	Office of Coastal Zone Management National Oceanic and Atmospheric Administration U.S. Dept. of Commerce 300 White Haven Street, NW Washington, DC 20235
Truxton Moebs EPA Regional Council Coordinator Southeastern Federal Regional Council 1371 Peachtree St. NE Suite 515 Atlanta, GA 30309	Howard L. Marshall Enforcement Division	Environmental Protection Agency 1421 Peachtree Street, NE Atlanta, GA 30309
Charles F. McMillan Regional Director	Eleanor M. Green	Office of Minority Business Enterprise U.S. Department of Commerce 1371 Peachtree St. NE Suite 505 Atlanta, GA 30309
"	Richard Williams	"
Glen L. Jermstad Secretarial Represen- tative	Don Geoffrion	U.S. Dept. of Transportation 1720 Peachtree Road NW Suite 515 Atlanta, Georgia 30309



North Carolina Department of
Natural & Economic Resources

JAMES E. HOLSHOUSE, JR. GOVERNOR • JAMES E. HARRINGTON SECRETARY

December 12, 1975

Dear

Mr. Harrington and I wish to thank you for the time you took to attend our initial Federal consultation meeting in conjunction with development of North Carolina's Coastal Zone Management Program under the requirements of Sections 305 and 306 of the Federal Coastal Zone Management Act of 1972. The meeting was most productive and we feel that we are off to a good start in our efforts to develop sound coordination of the development of our management program.

As indicated at the meeting on November 21, I am writing to ask that you and your agency provide certain specific information that we will need in the process of developing our management plan. Specific answers to the following matters are vital to our effort.

Section 304(a) of the Federal Coastal Zone Management Act of 1972 contains the following provision:

"Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents."

Regulations issued under Section 306 of the Act require each State as part of its management program to identify "all Federally owned lands, or lands which are held in trust by the Federal Government, its officers or agents in the coastal zone and over which the State does not exercise any control as to use." (15 CFR, Sec. 923.11(a)(4)).

① In order to meet the above requirements for approval of its management program under Section 306, North Carolina asks that each Federal agency which exercises jurisdiction over any Federal lands located within the boundaries of the twenty counties comprising North Carolina's coastal area (see attached map), including State waters in these counties and those waters within the State's territorial jurisdiction, identify these lands, the use to which they are put by the Federal Government, and the type of jurisdiction which the agency exercises over them (exclusive, concurrent, proprietary, or partial, as described in "1962 Inventory and Jurisdictional Status of Federal Areas in States" by the Government Services Administration). Maps showing the exact location of these lands should be provided. However, if maps are presently unavailable, an identification by work description giving the location and number of acres included will suffice for initial purposes. Also, please include copies of any administrative regulations relating to management of the lands identified.

Furthermore, Section 307 (c) (3) of the Federal Coastal Zone Management Act of 1972 provides that:

② After final approval by the Secretary of a State's management program, any applicant for a required Federal license or permit to conduct an activity affecting land or water uses in the coastal zone of that State shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the State's approved program. . . . No license or permit shall be granted by the Federal agency until the State or its designated agency has concurred with the applicants certification

In order to prepare for the coordination with Federal regulatory agencies called for under Section 307, North Carolina asks that each Federal Agency inform it of all regulatory activities which the Agency conducts affecting land or water uses in North Carolina's coastal area. Citations to legislative authorities and applicable Federal regulations should be included. Those agencies which perform review functions which are an integral part of the regulatory activities of other agencies are requested to list these review functions and to indicate whether the scope of their review includes the authority to preclude the issuance of the permit or license being reviewed, upon the making of negative comments by the agency.

③ In addition to planning for coordination under Section 307 of the Act, North Carolina needs this information concerning Federal regulatory activities affecting the coastal area in order to effect a program of permit coordination under its own Coastal Area Management Act of 1974. A study is currently being conducted of all State and Federal permitting activities in North Carolina's coastal area and a plan is being formulated to coordinate the issuance of these permits to the applicant. Hence, it would be most helpful if each Federal agency would not only list and describe the regulatory functions which it exercises in the coastal area of North Carolina, but also indicate how these functions can best be coordinated with the State. Individuals within the Federal agency who can act as contacts to initiate coordination discussions should be identified.

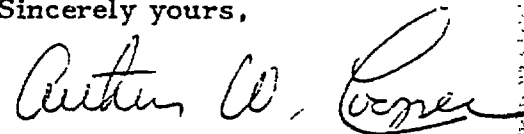
Finally, we would appreciate some comment from you as to the type of future interaction between your agency and us as we move ahead with development of our management plan. We see three basic patterns of further interaction:

1. Interaction limited to Federal agency attendance at future meetings designed to up-date our progress with plan development, to highlight the general form of our management plan, and to provide specific written materials for Federal agency review.
2. More substantive interaction, consisting of one or several meetings between State personnel and those of a specific Federal agency where the agenda would be related to details of plan development as they might relate to specific areas of Federal agency interest.
3. Detailed interaction, consisting of a number of meetings involving State personnel, Federal agency representatives and, very likely, representatives of the Office of Coastal Zone Management. This format will undoubtedly be necessary for agencies with planning and public works programs in our coastal area and for agencies administering regulatory programs for which the Federal Coastal Zone Management Act requires closer coordination with State interests.

We would appreciate your comments as to which of these patterns you see your agency's involvement with us fitting. Obviously, you may see some other pattern as being more appropriate. We need this information in order for us to lay out a detailed work plan for the coming months and to budget our staff time properly.

We appreciate your assistance with these requests. Because of the rather tight time schedule on which we are working, we would appreciate your responses by the end of January, 1976. If you have questions concerning the information requested, please contact Mr. Mark Sullivan (919-829-2914) or Mr. Amos Dawson (919-829-2290).

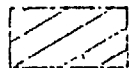
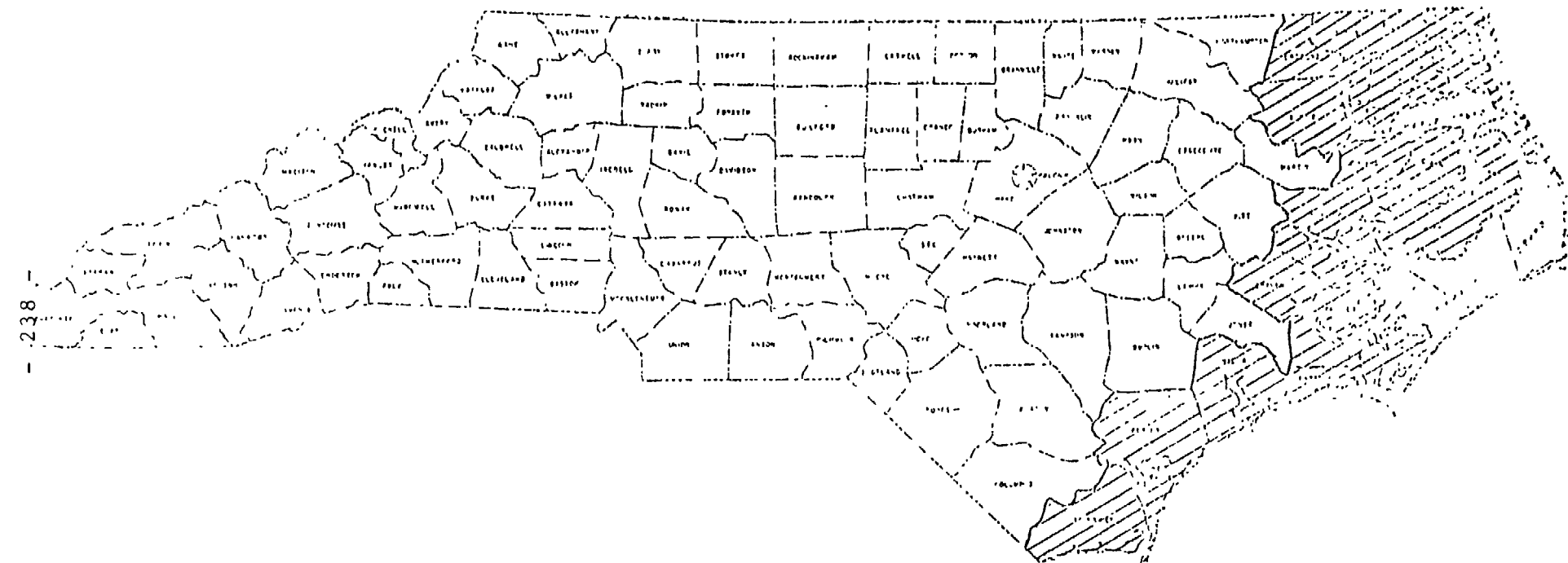
Sincerely yours,



Arthur W. Cooper

AWC:eh

Attachment



THE TWENTY COASTAL AREA MANAGEMENT ACT COUNTIES

Analysis of 12 December 75 Federal Consultation Letter - March 1, :

The following is a brief summary of Federal responses to the December 12, 1975 letter.

A. NO RESPONSE TO 12 DECEMBER LETTER:

- DOC - Office of Minority Business
- Department of Justice
- Council on Environmental Quality

B. LEVELS OF INTERACTION DESIRED

1. GENERAL

- USDI - Bureau of Land Management, New Orleans OCS
- General Services Administration
- USDI - Bureau of Mines
- USDA - Forest Service
- US - Health, Education, and Welfare
- USDA - Bureau of Land Management, Silver Spring, Md.,
Eastern States Office
- US - Nuclear Regulatory Commission

2. SPECIFIC (plan/problem related)

- US - Department of Commerce NOAA
- USDI - Bureau of Land Management, New Orleans OCS
- USDI - Bureau of Mines
- USDA - Forest Service
- USDI - Geological Survey Raleigh
- Federal Power Commission

3. INTENSIVE (issue/problem related)

Federal Energy, Administration

USDA - Forest Service

Department of Defence - Department of Army - Corps of Engineers

4. OTHER (unspecified, but generally between levels 1 and 2)

USDI - National Parks Service

USDA - Soil Conservation Service

Department of Defense - Department of Air Force

Department of Transportation - Atlanta - Regional Representative

Department of Commerce NOAA

US Energy Research and Development Administration

Council on Environmental Quality (CMP review)

Environmental Protection Agency

5. NO COMMENT

USDI - Bureau of Indian Affairs

USDI - Bureau of Outdoor Recreation

USDI - Fish and Wildlife Service

C. REGULATORY RESPONSIBILITIES

1. Major

U.S. Corps of Engineers

U.S. Fish and Wildlife Service

Environmental Protection Agency

2. Minor

Nuclear Regulatory Commission

DOT (pipeline safety)

Coastal Guard (DOT) (Deep water ports, bridge permits)

Bureau of Land Management (Fed mineral leasing; effects of the leases)

U.S. Geological Survey (mineral permits on Fed lands)

National Forest Service (on their own lands)

National Park Service (Historic Preservation Act of 1966)

Bureau of Land Management (OCS)

D. STATE AND NATIONAL INTEREST ISSUES

1. Exclusion of Federal Lands requested by Navy, Air Force, U.S. Forest Service
2. Airport Approaches Over Coastal Area (U.S. Navy, Coast Guard, FAA)
3. Siting of Energy Generation and Transmission Facilities (Federal Energy, Administration, Nuclear Regulatory Agency, Federal Power Commission, U.S. Corps of Engineers)
4. Development of Port Facilities (U.S. Department of Commerce - Maritime Administration, Maritime Commission?)
5. Outer Continental Shelf Usage (Bureau of Land Management, NOAA, Coastal Guard, USGS)
6. Planning of Mineral Resources in Coastal Area (Bureau of Mines, USGS)
7. Sports and Commercial Fisheries Planning (Fish and Wildlife Service)
8. Endangered Species Protection (Fish and Wildlife Service)
9. Coordination of 201 and 208 Planning in the Local Plans and with the Coastal Resources Commission. (EPA, State of Virginia?)
10. Cumulative Effect of North Carolina Dredge and Fill Act on Estuarine Resources (EPA)
11. Northern Access to Currituck Banks through Wildlife Refuge from State of Virginia
12. Deep Water Ports, Related Facilities and Coordination Procedures (Coast Guard)

POSSIBLE STATE AND NATIONAL INTEREST ISSUES

1. Flood Plain Management (HUD, USGS)
2. Recreation in the Coastal Area (BOR)
3. BLM/DOT Statement of National Interest no yet published
4. State involvement in enforcement and administration of 200 mile fishing limit
5. Control of Electromagnetic Radiation from Defense Communications Site (US Air Force)
6. Future of Rail and Barge Transportation in the Coastal Area (DOT, ICC)

E. PROCEDURAL ISSUES

1. Research Related to the Coastal Area (Sea Grant, OCZM)
2. Inclusion of Water Quality Standards and Effluent Limitations in the Coastal Management Plan (EPA)
3. Compatibility of Local Plans under CAMA with HUD minimum requirements due to take effect August 1977
4. Planning Assistance Available to State/CAMA Activities Under the Water Resources Development Act of 1974, from U.S. Corps of Engineers
5. Review of Local Plans Prior to Submission of Coastal Management Plan (SCS)
6. Scheduling of Coastal Management Plan Submission, 305/306 Applications (OCZM)
7. Coordination with Virginia and South Carolina (GOA Team)
8. Coordination with Southeastern Federal Regional Council

F. REGULATORY ISSUES

1. EPA veto power over other permitting agencies

II. LOCAL, AREAWIDE AND INTERSTATE PLAN COORDINATION

PLAN COORDINATION

I. Local Plan Coordination

This section of the appendix identifies all those local government units which have developed CAMA land use plans (LUPs) or have prepared other local plans pursuant to Section 701 of the Housing and Urban Development Act of 1968. The majority of other land use plans or community development plans which existed prior to CAMA were updated and incorporated within the CAMA LUPs. In some instances individual towns did not develop their own LUPs, but were integral parts of the larger scale county-wide plans. However, for purposes of general identification, the following table contains a list of towns and counties that have submitted and adopted their own CAMA LUPs and have also submitted an "Implementation and Enforcement Plan" to become their own minor development permit agency.

Towns and Counties With CAMA LUPs

<u>Local Jurisdiction with Planning Authority</u>	<u>Approved CAMA LUPs According to State Guidelines</u>	<u>* Submission of Local I & E Plan as of 11/1/77</u>
Beaufort County	Yes	Yes
Aurora	Yes	No
Belhaven	Yes	Yes
Washington	Yes	Yes
Washington Park	W/Co.	Yes
Bertie County	Yes	Yes
Windsor	W/Co.	No
Brunswick County	Yes	Pending
Boiling Spring Lakes	W/Co.	No
Caswell Beach	W/Co.	No
Holden Beach	Yes	Yes
Long Beach	Yes	Yes
Ocean Isle Beach	W/Co.	Yes
Southport	Yes	Yes
Sunset Beach	Yes	Yes
Yaupon Beach	W/Co.	Yes

Towns and Counties With CAMA LUPs

<u>Local Jurisdiction with Planning Authority</u>	<u>Approved CAMA LUPs According to State Guidelines</u>	<u>* Submission of Local I & E Plan as of 11/1/77</u>
Camden County	Yes	Yes
Carteret County	No**	No
Atlantic Beach	Yes	No
Beaufort	Yes	Yes
Cape Carteret	Yes	Yes
Emerald Isle	Yes	Yes
Indian Beach	W/Co.	No
Morehead City	Yes	Yes
Newport	Yes	No
Pine Knoll Shores	Yes	Yes
Chowan County	Yes	Yes
Edenton	W/Co.	Yes
Craven County	Yes	Yes
Havelock	Yes	***
New Bern	Yes	Yes
Trent Woods	Yes	Yes
Vanceboro	W/Co.	***
Currituck County	Yes	Yes
Dare County	Yes	Yes
Kill Devil Hills	W/Co.	Yes
Manteo	W/Co.	Yes
Nags Head	Yes	Yes
Gates County	Yes	No****
Hyde County	Yes	Yes
Hertford County	Yes	Yes
Ahoskie	W/Co.	No
Harrelsville	W/Co.	No
Murfreesboro	W/Co.	No
New Hanover County	Yes	Yes
Carolina Beach	Yes	Yes
Kure Beach	Yes	Yes
Wilmington	W/Co.	No
Wrightsville Beach	Yes	Yes
Onslow County	Yes	Yes
Holly Ridge	Yes	Yes
Jacksonville	Yes	Yes
Richlands	Yes	No
Swansboro	Yes	Yes

Towns and Counties With CAMA LUPs

<u>Local Jurisdiction with Planning Authority</u>	<u>Approved CAMA LUPs According to State Guidelines</u>	<u>* Submission of Local I & E Plan as of 11/1/77</u>
Pamlico County	Yes	Yes
Pasquotank County	Yes	Yes
Elizabeth City	Yes	Yes
Pender County	Yes	Yes
Atkinson	Yes	No
Burgaw	Yes	No
Surf City	Yes	Yes
Topsail Beach	Yes	Yes
Perquimans County	Yes	Yes
Hertford	Yes	No
Tyrrell County	Yes	Yes
Washington County	Yes	Yes
Plymouth	Yes	No

* A "No" means going with the county's I & E program.

** Carteret County submitted a LUP; however, it was not approved by the Commission. Presently the State (DNRCD) is preparing a plan for them and will enter into the draft review stage within the near future.

*** Reserve the right to adopt a plan if required by future AEC Designation.

**** Since Gates County chose not to become their own permit-letting agency, the Secretary of DNRCD must prepare an I & E plan covering their jurisdiction and the State shall issue minor development permits there.

As indicated by this table, there are numerous political jurisdictions which have submitted individual "Implementation and Enforcement" plans. All local ordinances of a regulatory nature within these jurisdictions must be submitted to the Commission for consistency review in order to determine possible conflicts with AEC policies and standards. Some of the local ordinances which shall be reviewed by the Commission include zoning ordinances, subdivision regulations, flood hazard regulations, sand dune and shoreline protection ordinances, and 201 waste water facility plans as they become developed.

In order to avoid conflicts with these other local programs, the Commission requires that within each implementation and enforcement plan a section must be included that addresses local permit coordination.

II. Areawide Agency Plan Coordination

There exists four multi-county planning organizations (LROs or COGs) throughout North Carolina's coastal area which have developed various plans and programs affecting land use. Those areawide planning elements which directly affect coastal area land use and its management can be listed as follows under seven major headings:

1. Regional development guides
2. HUD 701 regional land use plans
3. Regional water supply plans
4. 201 wastewater facility plans (usually assisting an engineering firm)
5. Regional locational guides for solid waste systems
6. Recreational planning with SCORP classifications
7. Housing, historic district, and downtown revitalization plans

As stated within the text, all of these programs were coordinated with early review of CAMA LUPs, reviewed by the Commission during the OMB circular A-95 comment periods and coordinated throughout our local implementation and enforcement process. It should be noted that each lead regional planning organization has appointed one individual to represent their interests on the Commission's Advisory Council and that these areawide agencies have participated regularly at the CRC meetings.

The following is a list of each areawide planning agency and the extent of its planning jurisdiction within the coastal area:

<u>Multi-County Planning Region</u>	<u>Areawide Planning Agency</u>	<u>Jurisdiction (Counties)</u>
O	Cape Fear Council of Governments	Brunswick New Hanover Pender
P	Neuse River Council of Governments	Carteret Craven Onslow Pamlico

<u>Multi-County Planning Region</u>	<u>Areawide Planning Agency</u>	<u>Jurisdiction (Counties)</u>
Q	Mid-East Commission	Beaufort Bertie Hertford
R	Albemarle Regional Planning and Development Commission	Camden Chowan Currituck Dare Gates Hyde Pasquotank Perquimans Tyrrell Washington

III. 208 Planning

As noted in the text, all CAMA planning activities must be coordinated with ongoing 208 studies conducted by the State in relation to non-point source pollution control. This ongoing planning process as performed pursuant to section 208 of the Federal Water Pollution Control Act is being advised directly by the Commission through a shared staff arrangement. This cooperative effort has increased the efficiency of their young program by avoiding duplication and by identifying problem areas. Our program will benefit from their monitoring studies which will enable us to better address non-point source pollution issues.

The entire State of North Carolina will be considered in the scope of planning and implementation of 208 planning activities. North Carolina's coastal area, however, has a jump on the identification of problem areas through the CAMA process. The following major categories of planning will be coordinated with the 208 research group:

- (1) Water Quality Standards and Antidegradation Policy
- (2) Stream Monitoring Program
- (3) Point Source Abatement Program
- (4) Agriculture Non-Point Source Abatement Program
- (5) Silviculture Non-Point Source Abatement Program
- (6) Mining Non-Point Source Abatement Program
- (7) Construction Non-Point Source Abatement Program
- (8) Sources Affecting Groundwater

- (9) Urban and Industrial Storm Water Runoff Non-Point Source Abatement Program
- (10) Residuals Non-Point Source Abatement Program
- (11) Hydrologic Modifications
- (12) Selected Sediment Sources Study

IV. Interstate Plan Coordination

Since North Carolina's Coastal Management Plan affects the management and use of natural resources that do not adhere exact to political boundaries, the Coastal Resources Commission found it necessary to coordinate this program with interstate planning programs. There are several interstate bodies which have been established to manage these shared coastal resources in order to formulate and implement sound management policies. The various cooperative programs are described in Appendix C and are listed as follows:

- (1) The North Carolina-Virginia Water Resources Management Committee;
- (2) The Coastal Plains Regional Commission (CPRC);
- (3) The Atlantic States Marine Fisheries Commission;
- (4) The North Carolina-South Carolina Water Resources Management Committee.

III. DRAFT LOCAL LAND USE PLAN REVIEW

Federal People attending N.C. Draft Land Use Plan Review session
in Raleigh on December 3, 1975

Preston Riddel, Superintendent
Cape Lookout National Seashore
National Park Service

Jack Williams
U.S. Air Force
Atlanta, GA

Wm. D. Mason
Seymour Johnson AFB

Harry E. Morgan
U.S. Air Force
Fort Fisher AFS, NC

Kim M. Fene
National Park Service
Atlanta

Lawrence E. Shirley
Bureau of Mines
Dept. of Interior
Raleigh, NC

Charles Carrington
U.S. Navy
Norfolk, VA

Wm. Davenport
HUD
Greensboro

Charles W. Hollis
Corps of Engineers
Wilmington

Others who have notified Mark Sullivan they plan to be here this
week:

Wm. A. Harris
Cape Hatteras National Seashore
National Park Service
Manteo, NC

Ted Mew
National Park Service

Tom Ramsey
HUD
Greensboro

Bob Cermak
U.S. Forest Service
Asheville, NC

Larry Zimmerman
Federal Energy Administration
Atlanta

Mitchell E. Clary
Soil Conservation Service
USDA
Raleigh

Otto Florschutz
U.S. Fish and Wildlife Service
Washington, NC

Phil Murphy
EPA
Atlanta

The following have made a commitment to review plans after staff review:

Charles Nelson
Bureau of Land Management
U.S. Dept. of Interior
New Orleans

Ralph Heath
Soil Conservation Service
Raleigh

Jin Bitting
HUD
Atlanta

13 February 76

MEMO TO : Tom Richter
John Hooton
Lee Downie
Bob Chandler
Howard Capps

THRU : Billy Hall

FROM : Mark Sullivan

SUBJECT : Federal Comments on Draft Local Land Use Plans

Enclosed are copies of Federal agency comments on specific draft local land use plans reviewed during December. I felt it was important to bring these comments to your attention, but at the same time advise you to exercise some degree of caution in passing the information along to respective planners-in-charge.

The major problem with interpreting these comments comes from the fact that many of them are written with the major concern of the Federal agency in mind: the issue of exclusion of federal lands from State regulation under CAMA. This is particularly true of the Department of Defense Agencies.

A typical comment may deal with the omission of a practice bombing range from consideration in the local plan, for example, and be framed to emphasize the question of whether or not such lands are to be included or excluded from local and state permitting authority if they fall into one of the AEC categories eventually designated.

On one hand, there is no way a local planner can cope with the exclusion implications of such a comment. This is an issue that can only be decided by the State and the Coastal Resources Commission. Although it is a high priority issue, I doubt it can be resolved any earlier than two to three months from now.

On the other hand, many of the specifics listed in the comments are important planning considerations, even if the exclusion of Federal lands issue is ignored. (The bombing range used as an example above should be taken into consideration in the plan just as a matter of good planning practice.)

Some general plan comments are also included for your information. I felt that if the agency representatives were interested enough to come all the way to Raleigh to review these plans, you would want to have the benefit of their opinions, even though the comments were received too late for the CRC review in most cases.

cc: Mr. T. D. Eure
Mr. David Stick
Mr. Parker Chessom
Mr. Doug Powell
Mr. Ken Stewart



COMMANDANT FIFTH NAVAL DISTRICT
COMMANDER, NAVAL BASE
NORFOLK, VIRGINIA 23511



Code A002
11410

28 SEP 75

Mr. Ken Stewart
Executive Secretary
North Carolina Department of
Natural and Economic Resources
Box 27687
Raleigh, North Carolina 27611

Re: North Carolina Coastal Zone Management Program

Dear Mr. Stewart:

Thank you for the opportunity to review the draft local land use plans prepared by the cities and counties located within the North Carolina Coastal Zone. Navy and Marine Corps properties are located in seven of the twenty coastal counties, and our review has been limited to these counties.

It is our understanding that the following plan elements are to be performed in the plan development stage which is to be conducted during the first six months of 1976:

- (1) Exclusion of Federal property
- (2) Identification of permissible uses
- (3) Designation of preservation or restoration areas

For this reason, and because of time constraints placed on Federal agencies reviewing the draft land use plans, we have limited our involvement to a brief review of the plans and accompanying maps. If a detailed review of each draft plan is expected, it will be necessary to provide this Command with complete copies of each draft plan and the accompanying maps.

Thank you again for the opportunity to participate. The inventory of Navy and Marine Corps property located within the North Carolina Coastal Zone is currently being prepared and will be transmitted to you upon request. I am hopeful that you will find the attached review comments helpful, and I encourage you to notify me should additional information be necessary.

Sincerely,

P. E. RUDDE

Commandant, U.S. Navy

Naval Base Norfolk, Virginia 23511

Navy and Marine Corps Review Comments
Draft Local Land Use Plans
North Carolina Coastal Zone Management Program

I. Craven County

1. Does the general program statement on problems, issues, objectives and policies conflict with Navy interests?

Goals and objectives stated are general and do not address national interests concerns. Six areas are identified: recreation, education, roads, environment, wildlife management, and sound development.

2. Has all Navy land been identified for exclusion from the coastal zone?

The Marine Corps Air Station, Cherry Point, North Carolina, has been identified on the county future land use map. The boundaries shown do not agree with official boundaries. Two areas on the station have been identified as conservation zones. One conservation area is located on Tucker Creek. The other is located on Anderson Creek. Seven transition areas are identified near the Marine Base. The Composite Noise Rating (CNR) and the Air Installation Compatible Use Zones (AICUZ) are not recognized on county plans. Most transition zones are located within the CNR 2 or CNR 3 Zone. The City of Havelock is located in the CNR 3 Zone. Because of the map scale, 1"=1 mile, and the location of the map on the wall, it was difficult to interpret CNR boundaries accurately. The Marine Corps Radio Range located off N.C. Highway 101 and leased from the U. S. Forest Service is not identified on county maps. Since the issue of federal exclusion is to be addressed in the plan development stage, no recommendations for exclusion are made at this time.

3. Has the effect on on-shore and off-shore operational areas and support requirements been considered?

The answer to this question is negative in that the AICUZ footprint, composite noise ratings and the Marine Radio Range have not been recognized in the plan. Off-shore operating areas are not identified in the plan.

4. Has the plan prohibited a use within the coastal zone which may impact Navy operations?

The issue of permissible uses within the coastal zone has not been addressed. This will be an element of plan development stage.

5. Is any Navy land, off-shore operating area, or weapons training range located in an area designated of particular state concern?

Yes, two areas are identified as conservation areas at the Marine Air Station, Cherry Point. They are located on Anderson Creek and Tucker Creek. Areas of environmental concern have not yet been formally designated.

6. Has national defense been identified as one of the important priority uses?

Negative. The plan is silent in regard to national defense interests; however, on pages 42 and 43 and in the discussion of Township No. 6, the Cherry Point facility is mentioned in regard to service needs for water, sewer, housing and highway capacity.

7. Have potential requirements for new or expanded Naval activities been recognized?

This area has not been addressed in the plan narrative.

8. Are any vital Navy property or coastal areas designated for preservation and restoration?

The areas of preservation and restoration will be addressed as an element of the plan development stage. Two areas located on Cherry Point and previously mentioned in this discussion are designated for conservation.

General Comment

The City of Havelock draft plan recognizes in its goal statement the need to promote compatible development within the AICUZ and the Composite Noise Rating zones around Cherry Point. A basic goal stated in the plan is as follows: To promote development that is compatible with the noise and crash hazards which result from the normal aircraft operations of Cherry Point Marine Corps Air Station. The area of environmental concern (AEC) maps for Craven County have designated the entire northeast boundary area of the Cherry Point facility which borders on Hancock Creek as a flood plain. The two areas on Tucker Creek and Anderson Creek have been designated on the AEC maps as marshlands.

II. Onslow County

1. Does the general program statement on problems, issues, objectives and policies conflict with Navy interests?

The general plan does not address Navy interests other than to identify the Marine Corps Base at Camp Lejeune on all maps. On page 119 the plan states "The future land needs are for Onslow County excluding municipalities and the Marine Corps Base."

2. Has all Navy land been identified for exclusion from the coastal zone?

The Marine Corps Base at Camp Lejeune has been identified on county maps. The Camp Davis Marine Helicopter Station, U. S. Highway 17, in Jacksonville, North Carolina, has not been identified on the county maps. No recommendations are made for exclusion at this time. This issue will be addressed in the plan development stage.

3. Has the effect on on-shore and off-shore operational areas and support requirements been considered?

The needs and effects of the on-shore and off-shore operational areas have not been addressed in the plan.

4. Has the plan prohibited a use within the Coastal Zone which may impact Navy operations?

Negative. This area will be addressed as an element of the plan development stage.

5. Is any Navy land, off-shore operating area or weapons training range located in an area designated of particular state concern?

Negative. Areas of environmental concern have not yet been designated.

6. Has national defense been identified as one of the important priority uses?

Negative. The issue is not addressed in the draft plan.

7. Have potential requirements for new or expanded Naval activities been recognized?

Negative

8. Are any vital Navy properties or coastal area designated for preservation and restoration?

Negative. This area will be addressed as an element of the plan development stage.

General Comment

The Onslow County area of environmental concern land classification map does not appear to reflect Navy or Marine properties as areas of environmental concern. However, because of the map scale (1" = 2 miles) it is difficult to pinpoint the Marine Helicopter Air Station.

III. Carteret County

1. Does the general program statement on problems, issues, objectives and policies conflict with Navy interests?

The general program statement does not fully address Navy interests, but where it does, the intention is positive. For example, on page 122 the plan makes reference to Navy involvement in the AICUZ study and states "It is anticipated that the study and particularly the implementation of the AICUZ study will have a direct effect on land use adjacent to Atlantic and Bogue Fields."

2. Has all Navy land been identified for exclusion from the Coastal Zone?

This element has not been addressed and is to be part of the plan development stage. However, it is important to note that the Marine Corps Air Station at Bogue and the offsite component OLF Atlantic, Marine Corps Air Station, Cherry Point were identified as federal property. It was impossible because of map scale to determine if the LST Loading Ramp, Radio Island, Morehead City, North Carolina, was identified, but it appeared that it was not. The property leased from the North Carolina State Ports Authority in Morehead City, North Carolina, and the Cat Island Target Area were definitely not identified as Federal property. As a matter of importance, Cat Island Target Area is designated as a conservation area on the county land classification map. The Point of Marsh Target Area is identified as a wetlands area and is shown as Federal property on the existing land use map. The land classification map designates the point of marsh area for conservation.

3. Has the effect on on-shore and off-shore operational areas and support requirements been considered?

Apparently not. Other than property identification and interest in the Navy AICUZ study, the county plan does not consider on-shore or off-shore operational needs.

4. Has the plan prohibited a use within the Coastal Zone which may impact Navy operations?

This element will be addressed in the plan development stage.

5. Is any Navy land, off-shore operating area or weapons training range located in an area designated or particular of state concern?

Yes, the Cat Island Target Area is designated as a conservation area. Areas of environmental concern are not formally designated.

6. Has national defense been identified as one of the important priority uses?

Negative.

7. Have potential requirements for new or expanded Naval activities been recognized?

Negative.

8. Are any vital Navy properties or coastal areas designated for preservation and restoration?

This element is to be completed as part of the plan development stage.

IV. Dare County

1. Does the general program statement on problems, issues, objectives and policies conflict with Navy interests?

Goal statements are general and do not address national interest concerns.

2. Has all Navy land been identified for exclusion from the Coastal Zone?

The Federal property at Buxton, North Carolina, has not been

identified nor has the off-shore target area located near Sandy Point been identified. Exclusion of Federal property is recognized to be an element of the plan development stage

3. Has the effect on on-shore and off-shore operational areas and support requirements been considered?

Negative.

4. Has the plan prohibited a use within the Coastal Zone which may impact Navy operations?

This section is to be developed as an element of the plan development stage.

5. Is any Navy land, off-shore operating area or weapons training located in an area designated or particular state concern?

Negative. Areas of environmental concern have not yet been designated.

6. Has national defense been identified as one of the important priority uses?

Negative.

7. Have potential requirements for new or expanded Naval activities been recognized?

Negative.

8. Are any vital Navy properties or coastal areas designated for preservation or restoration?

Negative. This area is to be addressed as part of the plan development stage.

V. Perquimans County

1. Does the general program statement on problems, issues, objectives and policies conflict with Navy interests?

Negative.

2. Has all Navy land been identified for exclusion from the Coastal Zone?

The Harvey Point area is identified as a U. S. Government Reservation on the map. Exclusion of Federal property will be an element of consideration in the plan development stage.

3. Has the effect on on-shore and off-shore operational areas and support requirements been considered?

Negative.

4. Has the plan prohibited a use within the Coastal Zone which may impact Navy operations?

This element is to be developed as part of the plan development stage.

5. Is any Navy land, off-shore operating area, or weapons training range located in an area designated of particular state concern?

The southern shore line of Harvey Point is identified as an area of high estuarian erosive quality. A small parcel on the south shore of Harvey Neck is identified as a wetland area and designated for conservation. The parcel is adjacent or just outside the western boundary of Harvey Point, but because of map scale and detail, it is impossible to pinpoint. The entire federal parcel of Harvey Point is shown as being located in the flood hazard area. It is recognized that formal areas of environmental concern have not yet been designated.

6. Has national defense been identified as one of the important priority uses?

Negative.

7. Have potential requirements for new or expanded Naval activities been recognized?

Negative.

8. Are any vital Navy properties or coastal areas designated for preservation and restoration?

Negative. This element will be addressed in the plan development stage.

VI. Buford County and the City of Washington

1. Does the general program statement on problems, issues,

objectives and policies conflict with Navy interests?

Negative.

2. Has all Navy land been identified for exclusion from the Coastal Zone?

Negative. The Naval Reserve Training Facility at Washington, N.C., has not been identified. This issue will be addressed as part of the plan development stage.

3. Has the effect on on-shore and off-shore operational areas and support requirements been considered?

Negative.

4. Has the plan prohibited a use within the Coastal Zone which may impact Navy operations?

Negative. Permissible uses will be identified in the plan development stage.

5. Is any Navy land, off-shore operating area or weapons training range located in an area designated of particular stated concern?

Negative. Areas of environmental concern have not yet been designated.

6. Has national defense been identified as one of the important priority uses?

Negative.

7. Have potential requirements for new or expanded Naval Activities been recognized?

Negative.

8. Are any vital Navy properties or coastal areas designated for preservation and restoration?

Negative.

VII. Pamlico County

1. Does the general program statement on problems, issues, objectives and policies conflict with Navy interests?

4. 8. 4

Negative.

2. Has all Navy land been identified for exclusion from the Coastal Zone?

The target areas located at Pamlico Point and Maw Point have not been identified on the maps and were not mentioned in the text of the report. Federal exclusion will be addressed in the plan development stage.

3. Has the effect on on-shore and off-shore operational areas and support requirements been considered?

Negative.

4. Has the plan prohibited a use within the Coastal Zone which may impact Navy operations?

This area will be addressed as part of the plan development stage.

5. Is any Navy land, off-shore operating area or weapons training range located in an area designated of particular state concern?

Navy properties located in this county and identified as Pamlico Point and Maw Point have been designated as wetland area on the existing land use map. The same two areas were designated for conservation on the future land use map and are shown as marshland on the proposed AEC map.

6. Has National Defense been identified as one of the important priority uses?

Negative.

7. Have potential requirements for new or expanded Naval activities been recognized?

Negative.

8. Are any vital Navy properties or coastal areas designated for preservation and restoration?

This issue is to be addressed as part of the plan development stage.

General Comment

The Pamlico Point and Maw Point target areas have been designated as marshlands on the proposed AEC map.

AIR FORCE REVIEW COMMENTS

LOCAL SUBMISSION OF NORTH CAROLINA CZM PLANS

Currituck County:

1. The AF Range has not been identified in the narrative as to its disposition. Being a federal area it should be identified as being exempt from the CZM control.
2. The range, as indicated on the land use plan, does not represent the full area/configuration of the land involved.
3. It doesn't appear that the plans reflect flight patterns to/away from the range. Will airspace be considered?

New Hanover County:

1. Fort Fisher has not been identified in the narrative or plans as to its disposition. Being a federal area, it should be identified as being exempt from CZM control.
2. The ~~radiation~~ area of radiation adjacent to Fort Fisher should be considered in the planning process.

Carteret County:

1. The ground radar station has not been identified in the plans or narrative as to its disposition. Being a federal area, it should be identified as being exempt from the CZM control.
2. The area of radiation adjacent to the site, if any, should be considered in the planning process.



United States Department of the Interior

NATIONAL PARK SERVICE
SOUTHEAST REGIONAL OFFICE

1895 Phoenix Boulevard
Atlanta, Georgia 30337

IN REPLY REFER TO:

D18-SER-PC

JAN 22 1976

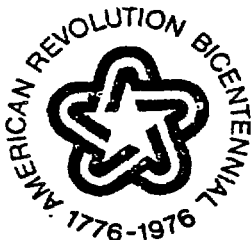
Mr. Mark B. Sullivan
Chief, Land Use Planning Section
North Carolina Department of Natural
and Economic Resources
Division of Planning and Evaluation
Box 27687
Raleigh, North Carolina 27611

Dear Mr. Sullivan:

We appreciated the opportunity to review the draft county plans for Coastal Zone Management planning. We applaud North Carolina's approach to this new planning effort and offer the following suggestions in the spirit of helpfulness.

Cartaret County

1. The plan fails to designate the authorized (Public Law 89-366, dated March 10, 1966) and (Public Law 93-477, dated October 26, 1974) boundaries of Cape Lookout National Seashore. Possibly, the county planners restricted their land designation to literal adherence to the guidelines for Areas of Environmental Concern (AEC) regarding the category 4.1 which signifies EXISTING National or State parks.
2. The planners suggested deemphasis of the importance of the barrier islands for development and resource protection for management on page 46, "One method to eliminate this false impression received by reviewing total acreage of townships is to create a separate township to include only Core Banks, Portsmouth Island and Shackleford Banks."



3. Harkers Island has a designation of transition area omitting the proposed 100 acre headquarter site at the eastern extremity which was authorized in legislation. On page 47, the planners state "Harkers Island addresses recent approved subdivision by Earl Davis and Owen Fulford." A portion of the Earl Davis subdivision lies within the proposed Federal park boundary on Harkers Island.

4. The section "Frontal Dunes and Beaches" suggests a continuous dune system with schematic portrayal of oceanic energy relationship and erosive reaction to fragile frontal dune. Although this may have merit in addressing conditions found on developed Bogue Banks it is not descriptive of conditions on Portsmouth, Core and Shackleford. These areas are composed of NATURAL dunes and effectively relate to oceanic overwash which is part of the ecological/environmental cycle of the barrier island.

5. From page 87, "Core, Shackleford, and Portsmouth may not be designated as official wildlife areas." Again, the planners indicate disregard for the authorized national seashore.

6. Under the heading "Recreation" on page 130, no mention of the national seashore with limited notation of "The Outer Banks" which might be construed to mean the area of Bogue Banks.

7. In objectives and goals, the planners state that natural environmental and cultural and historic resources uses may be destroyed—page 152 "the issue may not be preservation but the matter of whether or not we value our important resources sufficiently enough to prevent destruction of them." We had difficulty in resolving the vagueness of this as an objective and goal. In fact the entire section of land use goals and objectives was considerably vague.

8. The subject of past and present land use conditions, particularly in the Portsmouth, Core and Shackleford Banks areas was not addressed.

Dare County

1. The plan does not reflect the degree of Federal, State, and local participation that has occurred or needs to occur in land use planning. Additionally, there seems to be a lack of identification of the Federal Government's management responsibilities of lands within the counties, particularly in the Dare County Plan. The plan

did not identify any other government agency except the NPS as a land managing agency in the county. The plans seems to lack identification of special services available on a cooperative basis to the counties and the communities from Federal agencies managing lands in the area, particularly in terms of fire protection, law enforcement and other similar expertise.

2. The plan does not recognize all the potential historic properties in the county other than those currently on the National Register of Historic Places. Since the plan was developed, the Cape Hatteras Lighthouse has been added to the Register. There is a possibility that Little Kinnakeet Coast Guard Station, Chicamacomico Coast Guard Station, Bodie Island Coast Guard Station, and Bodie Island Lighthouse are potential additions to the Register in Dare County.

3. The plan appears to be incomplete in identifying "areas of environmental concern" on the sound side of Hatteras Island. It also fails to clearly identify the boundaries of the national seashore.

4. The plan suggests that the Wright Brothers Memorial Airstrip be upgraded to a private and light commercial air facility, which would be in conflict to its intended purpose and also be in competition with the developments at Manteo Airport.

5. The plan proposes use of national seashore properties for sanitary landfill purposes. There is an inconsistency here because the plan also states that lands will be used for the purpose for which they are established.

6. The plan does not outline recreational opportunities not now available to the public; nor does it address itself to the issue of future public access to beaches, particularly in the beach areas outside the national seashore.

Hyde County

1. Hyde County Plan identifies the Ocracoke-Swanquarter Ferry as an economic boost for the county. It does not, however, identify the potential impacts that could occur from the establishment of that service. Specifically, it does not speak to the issues of sanitation, overnight accommodation, or the need for coordinated planning with the Park Service for campgrounds and related visitor services programs.

2. It did not recognize some of the offshore islands as areas of environmental concern.
3. Ocracoke Lighthouse is not identified as an historic structure.

Pender County

1. Recognize and appropriately classify all lands within the expanded boundary of Moores Creek National Military Park as 4.1.
2. The relocation route of Highway 210 at Moores Creek National Military Park should be protected from development that would interfere with construction of this new road segment.
3. Maintain the historic integrity of Moores Creek to insure historic flow rates and reasonable water quality in the vicinity of Moores Creek National Military Park.
4. Identify areas on the National Register of Historic Places as 4.5.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Kim M. Fene", with a long horizontal line extending to the right.

Kim M. Fene
Park Planner
Southeast Region



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

1421 PEACHTREE ST., N. E.
ATLANTA, GEORGIA 30309

4AER:PJM

DEC 12 1975

Mr. Mark Sullivan
Chief, Land Use Planning Section
North Carolina Department of Natural
and Economic Resources
P.O. Box 27687
Raleigh, North Carolina 27611

Dear Mr. Sullivan:

Thank you for the opportunity to review the coastal county and city draft coastal zone management plans on December 3 and 4, 1975. As you are aware from the discussions with Philip Murphy of my staff, we were unable to perform a detailed review of every plan but, instead, did an analysis of a few plans at random with specific items of interest in mind. From this type of review, we were able to observe a number of consistently reoccurring similarities among the plans reviewed. Consequently, we offer the following generalized comments for your consideration.

Overall, the plans reviewed dwelled heavily on the documentation of existing conditions. In a number of cases, the adverse effects of past development practices were alluded to but then the plans exemplified a lack of imagination as they stopped short of meeting the true goal of the Act by not proposing any plan to effectively reorient nor cope with the effects of the present development trends. The need for and the lack of such planning is currently illustrated by the vast acreage of SA waters that are now closed to shellfish harvesting.

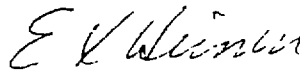
The plans, themselves, deal in generalities as far as environmental parameters are concerned and offer no specific action for their protection. For example, a number of plans say standards should be developed to promote planned development along with protection of environmental amenities, but no such standards are recommended.

All but one of the county plans reviewed discussed the unsuitability of the soil for septic tanks as being a severe limiting factor for development over as much as 80 percent of a particular county. Even in light of this documented fact, many of the plans did not address future facilities needed to cope with the sewage of expanding development.

A majority of the plans we were able to review acknowledged the importance of wetlands and stated that they should be protected. However, in a number of cases it appeared that protection was suggested to stop at the mean high waterline. To erase this conception, the cities and counties should be aware that there are tools, in the form of Federal laws with permit requirements, already in existence which will go beyond the mean high waterline to protect and preserve wetlands. Each plan, once finalized, should acknowledge the awareness of such regulations and be designed accordingly.

We hope these comments provide some assistance in the difficult task you and your staff are currently faced with. We look forward to future interaction of our respective agencies.

Sincerely yours,



E. T. Heinen
Chief

Ecological Review Branch
Enforcement Division

cc: Regional Director
U.S. Fish and Wildlife Service

Mr. Bob Robinson
U.S. Fish and Wildlife Service

Regional Director
National Marine Fisheries Service

Mr. Randy Cheek
National Marine Fisheries Service

Dr. Arthur Cooper
North Carolina Department of
Natural and Economic Resources

IV. FINAL LOCAL LAND USE PLAN REVIEW



North Carolina Department of
Natural & Economic Resources

JAMES E. HOLSHOUSER, JR. GOVERNOR GLORCE W. LITTLE SECRETARY

DIVISION OF
COMMUNITY
ASSISTANCE

PLANNING AND
DEVELOPMENT

COMMUNITY DEVELOPMENT
SECTION

May 19, 1976

#212

MEMORANDUM

TO: Parker Chesson
 Erie Haste
 Dewitt Darden
 Axson Smith

FROM: Billy Ray Hall

SUBJECT: Detailed Plans for Final Plan Review

Enclosed is an outline of the staff's proposal for the conduct of final plan review for your consideration. Resolutions to the significant questions raised are proposed, based upon our discussions. I will call you on Monday, May 24, to discuss these with you.

BRH:cc

encl.

FINAL PLAN REVIEW DETAILS

PROPOSED EMPHASIS FOR FINAL REVIEW

Within the framework of the individual review criteria contained in the Generally Applicable Standards of Review regulation, it is proposed that the final plan review be carried out on the basis of these three criteria:

I. The Carrying Capacity Issue.

- A) Attention given to the capability of the land to sustain whatever growth is called for, with emphasis on the natural resources of the area.
- B) Attention given to the problems and costs associated with contemplated growth in ecologically fragile areas of the coast, including consideration given to potentially significant adverse effects that may result from the use of septic tank sewage disposal systems in developments near estuarine waters and in areas where groundwater is an important source of potable water.
- C) Provision of factual data on the number of lots platted and recorded, the number of these sold, and the potential effect that development of all of these lots would have on existing public facilities.

II. Other major issues previously emphasized by the Commission.

These are listed in the general comments returned with each plan review, and include but are not necessarily limited to, evaluation of the current and potential impact of such activities as:

- A) phosphate mining operations;
- B) large corporate farming programs;
- C) planned industrial expansion;
- D) inconsistencies in land classification along boundaries.

III. Any deficiencies reported to the local government at the time of draft plan (and synopsis) review and still uncorrected or not responded to in the final submission.

Review Materials

Reviewers should have at their disposal the following materials:

1. One copy of the review criteria extracted from the Generally Applicable Standards of Review for plans and synopses.
2. One copy of the consistency study report no. 2 (dealing with inconsistencies in land classification along jurisdictional boundaries).
3. One copy of letters and comments which were prepared in conjunction with the November and December reviews of the land use plans.
4. One copy of the text of approved variances which have been granted.
5. One copy of the preceeding instructions regarding the emphasis for final plan review.
6. One copy of the comments which were made by individual reviewers who examined land use plans in preparation for the November and December plan review meetings.
7. The plans, synopses, and maps submitted for final review which have been formally adopted by the local units of government.
8. One copy of the April synopsis review letters and comments.
9. Review forms (if any)

Because of its proximity to the Commission's Raleigh offices, the review site will afford an opportunity for reviewers to make comparisons between the adopted plans, synopses, and maps and materials which have been previously received by the Commission. Previously received maps should not be stored at the plan review site because of the high potential for confusion between the old and new material.

Review Participants

During the period of time from May 24 through June 30, three groups will be involved in the review of the plans, synopses, and maps.

The Coastal Resources Commission Review Staff will begin an examination of the documents on the 24th of May. Members of this group will serve as staff personnel to the Coastal Resources Commission's northern, central, and southern plan review committees. At this time, it is expected that participants in this group will include Mike Black, Jim Haddox, Rex Minneman, Geoff Willett, Robert Upchurch, Billy Ray Hall, Mark Sullivan, Eric Hediger, and Ken Stewart. The Commission's Executive Secretary will develop a list of committee assignments for the members of the Commission's northern, central, and southern review committees and their staff, based upon the assignments utilized for the synopsis review in April.

The second group of review participants will be representatives of state and federal agencies from lead regional organizations, the League of Municipalities and the County Commissioners Association. Each agency which participated in the earlier review process will receive an invitation from the Executive Secretary to examine the final approved plans, comment upon them, and have their comments incorporated in the materials which will be available for the Commission's committee meetings to be conducted June 28 - June 30.

Using the materials which have been prepared by the preceding groups between May 24 and June 25, the third group of participants, the Commission itself, will meet with their review staff members in three geographic committees: northern, central, and southern, from June 28 through June 30. The chairman of each review committee and one committee member will receive a complete set of materials, exclusive of maps, on June 1. (Commissioners desiring maps may pick up the necessary maps at the June 10 meeting in Morehead City, and should notify the Executive Secretary of the maps which should be delivered at that meeting.)

Materials Utilization

On May 24 one set of maps, one plan copy, and one copy of the synopsis will be delivered to the Commission's offices. These copies of the maps, plan, and synopsis for each community will be used by the Coastal Resources Commission staff reviewers at the review site from that date through the 25th of June.

On June 1, three additional copies of the plan, three additional copies of the synopsis, and one additional set of maps will be delivered to the Commission's office. The chairman of the appropriate Commission review committee, the designated review member of that committee, and the state, regional, and federal review participants will utilize these copies of the plans and synopses. The second set of maps will be used by the state and federal reviewers from June 1 through June 10, and (on an as-requested basis) be made available to the committee chairman or committee member from June 10 through June 25.

Review Site for Review Activities by the Commission Staff Reviewers, State and Federal Reviewers

The review site is located at 520 N. Salisbury Street cul-de-sac. A summer intern working with the Land Use Planning Section, Eric Hediger, will be responsible for building security and be on duty at the site to assist reviewers in solving problems, to provide a welcome and orientation, to secure materials, etc.

Review Calendar

A calendar for the plan review process is attached to this memorandum.

Mid-Course Review Process Evaluation

In order to insure a consistency of review approach, some form of review progress report from the staff to the Commission members should be conducted at the June 10 meeting in Morehead City. Chairmen of the northern, central, and southern review committees should meet at this time, possibly as a part of the executive committee

	MATERIALS RECEIVED MAY 24			MATERIALS RECEIVED JUNE 1						
	MAPS SET #1	PLAN COPY #1	SYN. COPY #1	MAPS SET #2	PLAN COPY #2	PLAN COPY #3	PLAN COPY #4	SYN. COPY #2	SYN. COPY #3	SYN. COPY #4
COMMISSION REVIEW STAFF	X	X	X	JUNE 1 - JUNE 10						
COMMISSION REVIEW COMMITTEE CHAIRMAN				JUNE 10 - JUNE 25 (ON REQUEST)		X			X	
COMMISSION MEMBER (DESIGNATED REVIEWER)				OR JUNE 10 - JUNE 25 (ON REQUEST)			X			X
REGIONAL/STATE/FEDERAL AGENCY REVIEWERS				JUNE 1 - JUNE 10	X			X		

CRC. EX. SEC. TO DELIVER MAPS FROM SET #1-2 TO CRC MEMBERS ON A REQUEST BASIS

agenda, to evaluate their review efforts to date, define any corrections necessary, to insure a smooth and satisfactory review meeting June 28 and June 30, and issue revised directions for staff reviewers as required.

One possible approach for this meeting would be to review one or two plans from each group in the executive committee meeting on the evening of June 9, and direct problems identified in that session to the Land Use Plans Committee for resolution prior to adjournment.

Questions

1. What form should the Commission staff review output take? Is it preferred that the evaluation be written or oral? If it is written, should it be on a form or in a narrative format?
2. What form should state and federal reviewers' comments take, and should they be delivered verbatim or summarized?
3. How should the mid-course evaluation be conducted?
4. To what extent, and in what form, does the Commission wish staff to communicate with committee chairmen or designated committee reviewers between June 10 and the Commission's review meeting on June 28-30?
5. What format should be employed at the end of the review process as the output from the Commission's review decision?

Suggested Resolutions to Questions

1. CRC Staff and state, regional, and federal reviewers will be provided comment notebooks in which to enter notes and short narratives. One comment book will be provided for each &
2. plan (and associated synopsis), with a blank comment sheet for each review criterion in the "Generally Applicable Standards of Review" and the additional three synopsis criteria employed in the April review. Since all comments on a topic appear on a single page, no extra summarization activity would be necessary. Reviewers commenting will sign remarks, indicating the agency which they represent.
3. Review of one or two plans with the Executive Committee on June 9th to assess consistency of approach and determine any changes in staff review. Problems identified in this meeting would be handled by the Land Use Plans Committee during meetings on June 10 and 11.

4. Commission members will be supplied the names and assignments of CRC review staff and the review site telephone number. Alternatively, communications could be routed through the Commission office.
5. Letters of approval, conditional approval, or rejection should be issued; in the latter two instances, detailed documentation of all specific deficiencies and citation of the source of the content requirement should be included, together with instructions regarding resubmission and reconsideration by the Commission.

3-25-76

PROPOSED PLAN REVIEW SCHEDULE

MAY

JUNE

JULY

16	17	18	19	CRC STAFF REVIEWERS ORIENTATION MEETING	20	PLAN ADOPTION DEADLINE	21	22
23	CRC STAFF REVIEW BEGINS 1 PLAN, 1 SYNOPSIS, 1 SET MAPS DUE	24	25	COUNTY AND BEGINNING OF REGIONAL STATE FED. REVIEW	26	27	28	29
30	HOLIDAY	31	3 PLANS, 3 SYNOPSIS, 1 SET MAPS DUE	COMMISSION MEMBERS RECEIVE PLANS AND SYNOPSIS	3	4	5	
6	7	8	9	CRC MEETING MOREHEAD CITY (PUBLIC COMMENT & REVIEW EVALUATION)	10	11	12	
13	14	15	16	17	18	19	20	
20	21	22	23	24	25	26	27	
27	CRC MEETING - RALEIGH (FINAL PLAN REVIEW)	28	29	30	1	2	3	
4	HOLIDAY	5	6	7	8	9	10	
11	12	13	14	15	16	17	18	

IMPORTANT DATES

- May 20 Deadline for adoption of the local plan.
- May 24 At least one copy of the plan (with maps) will be delivered to the Commission's offices in Raleigh, receipted, logged, and shipped to the review building.
- Staff review begins in the review building at 520 N. Salisbury Street Cul-de-sac. Staff reviewers will meet together at regular intervals to compare their findings on the correction of deficiencies identified in the draft plan review, helping to insure a more coordinated approach on the part of the three CRC review committees.
- May 26 Invited State and Federal agencies (as well as the four Lead Regional Organizations, the League of Municipalities, and the County Commissioners Association) may review the plans any time between this date and June 18. They may review in any way they wish to, and their comments will be combined with the staff review for transmittal to the Commission.
- June 1 Three additional copies (one with maps) of the plan delivered to Commission.
- Two copies of plan sent to appropriate Commission members.
- June 10 Commission Meeting. This meeting designed for 1) public comments, and 2) minor revision of plan review criteria in light of Commission member's and staff's preliminary review of plans.

SUBCHAPTER 7D - "GENERALLY APPLICABLE STANDARDS OF REVIEW
FOR LAND USE PLANS AND SYNOPSES"

.0001 PURPOSE

This Regulation is intended to set forth 'generally applicable standards of review' for use by the Commission in reviewing and considering local land use plans. These standards of review are intended to clarify the requirements of certain portions of the State Guidelines for Local Planning and are intended to set forth the Commission's intent with respect to certain guideline provisions. (Additionally, these standards of review set forth certain standards of form which the local land use plans must meet in order to be acceptable to the Commission.) These standards of review, among other factors, will be considered by the Commission in determining whether to approve or reject local land use plans.

In addition to these criteria relating to the substantial content of plans, the Commission in its review will also take into account all other considerations regarding submission dates, format, and similar matters as outlined in the Guidelines.

History Note: Statutory Authority G.S. 113A-110;
Eff. February 1, 1976.

.0002 CONTENTS OF LAND USE PLAN

(a) An identification and analysis of major land use issues which the area will face in the next ten years should be included. Such issues should include:

- (1) The impact of population and economic trends.
- (2) The provision for adequate housing and other services.
- (3) The conservation of productive natural resources.
- (4) The protection of important natural environments.
- (5) The protection of cultural and historic resources.

(b) Land use objectives, policies, and standards for dealing with the above issues and their implications should be clearly stated.

Clearly defined standards for development in Areas of Environmental Concern should be included in each plan. If this requirement is substantially satisfied, a plan will not be rejected on the basis that its treatment of standards is inadequate.

(c) Alternative approaches should be considered in the development of objectives, policies, and standards.

Each plan should include a general, but brief, description of alternatives which were considered in the process of developing the plan. For example, such considerations as the extent of growth desired, the directions in which growth should occur, and policy alternatives to achieve desired land use patterns should be described in the plan.

(d) A brief description of the process used to determine objectives, policies and standards, with particular attention given to public participation shall be included.

(e) The plan shall include a statement outlining the methods employed in securing public participation and the degree of that participation.

(f) A brief analysis of the local population and economy shall be included in each plan.

(g) Population projections for 5, 10, 25, and 50 years shall be

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included, are consistent with:

- (1) the desires of the people
- (2) the capabilities of the land and water to sustain them.

To satisfy this requirement each plan must include a general population analysis for the periods of time listed which reflect both the desires of the people (in terms of the desired extent of growth) and also recognizes limitations to the ultimate growth potential of the area which directly results from the finite growth absorption capacities of the area's land and water resources. Factors which should be discussed in connection with the development of the population projections include the attitude of local citizens as determined in the public participation program, the available land acreage for development in the planning jurisdiction, the availability and quality of ground water supplies, the capacity of both municipal water and wastewater treatment plants, the character of soils in the jurisdiction with respect to their ability to support the operation of septic tanks, and the quantity and quality of ground and surface water sources.

(h) A ten year population projection should be made. This projection may take into account seasonal populations, local objectives concerning growth and foreseeable social and economic change, including effects resulting from proximity to metropolitan growth centers.

The plan should describe the relationship between seasonal population, local objectives concerning growth, and social and economic change to the population projection. Seasonal population, for the purposes of this plan, should include, but not be limited to, transient military personnel, seasonal hunting and fishing activities, migrant laborers, and changes in population resulting from tourism, including visitors to the coastal beaches and to park areas.

(i) Major identifiable trends or factors in the economy which might have impact on future land use shall be determined and discussed in the plan.

(j) Existing land use shall be mapped and analyzed with particular attention given to:

- (1) Significant land use compatibility problems.
- (2) Major problems which have resulted from unplanned development and which have implications for future land use.
- (3) An identification of areas experiencing or likely to experience major changes in predominant land uses.

If one or more of the listed conditions has not occurred within the jurisdiction, the plan should so state.

(k) The plan shall contain a listing and summary of existing plans and policies having significant implications for land use including at least the following: transportation plans, community facilities plans, utilities extension policies, open space and recreation policies, and prior land use plans and policies.

Plans shall list and summarize briefly all plans and policies

which have been developed or adopted for the jurisdiction, commenting at least on those listed above. If a particular plan or policy has not been considered for the jurisdiction or has not been developed or adopted, the plan should so state.

(1) The plan shall contain a listing and summary of the means for enforcement of all existing local land use regulations, including the following: zoning ordinances, subdivision regulations, floodway ordinances, building codes, septic tank regulations, historic districts, nuisance regulations, dune protection, sedimentation codes, and environmental impact statement ordinances.

Plans shall list and summarize all forms of regulation and enforcement related to land use which are actually in force. The plan shall comment on each of the types of enforcement mechanisms listed above; if a particular regulatory mechanism is not currently in force, the plan should so state.

(m) An identification shall be made of the capacity of community facilities including:

- (1) Existing water and sewer service areas.
- (2) The design capacity of existing water treatment plants, sewage treatment plants, schools, and primary roads.
- (3) The percent at which water and sewage treatment plants, schools and primary roads are currently used.

(n) Consideration is given to:

- (1) The type and cost of services needed to accommodate projected population.
 - (2) The ability of the local economy to finance such services.
- General consideration shall be given to the relationship between the demands for services which are generated by growth, the cost of providing services, and the ability of the local economy to finance such services. For example, the plan should recognize and discuss specific areas in the jurisdiction which would be difficult or expensive to develop. If no growth or only slight growth is projected in the jurisdiction, the plan should so state, but should discuss the extension of services into built-up areas where they do not now exist. In particular, the plan shall discuss current water and wastewater extension programs underway in the community such as 201 and 208 Facilities Planning.

(o) The ten-year population projection shall be utilized as the basis for determining facilities demand.

(p) An identification shall be made of areas having conditions which make development costly or cause undesirable consequences if developed, including:

- (1) Hazard Areas - manmade and natural, ocean and estuarine erodible areas and flood hazard areas.
- (2) Soil Limitations - foundations, shallow soils, poorly drained soils, septic tank limitations.
- (3) Water Supply Areas - groundwater recharge areas, public water supply watersheds, wellfields.

(4) Slope over 12%

Each plan shall comment upon the presence or absence of each of the types of conditions listed above, specifically describing the location of their occurrence and their extent. If one or more of the above listed conditions does not occur in the jurisdiction, the plan should so state.

(q) An identification shall be made of fragile areas which could easily be damaged or destroyed by inappropriate or poorly planned development. (Coastal wetlands, sand dunes along the outer banks, ocean beaches and shorelines, estuarine waters, public trust waters, complex natural areas, areas that sustain remnant species, areas containing unique geologic formations, registered natural landmarks, archeologic and historic sites, and others).

The plan shall discuss the presence or absence of each of the listed varieties of fragile areas in the jurisdiction, describing the location and extent of each. If one or more of the listed conditions does not occur within the jurisdiction, the plan should so state.

(r) An identification shall be made of areas with resource potential including: productive agricultural lands, potentially valuable mineral sites, publicly owned lands and other non-intensive outdoor recreation lands, and privately owned wildlife lands.

The generalized location and extent of areas with resource potential shall be described in the plan to the extent that these may be identified. A more explicit working definition for the identification of "unique agricultural lands, prime agricultural lands, other productive agricultural lands," and "potentially valuable mineral sites" will be developed by the Commission and issued separately following consultation with the appropriate agencies. If one or more of the listed varieties of resource potential areas does not occur in the jurisdiction, the plan should so state.

(s) Each plan shall include an analysis of the impact of seasonal population and economic activities which use, depend upon, or may impair land and water resources.

The plan shall consider the effects of transient military personnel, hunting and fishing activities, migrant labor, and tourists (including visitors to coastal beaches and to park areas) in assessing the impacts of seasonal population and economic activities upon land and water resources. Impacts typical of those which should be considered in connection with seasonal population and economic activities include major fluctuations in income from retail sales and transient housing, the adequacy of public service systems, and the demand for public facilities capacity which are generated by seasonal fluctuations.

(t) The ten year population projection shall be utilized as the basis for determining land demand for land classification.

(u) The plan shall include an allocation of the estimated population growth to Transition, Community and Rural land classes, based on local objectives.

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Each plan shall describe the manner in which local objectives were used to determine such factors as the extent and location of various land classes which are employed.

(v) The land area for Transition and Community classes, required to accommodate the estimated growth based on gross population densities shall be determined.

In counties where cities are preparing independent plans, the county may consider city population and population projections in determining Transition land requirements for the county (though it is recognized that this may result in the classification of an oversupply of Transition land in some cases).

(w) The land classification map shall be consistent with the data previously analyzed and shall be developed in accordance with the land classification specifications contained in the Guidelines.

(x) The area's land use objectives, policies and standards shall be employed as a guide for land classification.

The plan shall expressly describe the relationship between the area's objectives, policies and standards to the extent and location of the various land classifications within the jurisdiction.

(y) The plan shall contain a summary which:

(1) Indicates the manner in which the data was assembled and analyzed along with a statement of the major conclusions.

(2) Demonstrates that required data items were considered in formulating the plan.

(z) City plans shall be an integral part of the county plans.

Each plan shall demonstrate and explain the measures which were taken to insure a harmonious relationship between city and county plans, a description of plan negotiation meetings, and evidence of the conduct of a joint public hearing.

(aa) The local governments responsible for land use plan formulation must identify all Areas of Environmental Concern located within their planning jurisdiction.

For the local government identification program, the local governments shall use the categories and descriptions included in Section III of the Guidelines.

(bb) The plan must include written statements of the specific land uses which may be allowed in each of the proposed classes of AECs. These allowable land uses must be consistent with the policy objectives and appropriate land uses found in Section III of the Guidelines.

The Land Use Plan should identify AECs in the jurisdiction and describe acceptable land uses. For this operation, the Commission intends that the local governments use those descriptions found in Section III of the Guidelines.

History Note: Statutory Authority G.S. 113A-110;
Eff. February 1, 1976

.0003 CONTENTS OF SYNOPSIS

(a) The Synopsis contains a clear summation of the essential elements of the long range land use program prepared by the citizens.

(b) The Synopsis contains an identification of the major land use issues of problems in the area.

(c) The Synopsis contains a clear statement of land use goals and objectives.

(d) The Synopsis contains an explanation of how and why the long range goals were developed.

(e) The Synopsis contains a summary of past and present land use conditions and trends and an existing land use map.

(f) The Synopsis contains a copy of the Land Classification Map with an explanation of the relationship between the cities and the county.

(g) A separate section of the Synopsis shall list the proposed Areas of Environmental Concern occurring in the respective jurisdiction.

(h) A section of the Synopsis shall describe appropriate land uses for the identified AECs consistent with the description enumerated in Section III of the Guidelines.

The key word in this statement is "consistent with" since the allowable land uses does not necessarily have to mimic the Guidelines.

History Note: Statutory Authority G. S. 113A-110;
Eff. February 1, 1976

.0004 SUBSTANCE OF PLAN AND SYNOPSIS

The Coastal Resources Commission will review all plans for technical accuracy, internal consistency, and consistency with other plans. In the event the Commission questions the accuracy of statements or data contained in a plan, the CRC will withhold approval of the plan and request that the local government support the questionable statement or data in writing. After considering the supporting information, the Commission may reject the plan upon a finding that the statement or data set forth in the plan is not supported by the information supplied by the local government. In the event the local government does not support the questionable statement or data within thirty days the Commission will reject the plan.

In the event the Commission determines that a plan is internally inconsistent or is inconsistent with other plans the Commission will withhold approval of the plan and request the local government or governments to resolve or support the alleged internal inconsistencies or the inconsistencies between plans. After considering the supporting information, the Commission may reject the plan upon finding that the inconsistencies have not been resolved. In the event that the local government or governments do not resolve the

inconsistencies or otherwise satisfy the Commission that inconsistencies do not exist within 30 days the Commission will reject the plan or plans.

History Note: Statutory Authority G.S. 113A-110;
Eff. February 1, 1976.

.0005 STANDARD FORMAT FOR LAND USE PLAN

(a) The Land Use Plan must comply with the following standards as to form:

Table of Contents with page numbers.

- I. Introduction
 - Purpose of the plan, history of CAMA planning effort, etc.
- II. Description of Present Conditions
 - A. Population and Economy (brief analysis)
 - B. Existing Land Use
 - 1. Legible map of existing land uses
 - 2. Analysis
 - a. significant compatibility problems
 - b. problems from unplanned development with implications for future land use
 - c. areas experiencing or likely to experience major land use change
 - C. Current Plans, Policies, and Regulations
 - 1. Plans and Policies
 - a. transportation plans
 - b. community facilities plans
 - c. utilities extension policies
 - d. open space policies
 - e. recreation policies
 - f. prior land use plans
 - g. prior land use policies
 - 2. Local Regulations
 - a. zoning ordinances
 - b. subdivision regulations
 - c. floodway ordinances
 - d. building codes
 - e. septic tank regulations
 - f. historic districts regulations
 - g. nuisance regulations
 - h. dune protection ordinances
 - i. sedimentation codes
 - j. environmental impact statement ordinances
 - 3. Federal and State Regulations
- III. Public Participation Activities
 - A. Identification and analysis of major land use issues
 - 1. The impact of population and economic trends
 - 2. The provision of adequate housing and other services

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3. The conservation of productive natural resources
 4. The protection of important natural environments
 5. The protection of cultural and historic resources
 - B. Alternatives considered in the development of the objectives, policies and standards.
 - C. Land use objectives, policies and standards for dealing with each identified major issue.
 - D. A brief description of the process used to determine objectives, policies and standards, emphasizing public participation
 - E. A detailed statement outlining the methods employed in securing public participation, and the degree of participation achieved and the results obtained
- IV. Constraints
- A. Land Potential
 1. Physical Limitations
 - a. hazard areas
 - b. soil limitations
 - c. water supply areas
 - d. steep slopes
 2. Fragile Areas
 - a. coastal wetlands
 - b. outer banks sand dunes
 - c. ocean beaches and shorelines
 - d. estuarine waters
 - e. public trust waters
 - f. complex natural areas
 - g. areas sustaining remnant species
 - h. areas containing unique geologic formations
 - i. registered natural landmarks
 - j. archeologic and historic sites
 3. Areas with Resource Potential
 - a. productive agricultural lands
 - b. potentially valuable mineral sites
 - c. publicly-owned lands and other non-intensive outdoor recreation lands
 - d. privately-owned wildlife sanctuaries
 - B. Capacity of Community Facilities
 1. Identification of existing water and sewer service areas
 2. Design capacity of existing water treatment plant, sewer treatment plant, schools, and primary roads
 3. The percent utilization of water and sewer plants, schools, and primary roads
- V. Estimated Demand
- A. Population and Economy
 1. Population
 - a. ten-year population projection

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- b. considerations taken into account in preparing ten-year projection (seasonal populations, local objectives, social and economic change)
 - c. 5, 10, 25, and 50 year projections
 - d. relationship of long-term projections to desires of the people
 - e. relationship of the capabilities of the land and water to sustain them
 - f. examination of seasonal population and economic impacts
 - 2. Economy
 - Identification of major trends and factors in economy
- B. Future Land Needs
 - Use of the ten-year population projection to determine land demand for land classification
- C. Community Facilities Demand
 - 1. Ten-year population projection used to determine facilities demand
 - 2. Consideration of the type and cost of services needed to accommodate projected population
 - 3. Consideration of the ability of the local economy to finance service expansion
- VI. Plan Description
 - A. Description of the Land Classification System
 - B. Projected population growth allocation to Transition, Community and Rural Land classes, based upon local objectives
 - C. Gross population densities used to allocate Transition and Community classifications
 - D. A legible Land Classification Map which is consistent with local objectives, policies and standards
- VII. Summary
 - A. Discussion of the manner of data assembly, analysis, and a statement of major conclusions
 - B. Discussion of the application of the data to the plan's formulation
- VIII. City-County Plan Relationship Defined
- IX. Appendices (if any)
 - (b) Variances - A local government may apply to the Commission for a variance from the format requirements set forth in the above section. A variance request must be submitted in writing at least thirty (30) days prior to the submission of the final plans and should state concisely the reasons that the variance is requested. The Commission will grant a variance only upon a showing that:
 - (1) The utility of the plan will be materially enhanced by the proposed variance in format; or
 - (2) The utility of the plan will not be materially diminished by the proposed variance and the failure to grant the

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variance will result in a substantial hardship to the local government.

History Note: Statutory Authority G.S. 113A-110;
Eff. February 1, 1976.

NOTE: THE FORM OF THIS RULE MAY BE REVISED BY THE ATTORNEY GENERAL
PURSUANT TO THE PROVISIONS OF G.S. 150A-61.

July 6, 1976

M E M O R A N D U M

TO: Dr. Parker Chesson

FROM: Billy Ray Hall

SUBJECT: Final Plan Review - Comments for Coastal
Area Management Act Plans

Attached are copies of the proposed text comprising our recommended review comments for the local government plans which we reviewed last week.

I will review these with you at the Commission meeting Tuesday at Wrightsville Beach.

BRH/no

Billy Ray Hall
By (Signature)

Camden County

No significant deficiencies were found in the Commission's review of Camden County's plan. The county is commended for its thoroughness and satisfactory consideration of all elements of the planning Guidelines.

Pasquotank County

No significant deficiencies were found in the Commission's review of Pasquotank County's plan. The county is commended for its thoroughness and satisfactory consideration of all elements of the planning Guidelines.

Tyrrell County

No significant deficiencies were found in the Commission's review of Tyrrell County's plan. The county is commended for its thoroughness and satisfactory consideration of all elements of the planning Guidelines.

Chowan County

No significant deficiencies were found in the Commission's review of Chowan County's plan. The county is commended for its thoroughness and satisfactory consideration of all elements of the planning Guidelines.

Windsor

A few minor deficiencies were found in the Commission's review of Windsor's plan.

1. The plan did not identify "estuarine erodible" areas in the listing of Areas of Environmental Concern and appropriate uses for these areas in either the plan or the synopsis.

The Commission's Standards of Review provided in this regard as follows:

The local governments responsible for land use plan formulation must identify all Areas of Environmental Concern located within their planning jurisdiction.

For the local government identification program, the local governments shall use the categories and descriptions included in Section III of the Guidelines.

The plan must include written statements of the specific land uses which may be allowed in each of the proposed classes of AEC's. These allowable land uses must be consistent with the policy objectives and appropriate land uses found in Section III of the Guidelines.

The Land Use Plan should identify AEC's in the jurisdiction and describe acceptable land uses. For this operation, the Commission intends that the local governments use those descriptions found in Section III of the Guidelines.

Data is available from the U. S. Soil Conservation Service to assist in identifying these areas.

Perquimans County

Three minor deficiencies were found in the Commission's review of Perquimans County's plan.

1. The synopsis appears to be too lengthy to fit the final printing form.

In this regard, the planning Guidelines require: "The written text of the Synopsis shall be no more than the equivalent of 20 double-spaced typewritten pages in length."

2. A ten-year population estimate was not included in the plan.

In this regard, the planning Guidelines require: A ten-year population projection should be made. This projection may take into account seasonal populations, local objectives concerning growth and foreseeable social and economic change, including effects resulting from proximity to metropolitan growth centers.

The plan should describe the relationship between seasonal population, local objectives concerning growth, and social and economic change to the population projection. Seasonal population, for the purposes of this plan, should include, but not be limited to, transient military personnel, seasonal hunting and fishing activities, migrant laborer and changes in population resulting from tourism, including visitors to the coastal beaches and to park areas.

3. The expression "carrying capacity" should be explained in the synopsis.

Washington County

Three minor deficiencies were found in the Commission's review of Washington County's plan.

1. The plan did not discuss septic tank regulations.

In this regard, the Generally Applicable Standards of Review provide:

The plan shall contain a listing and summary of the means for enforcement of all existing local land use regulations, including the following: zoning ordinances, subdivision regulations, floodway ordinances, building codes, septic tank regulations, historic districts, nuisance regulations, dune protection, sedimentation codes, and environmental impact statement ordinances.

Plans shall list and summarize all forms of regulation and enforcement related to land use which are actually in force. The plan shall comment on each of the types of enforcement mechanisms listed above; if a particular regulatory mechanism is not currently in force, the plan shall so state.

2. The plan would be improved by a more thorough examination of the potential of flood hazards.
3. The land classification map illustrated regions in Washington County where areas bordering Tyrrell and Bertie Counties differs from the adjacent area in those counties. The shoreline along the Albemarle is classed as "conservation" in Tyrrell County and "rural" in Washington County; wetlands along the mouth of the Roanoke River are classified as "conservation" in Bertie County and "rural" in Washington. It is felt that consultation should be initiated with these counties with the objective of determining a unified, consistent classification for the areas in question

Bertie County

Two minor deficiencies were found in the Commission's review of Bertie County's plan.

1. The plan did not make reference to septic tank regulations.

In this regard, the Generally Applicable Standards of Review provided:

The plan shall contain a listing and summary of the means for enforcement of all existing local land use regulations, including the following: zoning ordinances, subdivision regulations, floodway ordinances, building codes, septic tank regulations, historic districts, nuisance regulations, dune protection, sedimentation codes, and environmental impact statement ordinances.

Plans shall list and summarize all forms of regulation and enforcement related to land use which are actually in force. The plan shall comment on each of the types of enforcement mechanisms listed above; if a particular regulatory mechanism is not currently in force, the plan shall so state.

2. The land classification map illustrated regions in Bertie County where areas bordering Washington-Hertford Counties differ from the adjacent areas in those counties. The banks of the Chowan River are classed as "conservation" in Hertford County and "rural" in Bertie; wetland areas along the mouth of the Roanoke River are classed "conservation" in Bertie and "rural" in Washington County. It is felt that consultation should be initiated with these counties with the objective of determining a unified, consistent classification for the areas in question.

Plymouth

Only two minor deficiencies were found in the Commission's review of Plymouth's plan.

1. The river was not identified as an Area of Environmental Concern (public trust waters) in the plan or synopsis, and appropriate uses for this area were not described.

The Commission's Standards of Review provided in this regard as follows:

The local governments responsible for land use plan formulation must identify all Areas of Environmental Concern located within their planning jurisdiction.

For the local government identification program, the local governments shall use the categories and descriptions included in Section III of the Guidelines.

The plan must include written statements of the specific land uses which may be allowed in each of the proposed classes of AEC's. These allowable land uses must be consistent with the policy objectives and appropriate land uses found in Section III of the Guidelines.

The Land Use Plan should identify AEC's in the jurisdiction and describe acceptable land uses. For this operation, the Commission intends that the local governments use those descriptions found in Section III of the Guidelines.

2. The plan would have been improved by a more thorough examination of the potential of flood hazards.

The City of Washington

Four minor deficiencies were found in the Commission's review of Washington's plan.

1. The plan did not identify "estuarine erodible" areas as an Area of Environmental Concern or describe appropriate uses for such areas.

The Commission's Standards of Review provided in this regard as follows:

The local governments responsible for land use plan formulation must identify all Areas of Environmental Concern located within their planning jurisdiction.

For the local government identification program, the local governments shall use the categories and descriptions included in Section III of the Guidelines.

The plan must include written statements of the specific land uses which may be allowed in each of the proposed classes of AEC's. These allowable land uses must be consistent with the policy objectives and appropriate land uses found in Section III of the Guidelines.

The Land Use Plan should identify AEC's in the jurisdiction and describe acceptable land uses. For this operation, the Commission intends that the local governments use those descriptions found in Section III of the Guidelines.

2. The plan did not mention the "Capacity Use Area" in which Washington is located.
3. Areas appear on the land classification map which bear no classification label.
4. A number of apparent discrepancies appear to exist between the land classifications represented on the City's map and that received for Beaufort County. It is felt that consultation should be initiated to resolve the variations and establish a uniform classification of the areas in question.

Hertford County

A few minor deficiencies were found in the Commission's review of Hertford County's plan.

1. The plan did not identify "estuarine erodible" areas in the listing of Areas of Environmental Concern and appropriate uses for these areas in either the plan or the synopsis.

The Commission's Standards of Review provided in this regard as follows:

The local governments responsible for land use plan formulation must identify all Areas of Environmental Concern located within their planning jurisdiction.

For the local government identification program, the local governments shall use the categories and description included in Section III of the Guidelines.

The plan must include written statements of the specific land uses which may be allowed in each of the proposed classes of AEC's. These allowable land uses must be consistent with the policy objectives and appropriate land uses found in Section III of the Guidelines.

The Land Use Plan should identify AEC's in the jurisdiction and describe acceptable land uses. For this operation, the Commission intends that the local governments use those descriptions found in Section III of the Guidelines.

Data is available from the U. S. Soil Conservation Service to assist in identifying these areas in the county.

2. The synopsis would benefit from some additional organizational and editorial revisions to make it easier to read. Trained journalists working under a special grant are available at the Department of Natural & Economic Resources Washington field office.

Ahoskie

Three minor deficiencies were found in the Commission's review of Ahoskie's plan.

1. The plan did not make reference to septic tank regulations.

In this regard the Generally Applicable Standards of Review provide:

The plan shall contain a listing and summary of the means for enforcement of all existing local land use regulations, including the following: zoning ordinances, subdivision regulations, floodway ordinances, building codes, septic tank regulations, historic districts, nuisance regulations, dune protection, sedimentation codes, and environmental impact statement ordinances.

Plans shall list and summarize all forms of regulation and enforcement related to land use which are actually in force. The plan shall comment on each of the types of enforcement mechanisms listed above; if a particular regulatory mechanism is not currently in force, the plan shall so state.

2. It appears that Ahoskie Creek might warrant classification in the "conservation" category.
3. The synopsis would benefit from some additional organizational and editorial revisions to make it easier to read. Trained journalists working under a special grant are available at the Department of Natural & Economic Resources Washington field office to assist the Town in this activity.

3. The land classification map illustrated one region in Hertford County where the banks of the Chowan River bordering Bertie County differs from the adjacent area in Bertie. Hertford County's map shows this area as "conservation" while Bertie County shows the same swamp as "rural." It is felt that consultation should be initiated with Bertie County with the objective of determining a unified, consistent classification for the area in question.
4. The plan did not make reference to septic tank regulations. In this regard, the Generally Applicable Standards of Review provide as follows:

The plan shall contain a listing and summary of the means for enforcement of all existing local land use regulations, including the following: zoning ordinances, subdivision regulations, floodway ordinances, building codes, septic tank regulations, historic districts, nuisance regulations, dune protection, sedimentation codes, and environmental impact statement ordinances.

Plans shall list and summarize all forms of regulation and enforcement related to land use which are actually in force. The plan shall comment on each of the types of enforcement mechanisms listed above; if a particular regulatory mechanism is not currently in force, the plan shall so state.

5. It appears that old soils data (which has been superceded by more recent data) was employed in preparing the plan. The newer information is available from the U. S. Soil Conservation Service.
6. The potential impact of development around Tunis upon the Chowan River's water quality needs to be assessed.

Currituck County

Three minor deficiencies were found in the Commission's review of Currituck County's plan.

1. The plan did not contain data regarding the number of lots platted and sold, and an analysis of the potential effects of development of these lots upon existing public services (though a general discussion of this topic was included).
2. Additional detail was needed to explain provision of continued operation and maintenance of public facilities provided by land developers.

The planning guidelines for the preparation of local government plans under the Coastal Area Management Act call for an examination and assessment of the capability of the land and water to sustain the growth which is desired, with special emphasis being placed upon the natural resources of the area. Subsequently, letters sent to participants provided a refinement of this concept to define more precisely the subjects to be investigated in this assessment of "carrying capacity." Specific items called for included:

1. Problems and costs associated with growth in ecologically-fragile areas, including consideration of potential adverse effects of septic tank wastewater disposal systems where estuaries or potable ground water supplies exist.
 2. Data regarding the number of platted lots which have been recorded and sold, and the potential effect that development of all of these lots would have on existing public facilities.
 3. An analysis of desired future population change covering the next 5, 10, 25 and 50 years.
 4. Discussion of the type and costs of services which will be needed to accommodate the future populations and the ability of the local government to finance such services.
3. The land classification map illustrated one region in Currituck County where a swamp area bordering Camden County differs from the adjacent area in Camden. Currituck County's map shows this area as "Rural," while Camden County shows the same swamp as "Conservation." It is felt that consultation should be initiated with Camden County with the objective of determining a unified, consistent classification for the swamp area in question.

The County is commended for the good job performed in preparing the synopsis.

Dare County

Only one minor deficiency was found in the Commission's review of Dare County's plan. The plan did not contain data regarding the number of lots which have been platted and sold, and an analysis of the potential effect of development of these lots upon existing public facilities. (Specific attention to Kill Devil Hills and Manteo may be needed in the future).

The planning guidelines for the preparation of local government plans under the Coastal Area Management Act call for an examination and assessment of the capability of the land and water to sustain the growth which is desired, with special emphasis being placed upon the natural resources of the area. Subsequently, letters sent to participants provided a refinement of this concept to define more precisely the subjects to be investigated in this assessment of "carrying capacity." Specific items called for included:

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2. Data regarding the number of platted lots which have been recorded and sold, and the potential effect that development of all of these lots would have on existing public facilities.
3. An analysis of desired future population change covering the next 5, 10, 25 and 50 years.
4. Discussion of the type and costs of services which will be needed to accommodate the future populations and the ability of the local government to finance such services.

Gates County

Two minor deficiencies were found in the Commission's review of Gates County's plan.

1. Neither the plan nor the synopsis included estuarine erodible areas in the listing of proposed Areas of Environmental Concern and no listing of appropriate uses for these areas was included.

The Commission's Standards of Review provided in this regard as follows:

The local governments responsible for land use plan formulation must identify all Areas of Environmental Concern located within their planning jurisdiction.

For the local government identification program, the local governments shall use the categories and descriptions included in Section III of the Guidelines.

The plan must include written statements of the specific land uses which may be allowed in each of the proposed classes of AEC's. These allowable land uses must be consistent with the policy objectives and appropriate land uses found in Section III of the Guidelines.

The Land Use Plan should identify AEC's in the jurisdiction and describe acceptable land uses. For this operation, the Commission intends that the local governments use those descriptions found in Section III of the Guidelines.

2. The land classification map illustrated three regions in Gates County where natural areas along the county boundary differ from those proposed by neighboring counties for the same variety of natural area. The natural areas involved are swamp regions. Gates County's map shows these areas as "rural," while Camden, Pasquotank, and Perquimans Counties have classified these areas as "conservation." If it is felt that consultation should be initiated with these neighboring counties with the objective of determining a unified, consistent classification for the swamp areas in question.

Hyde County

Only two minor deficiencies were found in the Commission's review of Hyde County's plan.

1. The plan did not contain data regarding the number of lots which have been platted and sold, and an analysis of the potential effect of the development of these lots upon existing public facilities.
2. Additional detail regarding plans and the cost of services, with particular attention to areas classified as "Transition" was needed.

The planning guidelines for the preparation of local government plans under the Coastal Area Management Act call for an examination and assessment of the capability of the land and water to sustain the growth which is desired, with special emphasis being placed upon the natural resources of the area. Subsequently, letters sent to participants provided a refinement of this concept to define more precisely the subjects to be investigated in this assessment of "carrying capacity." Specific items called for included:

1. Problems and costs associated with growth in ecologically-fragile areas, including consideration of potential adverse effects of septic tank wastewater disposal systems where estuaries or potable ground water supplies exist.
2. Data regarding the number of platted lots which have been recorded and sold, and the potential effect that development of all of these lots would have on existing public facilities.
3. An analysis of desired future population change covering the next 5, 10, 25 and 50 years.
4. Discussion of the type and costs of services which will be needed to accommodate the future populations and the ability of the local government to finance such services.

Nags Head

Only one minor deficiency was found in the Commission's review of Nags Head's plan. The plan did not contain data regarding the number of lots which have been platted and sold, and an analysis of the potential effect of development of these lots upon existing public facilities.

The planning guidelines for the preparation of local governments plans under the Coastal Area Management Act call for an examination and assessment of the capability of the land and water to sustain the growth which is desired, with special emphasis being placed upon the natural resources of the area. Subsequently, letters sent to participants provided a refinement of this concept to define more precisely the subjects to be investigated in this assessment of "carrying capacity." Specific items called for included:

1. Problems and costs associated with growth in ecologically-fragile areas, including consideration of potential adverse effects of
• septic tank wastewater disposal systems where estuaries or potable ground water supplies exist.
2. Data regarding the number of platted lots which have been recorded and sold, and the potential effect that development of all of these lots would have on existing public facilities.
3. An analysis of desired future population change covering the next 5, 10, 25 and 50 years.
4. Discussion of the type and costs of services which will be needed to accommodate the future populations and the ability of the local government to finance such services.

Elizabeth City

Only one minor deficiency was found in the Commission's review of Elizabeth City's plan. The synopsis appears to be too long to fit the final printing form. Additionally, the synopsis would benefit from editing to make it easier for the layman reader.

In this regard, the planning guidelines require that:
"The written text of the synopsis shall be no more than 20
double-spaced typewritten pages in length."

Additionally, no AEC map should appear in the final synopsis.

Hertford County	Approved with comments RICHTER NO A	
Hilden Beach	Approved with comments HOOTON	
Hilly Ridge	Approved with comments HOOTON	
Hyde County	Approved with comments RICHTER NO A	
<u>Indian Beach</u>	The Commission decided to offer Indian Beach a 90 day extension - HOOTON - should not be paid. to prepare and adopt a locally acceptable plan. Notify CRC in 30 days of your intent leaving 60 days for development and sub- mission should you decide to follow this course + (but not county consistency). Satisfactory plan did not adopt their CANA plan.	
Jacksonville	Approved with comments (variance from standard format approved) HOOTON NO A	
Kure Beach	Approved HOOTON NO A	
Long Beach	Approved with comments (variance in map scale approved, format variance approved) HOOTON NO A	
<u>Morhead City</u>	Conditionally approved pending the approval and coordination with HOOTON NO A Carteret County Land Use Plan and with several comments that wish to discuss with you and ask you to further address	
Nags Head	Approved with comments RICHTER NO A	
New Bern	Approved with comments RICHTER "	
New Hanover County	Approved with comments HOOTON NO A	
<u>Newport</u>	Conditionally approved pending adoption of suitable Land Classification element and pending the approval of and coordination with Carteret County land use plan. plan but no map HOOTON - payments not completed - should be paid. - Does not intend to act on or to law suit resolution.	
<u>Onslow County</u>	Conditionally approved pending modification consistent with the - HOOTON - payments not completed - specific comments compiled as a result of the review of your plan. Dever Moore has advised the plan We further grant you a reasonable amount of time to make modifications that will be acceptable both to your local government and the CRC. for the Co. for follow-up with new plan - R. Thomas to follow up - should be sent soon No payment	
<u>Pamlico County</u>	Conditionally approved pending modification consistent with several changes that will be discussed with you in the future meetings. - RICHTER - Revised - Exec committee will review on 10/4 - OK'D	
Pasquotank County	Approved with comments RICHTER NO A	
Pender County	Approved with comments (format variance approved) HOOTON NO A	
Perquimans County	Approved with comments (includes Hertford, length variance approved)	
<u>Pine Knoll Shores</u>	Approved pending approval of and coordination with the Carteret - HOOTON (format variance granted, future County land use plan. land use map approval as replacement for l.c. map.)	
Plymouth	Approved with comments RICHTER NO A	
Richlands	Approved with comments HOOTON NO A	
Southport	Approved with comments HOOTON	
Sunsea Beach	Approved HOOTON	

has
issued a
plan

Asheville	Approved with comments RICHTER No A
Asheville	Approved with comments (format variance approved) HOOTON
<u>Atlantic Beach</u>	Conditionally approved pending the approval of and coordination with the Carteret Co. Land Use Plan and with several comments that we wish to discuss with you and ask you to further address HOOTON
Aurora	Approved with comments RICHTER ?
<u>Aufort</u>	Conditionally approved pending the approval of and coordination with the Carteret County Land Use Plan and with Several comments that we wish to discuss with you and ask you to further address HOOTON
Aufort County	Approved with comments RICHTER No A
Bethlehem	Approved with comments (variance from standard format approved) RICHTER No A
Bertie County	Approved with comments RICHTER No A
Brunswick County	Approved with comments HOOTON No A
Burgaw	Approved HOOTON No A
Camden County	Approved with comments RICHTER No A
<u>Cape Carteret</u>	Conditionally approved pending the approval of and coordination with the Carteret County Land Use Plan and with several comments that we wish to discuss with you and ask you to further address HOOTON No A
Carolina Beach	Approved with comments HOOTON No A
<u>Carteret County</u>	90 day extension to prepare and adopt locally acceptable plan must notify CRC of intent to develop plan within 30 days of receipt of letter, leaving additional 60 days for plan development of Land Use Plan and hope you will take this opportunity to develop your own plan HOOTON CRC to prepare plan
Chowan County	Approved with comments (variance from standard format, and length approved; synopsis includes Edenton) RICHTER ?
Craven County	Approved with comments RICHTER No A
Currituck County	Approved with comments RICHTER "
Dare County	Approved with comments RICHTER "
Elizabeth City	Approved with comments RICHTER ?
<u>Emerald Isle</u>	Conditionally approved pending approval of and coordination with Carteret County Land Use Plan. In addition, there are few deficiencies that will require further attention in your plan prior to final approval HOOTON - No - plan is in progress; data is being collected; info in development plan
Gates County	Approved with comments RICHTER No A
Haystack	Approved RICHTER

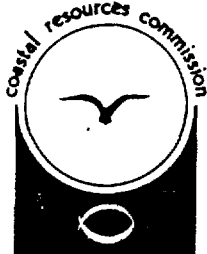
4-4

City	Approved with comments (variance in map scale approved) also format) HOOTON No A
Wansboro	Approved with comments HOOTON
Wassail Beach	Approved with comments (variance in map scale approved) also format) HOOTON No A
Forest woods	Approved HOOTON RICHTER
Currell County	Approved with comments RICHTER No A
Washington (city)	Approved with comments RICHTER has been amended
Washington County	Approved with comments RICHTER No A
Windsor	Approved with comments RICHTER has been amended
Wrightsville Bch.	Approved HOOTON No A

Approvals - - - - -	6	
Approved w. comment. - - -	37	38
Conditional approval - - -	9	8
Special cases - - - - -	2	
	54	

V. IAEC DESIGNATION

JO EURE (CHAIRMAN)
Morehead City
DR. J. PARKER CHESSON JR.
Elizabeth City
DEWITT DARDEN
New Bern
WALTER R. DAVIS
K. Davis
FRANK FURFUR
C. Fumida
FRIE HASTE JR.
Hertford
GENE R. HINTZMAN
Havelock
ROBERT J. JERNIGAN JR.
A-C, R-A



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DAVID T. K. E. (CHAIRMAN)
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Topsail Beach
AXSON SMITH
Behaven
CHARLES WELLS
Wilmington

August 6, 1976

LETTER TO FEDERAL CONTACTS

The North Carolina Coastal Resources Commission (CRC) is making further progress towards the realization of the goals envisioned by the State Legislature in its passage of the North Carolina Coastal Area Management Act (G.S. 113A, Article 7). Last month the CRC designated Interim Areas of Environmental Concern (IAECs) which include those categories of critical environmental areas that are being seriously considered for designation as final Areas of Environmental Concern (AECs). Unlike AECs, IAECs do not require the securing of a permit for "development" but only the submission of a notice to the CRC prior to the initiation of "development."

Because the CRC desires that all Federal agencies be given the opportunity to participate in the development of this Coastal Management Program, we have enclosed a copy of the official descriptions of IAECs and the notice requirement regulations adopted by the CRC. The CRC welcomes your comments, suggestions and criticism of the enclosed material or the program in general. Furthermore, we request that those agencies that have expertise or interest in the IAECs please contact the CRC office so that they may receive the benefit of actively participating in the development of AECs. We would envision a more extensive involvement of Federal agencies in the AEC process.

Please contact Michael Black if you desire additional information about the IAEC program (919/829-2293).

Also enclosed you will find a copy of the CRC's Preliminary Report to the 1977 North Carolina General Assembly on Developing a Better Coordinated and More Unified System of Environmental and Land Use Permits for the Coastal Area. This report was

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developed on the basis of two extensive studies on permit coordination under the Coastal Area Management Act prepared for the Commission during the past two years. It is being circulated to interested State and Federal agencies for review and comment prior to its submission to the 1977 North Carolina General Assembly.

We hope that you will review this report and make comments to the Commission concerning any implications which it might have for your agency and its regulatory programs.

Please contact Amos Dawson if you desire additional information about the permit coordination report (919/829-2293).

Sincerely,

Kenneth D. Stewart
Executive Secretary

KDS:ng

Staff Recommendations Relative to Comments
Received from Public Hearings and by Mail on
Proposed Interim Areas of Environmental Concern

I. Comments on Letter Inputs to AEC Hearings

1. Letter from R. E. Stipe, 9/25/74

Subject: N. C. Historical Commission additions to National Register of Historic Places.

Action: All incorporated into recommendations for IAECs.

2. Letter from R. E. Stipe, 9/25/74

Subject: Recommendations from National Landmark list for inclusion as IAECs.

Action: Merchants Millpond - included as recommended IAEC.
Goose Creek - 2500 acres recommended, 1200 acres included as recommended IAEC.

Hammocks Beach State Park - included as recommended IAEC.

Roosevelt Natural Area - included as recommended IAEC.

Salzer's Ridge Natural Area - included as recommended IAEC as part of Mattamuskeet National Wildlife Refuge.

Battery Island Heronry - included as recommended IAEC as "parts of the Outer Banks" under category I in the Secretary's report.

Hofmann Forest Cypress Natural Area - not recommended for inclusion because it is a part of the Hofmann Forest (see item 4).

Lake Waccamaw - not eligible for inclusion as it does not lie in the coastal area.

White Oak River Swamp - not recommended but will be considered in conjunction with item 12. a.

Bog A (New Hanover County) - not recommended. Will be considered as a part of full scale staff consideration of all potential natural areas in coastal area.

Bog B (Brunswick County) - not recommended. See Bog A item above.

Clear Pond - not recommended. See Bog A item above.

Sunny Point Lime Sinks - not recommended. See Bog A item above.

3. Letter from Robert H. Shields

Subject: Revision of southeast boundary of primary area of Great Dismal Swamp National Wildlife Refuge.

Action: Boundary revision recognized in recommendation for designation of Great Dismal Swamp National Wildlife Refuge as an IAEC.

4. Letter from G. E. Jackson

Subject: Request for removal of Hofmann Forest as IAEC.

Action: Hofmann Forest removed from list of recommended IAECs under item V. B. in Secretary's report since Hofmann Forest is not a wildlife management area "owned by the State of North Carolina."

5. Letter from Washington-Beaufort Bicentennial Commission

Subject: Request to include Seaboard Railroad facility as IAEC as historic area.

Action: Staff of Archives and History has determined that this complex will be included within boundaries of Washington Historic District which has been added to historic areas recommended as IAECs under item V (see 1 above).

6. Letter from John R. Jones

Subject: Request to remove Octagon House from IAEC recommendation

Action: Staff of Archives and History indicates that, although subject is not listed on National Register of Historic Places, it has been approved for nomination and therefore qualifies under provisions of GS 113A-113(b)(4)(viii). Note: staff of the Attorney General's office recommends that all individual historic areas should be approved by CRC and that individual sites should not be removed because of potential "equal protection" problems.

7. Letter from City of New Bern

Subject: Request for revisions in boundaries of New Bern Historic District.

Action: Staff of Archives and History indicates that boundaries of area proposed in IAEC recommendations is that confirmed in National Register of Historic Places. If New Bern wishes to change boundary, petition should be directed to Archives and History. Staff recommends that CRC approve areas as defined in National Register and as required by GS 113A-113(b)(4)(viii).

8. Letter from Washington County Commissioners

- a. Subject: Request for designation of 100 foot wide strip around Phelps Lake as IAEC.

Action: Staff agrees this is a logical request. Could be done as "flood" area or as area of erosion. Not recommended as IAEC because of lack of technical data.

- b. Subject: Request that a strip 100 feet wide along shoreline of Albemarle Sound be designated as IAEC.

Action: As recommended in 8. a. above.

- c. Subject: List of 12 areas be added as historic site AECs.

Action: Belgrade Plantation, Latham House, Westover Plantation and Blount-Mizell House approved for addition to National List of Historic Places 9/19/74 (see 1 above) and recommended as IAECs. Others not recommended as staff of Attorney General's office advises that only areas qualifying strictly under terms of GS 113A-113(b)(4)(viii) can be included. Areas not so qualifying can be added later after processing by Archives and History.

- d. Subject: Notation of segment of Pettigrew State Park on south side of Phelps Lake.

Action: Area omitted from original recommendations, now included.

9. Letter from New Bern/Craven County American Revolution Bicentennial Commission

Subject: Comments re. historic areas in New Bern.

Action: 1. Recommendation for Coor-Craven House corrected to Coor-Gaston House.

2. Move of Hawks House noted.

3. Destruction of Simpson-Oaksmith-Patterson House noted and removed from list of recommendations.

10. Letter from Wallace R. Banks, Jr.

Subject: Recommendation that Trent River be included as IAEC.

Action: Staff has considered the fact that the statutory definition of estuarine waters results in an arbitrary division of the waters of the coastal area that is without biological or physical basis. Accordingly, staff recommends (see section IV of Secretary's report) that all waters to which the public has rights of navigation and other public trust rights be added to the recommended IAECs under the terms of GS 113A-113(b)(5). Thus, at least with regard to that part of the Trent River that lies in the coastal area, this recommendation is accepted.

11. Letter from Judith M. Spitsbergen

a. Subject: Request for changes in definition of development.

Action: Referred to consideration of rule-making relating to definition of development.

b. Subject: Request to include spoil islands and natural islands as IAECs. The definition of "outer banks" as contained in item I of the Secretary's report is intended to include such areas. However, inasmuch as the high land on spoil islands is not of eolian origin, this intention may not have been met. Thus, the high ground on such islands is probably not included.

12. Letter from North Carolina Wildlife Federation

a. Subject: Request to include riverine floodways and associated hardwood swamps and bottom lands as IAECs.

Action: Staff agrees with this recommendation. However, technical data are not sufficient to define such areas adequately and for that reason staff does not recommend their inclusion at the present time. However, studies requisite for definition of these areas are being undertaken and will be reported to the Commission.

- b. Subject: Include estuarine waters that occur upstream of commercial fishing waters as IAECs.

Action: Staff agrees with this recommendation and it is included as item IV of the Secretary's report (see 10 above).

- c. Subject: Include fresh water marshes as IAECs.

Action: Staff interprets the definition of coastal wetlands included in GS 113-230 and utilized to define coastal wetlands in IAEC recommendation item II to include fresh water marshes where they occur in association with estuarine and related waters. Staff feels that recommendations beyond this are inappropriate.

- d. Subject: Include virgin timber stands as IAECs.

Action: Insufficient data are available to define appropriate areas adequately. Staff is continuing to investigate this matter.

13. Letter from Jean and Ruth Shepard

Subject: Questions relative to definition of development and support for proposed IAECs.

Action: Will be dealt with in rule-making relative to definition of development.

14. Letter from George T. Davis

Subject: Raises question as to how much of Hyde County shoreline should be included as IAECs.

Action: Issue will be treated when guidelines for permissible uses of wetlands (as AECs) are prepared.

15. Letter from Joanne S. Powell

Subject: Support for designation of coastal marshes as IAECs.

Action: None needed.

16. Letter from Solid Waste and Vector Control Branch, Division of Health Services, Department of Human Resources

Subject: Request that subject agency be permitted through local government agencies, to continue to do maintenance and repair work within IAECs.

Action: None in context of IAEC recommendations. Will be treated in rule-making relative to exemptions from development.

17. Letter from Macy L. Hoyle

Subject: Request that IAECs be extended to cover other areas which are vital to our fragile coastal resources.

Action: Staff assumes this letter supports the one from the State Wildlife Federation. See comments under item 12.

18. Letter from Marshall Tillett

Subject: Request that no restrictions be placed on land that would take away constitutional rights.

Action: No action warranted. Letter answered by staff.

19. Letter from Walter A. Credle

Subject: Raises questions relative to delineation of marshlands in Hyde County.

Action: None required. Letter answered by staff.

20. Letter from Edwin M. Ricks, Jr.

Subject: Requests removal of writer's land from designation as IAEC.

Action: Staff has written to explain that the only lands of the writer that are covered are those fitting definition of wetlands. Staff of the Attorney General's office advises that if the Commission chooses to designate coastal wetlands as IAECs, then it should designate all such lands and should not exclude individual tracts. Such exclusions might violate "equal protection" principles.

21. Letter from Mrs. Marjorie G. Riddick

Subject: Support for proposed IAEC and concern of Virginia water use proposals with potential major impact on Chowan River.

Action: None Required. This issue is being treated by NER water planning staff and has been made an item of high priority for discussions between North Carolina and Virginia under terms of interstate water planning agreement.

22. Letter from Barbara Carpenter to Grace Rohrer

Subject: Request to designate three historic areas as IAECs.

Action: Staff of Archives and History advises that the three areas (Spring Garden and Broad Creek Churches and Bell Cove Cemetery) are not eligible for designation as IAECs because they are not admissible under any of the three categories relating to historic sites in GS'113A-113(b)(4)(viii). Staff suggests that Mrs. Carpenter be advised to pursue designation of these areas with the Department of Cultural Resources.

23. Letter from James C. Fox

Subject: Discussion of management history of family owned tract on Northeast Cape Fear River and request not to designate property as IAEC.

Action: Staff has studied aerial photos of the subject property. These reveal that only a fraction of the property (essentially that part riverward of the dikes containing the water fowl impoundments) would be included in the proposed IAEC designation. The remainder is not included either because it is forested or because it is impounded. Thus, it is the staff's conclusion that designation of subject marshes as IAECs will not have any substantial impact on the property beyond that effected by existing law. Furthermore, this request is subject to the same constraints relative to exclusions of individual parcels of marsh as enumerated in item 20 preceding. Therefore, staff recommends that this request not be honored.

Staff raises a question here, and in relation to item 24 following, as to whether CRC has the power to grant exclusions from AEC designation provided that property owners agree to manage lands that qualify as AECs in a manner consistent with Commission's guidelines for uses of such lands.

24. Letter from Kenneth and Laurence Sprunt

Subject: Request to remove Orton Plantation as an IAEC.

Action: Staff of NER and Archives and History have evaluated this request. According to Archives and History records, about 12 acres of Orton Plantation, including the house, church and rice fields are in The National Register nomination. As indicated in conjunction with other similar requests for exclusion, this one cannot be granted because of potential "equal protection" problems. However, staff studies by NER continue and some other resolution of this issue may prove possible.

25. Letter from Alta S. Smith

Subject: Objects to designation of farm as IAEC.

Action: Only the part of the property that is true wetland as defined in GS 113-229 is included as proposed IAEC. Other lands are not covered. Property owner has been informed and no other action seems warranted.

26. Letter from Hyde County Commissioners

Subject: Consider Ocracoke Lighthouse, Mattamuskeet Lodge and Hyde County Courthouse as IAECs.

Action: Ocracoke Lighthouse and Mattamuskeet Lodge each have been nominated by the federal agency having jurisdiction. When these are completed, they will be forwarded to the National Register for approval. Both will then be eligible for nomination as IAECs. The Hyde County Courthouse does not qualify at present for nomination.

II. Comments on Hearings

1. Wilmington Hearing

a. Darryl Wiley

Request: Include "maritime forest" in IAEC proposals.

Action: Where such forests occur on the Outer Banks, they are included in present IAEC proposals. Maritime forest on the mainland is not covered and staff finds no appropriate category whereby such stands could be covered. No further action recommended.

Request: Include Waccamaw River, Orton Pond, Prince George Creek and Greenfield Lake as IAECs.

Action: Staff does not recommend inclusion of these areas at this time. All are being investigated for later inclusion under other categories.

b. Kenneth Sprunt

Request: Remove Orton Plantation from IAEC recommendations.

Action: See answer to letter #24.

c. James C. Fox

Request: Remove impoundment areas from recommended IAECs

Action: See answer to letter #23.

d. Mrs. Susan Bondurant

Request: Are "maritime forests" included in IAEC recommendations?

Action: See answer to l. a. above.

Request: Are marshlands along Intracoastal Waterway included in IAEC recommendations although they are not mapped?

Action: All marshlands, wherever they occur, as long as they fit the definition in GS 113-229, are included in recommend IAECs. No action required.

Request: Include flood plains in IAEC recommendations.

Action: See answer to letter #12.

e. Barry Grimm

Request: Include all areas in coastal area included in Corps of Engineers Environmental Reconnaissance as recommended IAECs.

Action: Not all such areas will fit categories for AECs enumerated in CAMA. Staff now has this document under evaluation and further recommendations will be made as appropriate.

Request: Include flood plains as recommended IAECs.

Action: See answer to l. d. above.

Request: Include all of Smith Island complex in IAEC proposals.

Action: The Smith Island complex is included in present IAEC recommendations.

2. Jacksonville Hearing

a. Ronald A. Crowson

Request: Include Catherine Lake area of Onslow County as an IAEC because it is an area "containing unique geologic formations. "

Action: Staff recommends this area not be included at present due to lack of technical data. Recommendation is under further study.

b. Marshall Smith

Request: Include "Heel and Purgatory" area near Richlands in Onslow County as an IAEC.

Action: See answer to 2. a. above.

c. D. A. Clement

Request: Include all swamps, swampy areas and pocosins of ten acres or more in size in Onslow and Pender Counties as IAECs.

Action: Staff does not support this recommendation. See answer to letter #12.

3. Morehead City Hearing

a. Chuck Manooch

Request: Extend coverage of estuarine waters to include all waters of coastal counties and remove artificial distinction between inland and commercial waters.

Action: Recommend acceptance (see answer to letter #10).

b. Emily Loftin

Request: Include 1796 Court House, renovated drug store and several 19th century schools as IAECs.

Action: Areas do not now qualify. Suggest that action be initiated through Department of Cultural Resources to place areas on Register of Historic Places.

c. John Phillips

Request: Remove Phillips Island as IAEC.

Action: Staff recommends that this request be denied for reasons similar to those outlined in answers to letters #23 and 24. However, the high ground on this island does not fall within any of the proposed IAECs.

c. Barbara Carpenter

Request: Include spoil and other estuarine islands as IAECs.

Action: See answer to letter #11 b.

Request: Include Spring Garden and Broad Creek Churches and Bell Cove Cemetery as IAECs.

Action: See answer to letter #22.

e. Pamlico County Board of Commissioners

Request: Designate in Pamlico County as coastal wetlands only wetlands on which salt marsh grasses grow.

Action: Recommended IAECs including coastal wetlands conform to statutory definition of coastal wetlands which is in accord with this request.

Request: Designate Holly Tree at Olympia as IAEC.

Action: The matter of the holly tree in Pamlico County is a complex one. The North Carolina Historical Commission acting as the State Professional Review Committee approved the tree for nomination to the National Register. This approval is subject to further investigation by the staff. Our staff, during the preparation of the nomination, requested an opinion of the keeper of the National Register as to the eligibility of this tree for nomination. The keeper replied that "the designation of historic implicitly excludes from consideration any material entity that is neither made by man nor adapted by him for some particular use." This decision we feel negates the Review Committee's interim approval and therefore removes it from any category eligible for inclusion as an interim AEC.

Request: Permit Health Department to maintain existing mosquito control ditches without formal permits.

Action: Not related to designation of IAECs.

f. Carteret County Wildlife Club

Request: Redefine boundary between estuaries and inland waters.

Action: Although Commission cannot redefine the boundary in question the action recommended in response to letter #10 resolves the issue in a different way.

4. Washington Hearing

a. Warren Lane

Request: Designate Seaboard Coastline property in Washington as IAEC.

Action: See answer to letter #5.

b. Dan Windley

Request: Will permits be needed for drainage ditch maintenance

Action: See answer to 3. e.

Request: Remove City of Aurora's sewage lagoon as IAEC.

Action: Such a facility would not be included as an IAEC under recommended definitions.

c. Phil Gurkin

Request: Include Lake Phelps in recommended IAECs.

Action: Lake Phelps is a state-owned lake and it should be included as an IAEC.

d. T. R. Spruill

Request: Include Lake Phelps and Bulls Bay as IAECs.

Action: Lake Phelps is recommended for inclusion. Staff was unable to find any data relative to Bulls Bay.

e. G. E. Jackson

Request: Remove Hofmann Forest Camelands from recommended IAECs.

Action: See answer to letter #4.

f. Eddie Ricks

Request: Remove property from list of recommended IAECs.

Action: See answer to letter #20.

g. Preston Pate

Request: Classify all waters in coastal counties as IAECs rather than commercial fishing waters only.

Action: See answer to letter #10.

5. Manteo Hearing

a. Dwight Wheless

Request: Questions why inclusion of entire Outer Banks is necessary, particularly isolated tracts of high wooded ground at Buxton, Frisco, Duck and Kitty Hawk, in view of small amount of land available for development.

Action: Staff has considered these points and despite them recommends no areas on the Outer Banks for deletion. Technical criteria to clearly establish such exclusion are lacking. Furthermore, delineation of interim areas implies no regulatory prohibitions on development.

Request: Clarify areas on Roanoke Island recommended as IAECs.

Action: Only those areas on Roanoke Island fitting the definition of coastal wetlands are included as recommended IAECs.

b. Ray McClees

Request: Clearly define distinction between estuarine waters and those of canals, ditches, etc.

Action: This question is unresolved. Limits of state jurisdiction might be defined on the basis of capacity to support commercial fishing, navigability or on the basis of natural vs. man-made waterways. This issue will require further study.

c. Charlie Carowan

Request: Make a regulation permitting farm drainage to continue.

Action: None appropriate

d. Wallace Gray

Request: Questions definition of sand dunes on Outer Banks.

Action: The Commission may wish to reconsider inclusion of the last sentence in IA.

e. Leon Ballance

Request: Raises questions concerning policies for maintenance of ditches and for development of harbors.

Action: These should be addressed in Commission guidelines and are a matter for CRC policy determination.

f. Walter A. Credle

Request: Raises questions concerning demarcation of marshland and farmland in Sladesville area of Hyde County.

Action: See answer to letter #19.

6. Elizabeth City Hearing

a. Vernon James

Request: Include Hall's Creek site of first General Assembly as IAEC.

Action: Area does not qualify as it is not on Register of Historic Places.

b. Mrs. J. D. Riccick

Request: Concern over future of Chowan River because of proposals by Virginia to withdraw water from its upper reaches.

Action: None by CRC. This issue is now under intensive study by the staff of DNER and joint Virginia-North Carolina Water Committee.

VI. AEC DESIGNATION

STATE OF NORTH CAROLINA
COASTAL RESOURCES COMMISSION
NOTICE OF HEARING

Notice is hereby given that the Coastal Resources Commission and the Secretary of the Department of Natural and Economic Resources, pursuant to the authority vested in them by 113A-115(a) and by 113A-107(f) of the General Statutes of North Carolina propose to designate by rule "Areas of Environmental Concern" and to amend the "State Guidelines for Local Planning in the Coastal Area," Title 15, Chapter 7 of the North Carolina Administrative Code. Public hearings will be conducted by an appointed hearing officer or hearing panel representing the Secretary of the Department of Natural and Economic Resources and the Coastal Resources Commission. The proposed effective date of this designation by rule of "Areas of Environmental Concern" will be after January 1, 1978 but no later than March 1, 1978. The proposed effective date of the amendments to the State Guidelines is July 1, 1977.

Following the effective date of designation of "Areas of Environmental Concern," individuals initiating "development", as defined in G.S. 113A-103(5)(a), in the designated "Area of Environmental Concern" must obtain a permit from either the designated local permitting officer in the case of "minor development", as defined in G.S. 113A-118(c)(2), or from the Coastal Resources Commission in the case of "major development", as defined in G.S. 113A-118(c)(1). The areas proposed by the Coastal Resources Commission as "Areas of Environmental Concern" are the following:

Coastal Wetlands as defined in G.S. 113A-230(a).

Estuarine Waters as defined in G.S. 113A-229(n)(2).

Small Surface Water Supplies defined as watersheds which contain a stream or streams classified AI or AII by the Environmental Management Commission. (These streams are Toomers Creek in New Hanover County, Tranters Creek in Beaufort County, and the Bodie Island pond in Dare County.)

Public Water Supply Well Fields within which development could adversely affect the quantity or quality of public water resources. (The Elizabeth City well field, and the Cape Hatteras Water Association Well Field on Hatteras Island are being considered under this category.)

Certain Public Trust Areas defined as those waters and the lands thereunder where the public has rights of navigation, fishing, and right acquired by prescription, custom, usage, dedication or any other means.

Estuarine shorelines defined as that area adjacent to and within 75 feet of the mean high water and normal water level along the shorelines of the sounds, rivers and estuaries.

Ocean Beaches defined as lands consisting of unconsolidated soil materials that extend from the mean low water line landward to a point where either (a) the growth of vegetation occurs or (b) a distinct change in the slope or elevation of the unconsolidated sands alters the configuration of the landform.

Frontal Dunes defined as mounds of sand located directly landward of the ocean beaches and extending inland to the lowest elevation in the depression immediately behind the first dune ridge.

Inlet Lands defined as those lands with a substantial possibility of excessive erosion located adjacent to inlets and extending inland a distance sufficient to encompass that area through which either the inlet is predicted to migrate during the next 25 years or the maximum extent of recorded migration over the past 25 years, whichever is less.

Ocean Erodible Areas defined as the landward extent of those ocean shoreline areas having a substantial possibility of excessive erosion.

For each of the following three categories no specific land areas will be affected upon designation by the Commission. However, any specific land area that fits into one of these three categories may be nominated to local governments and the Coastal Resources Commission after which time the Commission will evaluate the proposed site to determine if the specific designation is appropriate. An additional public hearing is required before the Commission can finally designate the specific site.

Coastal Complex Natural Areas that are defined as areas that support native plant and animal communities and provide habitat conditions that have remained essentially unchanged by human activity.

Coastal Areas that Sustain Remnant Species defined as areas that support native plants or animals, rare or endangered (synonymous with threatened and endangered), within the coastal area.

Unique Coastal Geologic Formations defined as sites that contain geologic formations that are unique or otherwise significant components of coastal systems or are especially notable examples of geologic formations or processes in the coastal area.

The proposed amendments to the "State Guidelines for Local Planning in the Coastal Area" will specify the appropriate use standards to be used in permit letting within each of the proposed categories of "Areas of Environmental Concern."

Additional information dealing with the locations and descriptions of the proposed "Areas of Environmental Concern" and the proposed amendments to the State Guidelines is available for public inspection at the Clerk of Court's office, County Courthouse, in each of the coastal counties (Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell, and Washington); field offices of the Department of Natural and Economic Resources at 1502 North Market Street, Washington, NC, and 3141 Wrightsville Avenue, Wilmington, NC; and the Executive Secretary's office at 210 N. Dawson Street, Raleigh, NC.

Any person interested may present data, views and arguments concerning the Guideline amendments and the designation of any or all of the previously mentioned areas as Areas of Environmental Concern. Individuals who desire to be heard at the public hearing are encouraged to give notice in writing to the Secretary of the Department of Natural and Economic Resources, c/o Kenneth Stewart, Executive Secretary, Coastal Resources Commission, P.O. Box 27687, Raleigh, NC 27611 before the date set for the hearing.

Any person who has notified the Secretary in writing that they desire to speak will be given the first opportunity to do so. Any remaining time will be allotted for those who have not given prior notice. Oral presentations will be limited to five (5) minutes each. Written statements must be received by Kenneth Stewart, Executive Secretary, on or before June 19, 1977.

Public Hearings will be conducted in the twenty county coastal area as outlined below:

Dare County:	County Court Room	Manteo	April 26, 1977	8:00 pm - 10:00 pm
Currituck County:	County Court Room	Currituck	April 27, 1977	8:00 pm - 10:00 pm
Camden County:	County Court Room	Camden	May 3, 1977	4:00 pm - 6:00 pm
Pasquotank County:	County Court Room	Elizabeth City	May 3, 1977	8:00 pm - 10:00 pm
Gates County:	Agricultural Building	Gatesville	May 4, 1977	4:00 pm - 6:00 pm
Perquimans County:	County Court Room	Hertford	May 4, 1977	8:00 pm - 10:00 pm
Brunswick County:	County Court Room	Southport	May 4, 1977	4:00 pm - 6:00 pm
New Hanover County:	Superior Court Room	Wilmington	May 4, 1977	8:00 pm - 10:00 pm
Pender County:	County Court Room	Burgaw	May, 5, 1977	8:00 pm - 10:00 pm
Onslow County:	Auditorium, Clide Erwin School	Jacksonville	May 5, 1977	4:00 pm - 6:00 pm
Chowan County:	Commissioners' Confer- ence Room, 4th Floor, County Office Building	Edenton	May 10, 1977	8:00 pm - 10:00 pm
Hertford County:	Commissioners' Room in Office Building #1	Winton	May 10, 1977	4:00 pm - 6:00 pm
Bertie County:	County Court Room	Windsor	May 11, 1977	4:00 pm - 6:00 pm
Tyrrell County:	County Court Room	Columbia	May 11, 1977	8:00 pm - 10:00 pm
Carteret County:	Superior Court Room	Beaufort	May 11, 1977	8:00 pm - 10:00 pm
Pamlico County:	County Court Room	Bayboro	May 11, 1977	4:00 pm - 6:00 pm
Craven County:	County Court Room	New Bern	May 12, 1977	3:00 pm - 5:00 pm
Hyde County:	County Court Room	Swan Quarter	May 12, 1977	8:00 pm - 10:00 pm
Beaufort County:	Superior Court Room	Washington	May 18, 1977	8:00 pm - 10:00 pm
Washington County:	County Court Room	Plymouth	May 18, 1977	4:00 pm - 6:00 pm

(Summarized Comments Referenced With Corresponding Numbers Found In the Transcripts and Letters Submitted to the CRC)

SUMMARY OF PERTINENT COMMENTS ON PROPOSED AECs

- internal discussion* →
1. Recommended that the Estuarine Shoreline AEC not be applied to estuarine shorelines stabilized through bulkheading or bordered by marshland.- Thurman Lawrence (Carteret County Public Hearing)
 2. Recommended that the Frontal Dunes definition be altered to ensure that AEC protection be applied to the significant dune areas fronting the ocean. Specifically, Frontal Dunes should be a certain minimum height above mean sea level or a minimum distance from the shoreline. - Bob Jamieson (Letter to the CRC)
 3. Maintenance of all authorized Federal navigation projects should be spared any delays that might result from the CRC permitting. Therefore, navigation projects should be reviewed by the CRC and coordination procedures should be worked out to ensure satisfaction of the permit requirements prior to the necessity of a navigation maintenance project.
The proposed amendments to the State Guidelines for development in AECs do not provide clear latitude for balancing public need and benefits against environmental losses. - Colonel Homer Johnstone, Corps of Engineers (Dare County Public Hearing)
 4. Recommended that Item 3 of the General Use Standards for Ocean Hazard Areas and Item 1 of the Exceptions to the General Use Standards for Ocean Hazard Areas be combined to read, "3. In order to avoid weakening the protective nature of frontal dunes, no development will be permitted which would involve the removal or relocation of frontal dune sand or destruction of frontal dune vegetation; except that activities for the purpose of strengthening the dune, increasing the protective function of the dune or minimizing the effects of wind and water damage will be permitted provided that the applicant can demonstrate

the necessity for such an activity and provided further that the development will not reduce or cause to be reduced the amount of sand held in storage in beaches and frontal dunes, cause accelerated erosion along the shore or otherwise increase the risk of loss or damage to life or property."

Item 2 of the Exceptions should be moved to the General Use Standards for Ocean Hazard Areas since it does not constitute a true exception. Staff Comments

5. Items 3 and 4 of the Exceptions should be clearly indicated as a variance requiring approval by the CRC as provided in 113A-120(c).- David Leavy, Sierra Club (Beaufort County Public Hearing)
6. Recommended that the CRC not designate Tranter's Creek watershed as an AEC because it is not strictly coastal, it extends into Pitt and Martin Counties and because the County believes it has adequate controls to protect the water quality of the watershed. - John Prevette, Beaufort County Planner (Beaufort County Public Hearing)
7. Recommended that the descriptions and use standards associated with AEC designation be changed and made more definitive. As it now reads the lack of specificity renders the regulations unconstitutional. - Rodney A. Currin (Craven County Public Hearing)
9. Recommended that greater areas be included in the designation of Public Water Supply AECs. Specifically, shallow artesian aquifers which are in direct hydraulic connection with the overlying water table (frequently occurring on the barrier islands), as well as

aquifer recharge areas of exceptionally productive aquifers should be included in the designation. - Perry Nelson, Ground water Section, DNER (Memo to the CRC)

10. Recommended through implication that the Castle Hayne Aquifer be designated an AEC and protected from excessive water withdrawal. - John E. Bambury (Pamlico County Public Hearing)
11. Recommended that the Use Standards for public trust waters prohibit the channelization of tributaries to the estuarine waters. - George L. Harlow, acting for Paul J. Traina, Director of Enforcement Division, EPA, Atlanta (Letter to CRC)
12. Recommended that the CRC not designate the wetlands and waters of the Oakley Plantation in New Hanover County because:
 - A. Designation would discourage other private citizens from undertaking wildlife preservations program (diking of waterfowl impoundments) similar to that undertaken on the Oakley Plantation; and
 - B. Through conservation easements, the property is protected from future industrial and residential development. - James C. Fox, Murchison, Fox & Newton, Attorneys at Law (Letter to CRC)
13. Recommended that the Dare County Public Hearing be held again in order that necessary descriptions and maps be made available to the public. - W. A. McCowan, Attorney for Kill Devil Hills (Dare County Public Hearing)
14. Recommended that the well fields on Roanoke Island be designated as an AEC in order to protect the regional water supply. - A. F. Rollins, Chairman, Dare Beaches, water and Sewer Authority (Dare County Public Hearing)
15. Recommended that the CRC proceed cautiously in assuming Corps authority for dredge and fill and that the existing Corps personnel be relied on as consultants once authority is assumed.

Use standards for farming and forestry activities adjacent or in wetlands should prohibit detrimental runoff from uplands. Draining forests adjacent to wetlands should be prohibited. Placement of piers and docks should be closely scrutinized to minimize pollution from boats, stop congestion of boat traffic and ensure that estuarine resources are not eliminated or made useless through lack of access.

The CRC should make pamphlets available to property owners on ocean hazard potential. - Randy M. Riley, Sierra Club (Letter to the CRC)

16. Recommended that the CRC not designate Bodie Island Lake as an AEC because:
 - A. Contamination of the Bodie Island Lake is a local problem;
 - B. The record shows no support for the designation;
 - C. The size of the area is excessive; and
 - D. The permit system will deprive landowners of the use of their land. - Ashmead P. Pipkin (Letter to CRC)
17. Recommended that the CRC not include as a part of its definition for Coastal Wetlands the "contiguous lands" clause found in G.S. 113A-230. - P. F. Crank, Jr. (Currituck County Public Hearing)

VII. DRAFT MANAGEMENT PLAN REVIEW

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LETTER TO FEDERAL COMMENTING AGENCIES

Enclosed is a draft copy of the North Carolina Coastal Plan, developed in response to the Federal Coastal Zone Management Act. This plan was written and is to be implemented by the Department of Natural Resources, which has been designated by the Governor as the lead agency for coastal zone management in North Carolina. The Coastal Management Program, as described herein or as altered as a result of comments received, is scheduled to go into effect no later than March 1, 1978, the date for initiating issuance of permits under the State Coastal Area Management Act. The purpose of the enclosed document is to define North Carolina's coastal zone and to describe in detail the State's plans and policies for coordinated management of activities within the coastal zone that may directly and significantly affect coastal waters.

Your agency has been apprised of and given an opportunity to comment on the Coastal Resources Commission's activities in developing a management program under the Coastal Area Management Act. However, the North Carolina Coastal Plan is not limited to the CAMA program, and therefore Federal agencies have not yet had an explicit statement of the entire coastal program upon which to comment. The enclosed Plan sets forth for the first time the relationship of the various Federal programs to the North Carolina Coastal Management Program. In addition, the Plan indicates those Federal agencies which conduct activities, regulatory functions, and assistance programs that potentially affect North Carolina's coastal zone and which therefore should be subject to the consistency provisions of the Federal Coastal Zone Management Act.

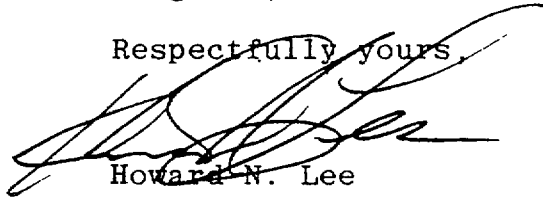
Therefore, as Secretary of Natural Resources, I have directed that all affected Federal agencies be given ample opportunity for detailed review and comment on the Draft Plan. In addition, the Coastal Management staff will attempt to arrange meetings to provide more thorough consultation with key Federal agencies that administer programs specifically related to the State Coastal Management Program.

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Consequently, Ken Stewart, director of the Coastal Management staff, will soon be contacting you to set up such a meeting. I hope that this process will provide your agency with a thorough understanding of the North Carolina approach to coastal management and an opportunity to have input into the final writing of the Coastal Management Plan.

With best wishes and kindest regards, I am

Respectfully yours,

A handwritten signature in black ink, appearing to read "H. Lee", written over the typed name "Howard N. Lee". The signature is fluid and cursive.

Howard N. Lee

HNL:ng

Enclosure

SUMMARY OF FEDERAL COMMENTS
ON DRAFT COASTAL MANAGEMENT PLAN

Department of Commerce

Economic Development Administration

Source of Comments - Meeting 6/30/77, Correspondence 7/7/77

Comments of Federal Agency - EDA is extremely interested in ensuring that EDA projects are in conformance with coastal policies. Specifically EDA desires that only those areas of the coast that can accomodate development be selected for EDA projects. The Agency, therefore, desires maps of AECs and the land classification maps identifying transition areas (areas where growth is planned).

EDA also wants to be informed of new applications for CZM permits and the normal amount of time expected to evaluate an application.

Response of North Carolina - AEC maps at a general scale are included in this document. More detailed maps will be sent as soon as possible but no later than the effective date of permit program. Full copies of the maps are available at this office.

Major development permits must be evaluated within 90 days. Minor development permits within 30 days. Public notice of applications must be supplied to all interested parties (G.S. 113A-119(b)). We will work out a system to supply these notices to all interested Federal or State agencies.

Maritime Administration

Source of Comments - Correspondence - 6/29/77

Comments of Federal Agency - The Maritime Administration wants adequate consideration given to port planning and development in North Carolina's plan.

Response of North Carolina - We have recognized port planning and development to be of a national and state concern. (see chapter 6).

National Oceanic and Atmospheric Administration - National Marine Fisheries Service

Source of Comments - Correspondence - 7/6/77

Comments of Federal Agency - NMFS - Biologist in Beaufort, North Carolina, found the plan to be comprehensive and well-written from the standpoint of its potential for protecting fishery resources and their habitat.

Response of North Carolina - Thank you.

Federal Power Commission

Source of Comments - Correspondence - 7/14/77, Meeting 6/26/77

Comments of Federal Agency - FPC wants to ensure that adequate supply and reliability of electrical power is not jeopardized by unreasonable restrictions on water for cooling purposes.

Response of North Carolina - Energy generation is of a concern to the state and nation (see chapter 6). Limited exemptions for activities associated with power plant operation are contained in the Coastal Area Management Act (Section 113A-103). Additionally, the Federal Coastal Zone Management Act exempts water quality standards from possible state discretion through coastal management.

General Services Administration

Source of Comments - Correspondence - 6/1/77

Comments of Federal Agency - G. S. A. agrees that A-95 is the most logical mechanism for reviewing projects within the coastal zone.

Response of North Carolina - The Draft Plan did not specify the procedure to be used in Federal consistency review, other than A-95. We believe Chapter 6 now gives additional detail that may be useful.

Department of Health, Education and Welfare - Region IV, Office of the Regional Director

Source of Comments - Correspondence - 7/13/77

Comments of Federal Agency - HEW found the draft well formulated, especially in the statutory and regulatory requirement area. One of the major concerns of HEW is the development of procedures for coordinating and evaluating Federal programs that are not required for review by OMB Circular A-95.

Response of North Carolina - Thank you for the compliment. North Carolina is also concerned that few review and coordination procedures exist for projects not covered by A-95. We have attempted to work out arrangements with each agency responsible for such programs. However, the success of this strategy depends a great deal on that agency's initiatives. Further suggestions are welcomed.

Department of Housing and Urban Development

Federal Insurance Administration

Source of Comments - Correspondence - 8/24/77

Comments of Federal Agency - FIA is vitally concerned in coordinating the NFIP with North Carolina's program. FIA would like to pursue a coordinated permit in AECs that overlaps Special Flood Hazard Areas. FIA suggests that AEC standards be revised to incorporate similar FIA standards and that the AEC boundaries for ocean hazard AECs correspond with FIA Velocity Zones or A Zones (Areas of Special Flood Hazards without velocities).

AECs might be expanded to cover areas identified as Special Flood Hazard Areas by the FIA. All of these measures encourage use of only one permit.

FIA finds the use standards for AECs to be generally consistent with FIA regulations. However, the exceptions to the General Use Standards which allow removal or relocation of a frontal sand dune should specify that these are possible exemptions to be granted only by a special board and if no alternatives exist.

FIA supports strongly the recommendation that a master application form in order to coordinate permitting be developed.

Response of North Carolina - North Carolina is very appreciative of the substantive recommendations made by FIA. We are committed to coordinating permit programs whenever possible and, consequently, are reviewing each of your proposals. AECs have been designated, which makes it difficult in the near future to revise their definition to correspond to FIA zones; however, we are pursuing the idea of local governments using FIA zones to delineate the "Ocean Hazard Area" AECs.

The suggested changes in AEC standards will be brought before the CRC at the earliest practical date. We believe FIA suggestions on this matter may be beneficial to both programs.

Finally, we are continuing with our permit coordination efforts, one of which is the master application form.

Department of Interior -

Office of The Secretary

Source of Comments - Correspondence - 7/11/77, meetings 6/29,30/77

Comments of Federal Agency - The Department of Interior (DOI) is concerned that North Carolina's program will duplicate and conflict with existing programs. The protection of resources outside AECs is also of concern. Additionally, the AEC permits appear to be nothing more than another layer of permits in addition to existing Federal, State and local permits. The plan does not adequately treat the necessity for maintaining consistency with Federal programs. DOI desires a more detailed explanation of how Federal consistency will be determined. State agency consistency with coastal management objectives should also be addressed. The plan fails to designate the agency responsible for locating and acquiring new conservation lands. The plan, furthermore, does not include broad guidelines on priorities of uses required by Section 305(b)(5).

Responses of North Carolina - North Carolina's objective is to coordinate our coastal resource management efforts under an administrative body. The state will in the future, if our proposed coastal management plan is successful, begin to eliminate overlap on the state level. Hopefully, this may also be done at the Federal level. Protection of coastal resources outside AECs is accomplished through mechanisms described in Chapter 5. Federal consistency determination and state agency consistency is discussed in greater detail in Chapter 6. The acquisition of conservation lands is also discussed in Chapter 6. Priority of uses is discussed in Chapter 5.

Bureau of Land Management, Geologic Service, Bureau of Outdoor Recreation, National Park Service and U. S. Fish and Wildlife Service

Source of Comments - Enclosure letter from Office of The Secretary, 7/11/77

Comments of Federal Agency - Bureau of Mines expressed concern that AEC standards would preclude mining.

Response of North Carolina - Mining may indeed be precluded from some AECs. Mining is; however, recognized to be in the state and national interest and, consequently, will receive special consideration in the evaluation of an AEC permit.

Comments of Federal Agency - Geological Survey feels that ground water recharge should have been considered in selecting the coastal zone. G. S. is also concerned that local government may not have the expertise to select AECs. G. S. can contribute expertise to an inventory of physical resources for the OCS element.

Response of North Carolina - Groundwater was considered in selecting the coastal zone but of primary importance is the nature of surface waters. Recharge of coastal aquifers occurs a significant distance inland which would extend the coastal zone much further. Finally, comprehensive, detailed information on groundwater recharge was not available.

AECs are not selected by local government but by the CRC (see Chapter 2).

Thank you for offering your assistance in conducting physical inventories of the OCS.

Comments of Federal Agency - Bureau of Outdoor Recreation notes that the preliminary draft did not reference the state's role in guiding recreation through SCORP.

Response of North Carolina - The SCORP process is recognized as the method of guiding recreational development throughout the state. We will, in the future, emphasize the relationship of SCORP and local land use planning through our State Guidelines.

Comments of Federal Agency - The National Park Service is concerned that North Carolina's consistency discussion implies that AEC permits will have to be obtained by a federal agency. NPS agrees that A-95 is the proper channel for communicating to the state its development intentions. Appendix III (Federal Lands) is not included.

Response of North Carolina - AEC permits are not required for federal activities. However, federal activities directly affecting the coastal zone are subject to the consistency provisions (CFR 930.32). An Appendix illustrating excluded federal lands is included in this draft (Appendix E).

Comments of Federal Agency - The U. S. Fish and Wildlife Service is very concerned that national interest statements don't include many of the agency's programs. The plan doesn't include the designated AECs or adequately explain permit coordination.

Response of North Carolina - The national interest statements recognize the general interests of the USFWS in this draft. AECs, including maps, are also incorporated in their designated form in this draft as well as more detail on permit coordination.

Department of Transportation

Regional Representative of The Secretary

Source of Comments - Correspondence - 7/25/77

Comments of Federal Agency - Federal permitting activities are not subject to consistency reviews by the state or local governments. Activities on excluded Federal lands are not subject to consistency. The Draft does not have enough detail on Federal consistency procedures and conflict resolution. Policies should be included in the management plan to facilitate consistency review.

Response of North Carolina - Federal permitting activities are subject to reviews by the state. The proposed consistency regulations is CFR 930.65 and 930.66 clarifies the state's role in consistency certification. The excluded Federal lands are identified in Appendix E. Federal consistency determination procedures are detailed in Chapter 6. Policies are included in Chapter 3 of this draft.

Department of the Air Force

Source of Comments - Correspondence - 6/6/77

Comments of Federal Agency - The draft implies that any "person" carrying out development in AECs must receive a permit. Federal agencies should not be considered a "person". Federal lands that are excluded from the coastal zone are not included. Federal agencies are not required to apply for a permit. Under North Carolina's system, it is not clear who makes consistency determinations. Air Force activities are not included in a national interest statement.

Response of North Carolina - The term "person" refers to "any individual, corporation, partnership, association or other entity organized or existing under the laws of any state, federal, regional or local governments" (CFR 930.72). The term does not include the Federal government. Federal agencies are not required to obtain a permit to conduct activities in the coastal zone or on federal lands excluded from the coastal zone. Consistency determination for development projects on Federal lands that directly affect the coastal zone are required; however. Consistency determination procedures are expanded in Chapter 6. National interest statements are also expanded in Chapter 6.

Department of the Army

Wilmington District Corps of Engineers

Source of Comments - Correspondence - 8/23/77

Comments of Federal Agency - State review of Corps activities through A-95 is too late in project development to be effective. The Corps desires early involvement by the state. Maintenance of navigation channels should be spared unnecessary delays through CAMA permitting.

Consistency certification should be similar to OCZM's proposed regulations. Consistency determination in AECs is not a simple task of obtaining an AEC permit. First, AEC permits are not required for Federal activities and next, the standards are not obvious. Local land use plans are not available to the District Office. The locations of such plans should be identified and made available to the Corps. More detail on actually who will determine federal consistency within the Department of Natural Resources and Community Development is needed. Will consistency determination represent a coordinated state position? The Corps cannot agree that the issuance of an AEC permit should constitute consistency with CZM goals. The permit standards are limited and administration at the various levels of government may create inconsistency of application of standards. State consistency should be insured in order to carry out the coordination necessary for CZM. The plan states that the Corps 404 permit is analogous to the state Dredge and Fill Permit. This is not true because the burden of proof is different as well as the standards. Chapter 6 presents an unsubstantiated criticism of the Federal permit procedures. Length of time required for review and lack of on site inspections are the points of disagreement. Merger of state permit programs in order to accomodate Federal permit delegation is impossible unless state authority is expanded.

Response of North Carolina - North Carolina's suggestion that A-95 is the mechanism for receiving notice of Federal activities is a generalization. In the case of Corps projects, we would be anxious to coordinate earlier on in the process. We would like to also work out a process to review Corps projects in AECs so that no delays in O & M would be experienced. This would include blanket sign off on the project design, routine maintenance schedule and disposal sites. Regarding the inconsistency of spoil disposal methods and AEC standards, we think that the "generally considered incompatible" is not an absolute prohibition. Instead, it recognizes the need for both navigation and the high quality estuarine resources. The state, through early consultation in the project design would attempt to identify alternative spoil disposal methods but if no alternatives exist, would accept disposal in the water areas. The balancing clause in the AEC general use standards would allow this evaluation. Implementation and land use plans will be available for review in the NRCO Coastal Management Office, the NRCO field offices in

Wilmington and Washington, and the Division of Marine Fisheries Office in Morehead City as well as with local coastal units of government. Chapter 6 also has more detail on the consistency review procedure and has also been changed to reflect errors in our discussion of the Corps permit programs.

Department of Navy

5th District and 6th District

Source of Comments - Correspondence - 6/17/77, meeting 7/14/77

Comments of Federal Agency - Federal lands need to be explicitly excluded from the coastal zone and identified in the document. Navy programs should be identified as in the national interest. Inconsistencies between local actions and land uses and the operations of Navy bases is of concern.

Response of North Carolina - Excluded Federal lands are identified in Appendix E. National interest statements on Navy activities are included in Chapter 6. Through our local land use planning efforts, we will resolve conflicts between base operation and local activities. Coordination and consultation is the primary vehicle for such resolutions.

COMMENTS RECEIVED ON THE FINAL
DRAFT OF THE NORTH CAROLINA
COASTAL PLAN

SUMMARY TRANSCRIPT OF PROCEEDINGS

Public Hearing on

Morehead City, NC

THE NORTH CAROLINA COASTAL PLAN

Carteret Tech. Institute

January 13, 1978 - 1:30 p.m.

Mr. Jack Smith, Deputy Secretary of the Department of Natural Resources and Community Development presided as Hearing Officer. Mr. Smith opened the hearing with the following remarks:

"This Public Hearing is held for the purpose of receiving public comment on the North Carolina Coastal Plan. This plan is offered for public inspection and comment by the Department of Natural Resources and Community Development pursuant to the authority of the Federal Coastal-Zone Management Act of 1972.

I am Jack Smith, Deputy Secretary of the Department of Natural Resources and Community Development. I am conducting this hearing on behalf of the Secretary of Natural Resources and Community Development. With me on the hearing panel are Ken Stewart, Director of the Coastal Management Staff; Mike Black, Glenn Dunn and Bob Chandler of the Coastal Management Staff.

At this point, I think it is appropriate to make a few substantive comments about the document and its development. The North Carolina Coastal Plan was developed under provisions of the Federal Coastal Zone Management Act of 1972. The Federal Act identifies 34 states or other governmental units eligible to participate in the Coastal Management Program with federal funding. Almost all of these states and territories have chosen to participate in the Federal Coastal Management Program. However, only 3 states have so far succeeded in securing federal approval. It is important to note that this proposed Coastal Plan is a complete description of the state's objectives, policies, implementation tools, programs and authorities operating in the coastal area and is the document that the state will submit in its effort to become the first state on the southeast coast to secure federal approval.

Federal approval of North Carolina's Coastal Management program will have many positive effects. It will mean continued federal funding of North Carolina's efforts to provide for the wise protection and development of its coastal resources. Approval will mean federal agencies must conduct their programs and projects in a manner that is consistent with the goals, objectives and growth patterns as expressed in local land use plans as well as to important coastal policies set forth by the state concerning coastal related activities.

The North Carolina Coastal Plan and Coastal Management program are composed of many parts. Among these are the Land Use Plans developed by local governments, the Governor's Executive Order on State Agency Consistency, the Coastal Area Management Act of 1974, the designation of particularly sensitive areas or AECs and the implementation programs developed by local governments and the Coastal Resources Commission. It is important to remember that although the State Coastal Area Management Program is the hub of the Coastal Plan, the two are not synonymous.

As you may have noted, many public hearings held by the Department, the Commission, or local governments have already been associated with the development and adoption of the items I have just listed. However, this hearing is held to provide the opportunity for state and federal agencies and private parties to comment on the Coastal Plan as an integrated document.

The comments received during this public hearing process will be attached to the Draft Environmental Impact Statement on North Carolina's Program to be submitted by the Federal Office of Coastal Zone Management for review by federal agencies. The Department of Natural Resources and Community Development will address comments received and make appropriate modifications prior to the circulation of the Final Environmental Impact Statement.

The Department and the Federal Office of Coastal Zone Management propose to transmit the Draft Environmental Impact Statement of the review and approval process in mid-February. As I have already noted, we hope that our program will be approved by June and that North Carolina will become the first state on the southeast coast to gain Federal approval.

The Department of Natural Resources and Community Development is responsible for the development of the Coastal Plan and for its transmittal for federal approval. However, the development of its component parts have resulted from the joint effort of the Coastal Resources Commission, the Advisory Council, the Department, and local governments. In a similar manner, the approval of the North Carolina Coastal Plan will bring into effect federal consistency provisions that will signal a new day of consultation and cooperation among federal, state, and local agencies."

The following statements were received at this hearing.

Charles Hollis - Corps of Engineers, Wilmington

Good afternoon. My name is Charles Hollis. I am here this afternoon representing Colonel Adolph Hight, the District Engineer of the Wilmington District, US Army Corps of Engineers. The final draft of the NC Coastal Plan admirably expresses the goals of careful planning and cautious use of fragile coastal resources in North Carolina. These goals are fully shared by the District. We appreciate and commend the work that has been necessary by your staff to bring the plan to its current level of development. Our formal comments on

the plan have been sent to Secretary Lee and basically address our sense of the need for more specificity in the plan and our opinions on some of the statements regarding Corps activities and regulatory programs. We appreciate the continuing excellent opportunities afforded Corps staff to coordinate District concerns with the State staff during the development of the Management Plan. This is another example of the longstanding close coordination between the State and the District on subjects of mutual interest. This personal coordination is often the most efficient and effective means of communication between agencies. We hope that the formalized procedures developed to accomplish Federal consistency determinations will not constrain this valuable communication tool. We look forward to the future developments of healthy coastal zone management in North Carolina. Final Draft of the North Carolina Coastal Plan looks like a good start of a promising future.

Lora Lavin, President - League of Women Voters of New Hanover County, 330 Robert E. Lee Drive, Wilmington, NC 28403

Attached is the written statement presented by Ms. Lavin on behalf of the League of Women Voters of North Carolina and New Hanover County. (See Attachment A.)

Dorothy Crouch - Clean Water Association of Coastal NC, Inc. P. O. Box 1015, Wilmington, NC 28401

Ms. Crouch read into the record the attached letter to Secretary Lee. (See Attachment B.)

John Curry - Attorney, Carrboro, NC - Natural Resources Defense Council

The DNRCD notes for the record that an exact replication of the comments delivered by Mr. John Curry on behalf of the Natural Resources Defense Council has been made impossible due to the unforeseen malfunctions of electronic recording equipment which recorded his voice at the Carteret County Public Hearing. Through an agreement with Mr. Curry, both he and the DNRCD acknowledge that the written comments submitted subsequent to the hearing represent an accurate outline of the remarks delivered at the hearing. DNRCD notes that at the time of the hearing, Mr. Curry was speaking only on behalf of NRDC and not the Conservation Council or New Hope Audubon Society. Accordingly, references to commentators in the text should more appropriately be interpreted as meaning only NRDC for purposes of the hearing record. (See Attachment C.)

Dave Levy - Joseph LeConte Chapter, Sierra Club - Durham, NC

Governor Hunt at the Governor's conference on Balanced Growth and Economic Development, made several comments about economic growth and environmental preservation conservation. He pointed out that the people of North Carolina in his survey of the opinions of the people of North Carolina of what the problems were in North Carolina had said that more good jobs were the primary concern, but they also said that a good clean environment and protection of North Carolina's environment is also a great concern. They said that they wanted both

of these; jobs and preservation of the environment. The Governor also went on to point out that for North Carolina's economic strategy, there were several points that he wanted to emphasize. It should preserve the attributes of the people, that is their attitude and value, such as the value of conserving the natural attributes of the state. Another was that North Carolina should be a model for the United States, the preservation and management of the quality of life while having balanced growth. Additionally, he said that there should be public and private cooperation. That is there should be cooperation between citizens in the private sector and business and governments; local and state. He emphasized that the state's role should be increased for control of growth patterns and that urban sprawl would be limited thereby supporting efficient use of state funds and local funds for services and also providing for opportunities to conserve energy. The North Carolina Coastal Plan provides a management plan for balanced growth with environmental preservation and conservation. The Sierra Club endorses approval of the North Carolina Coastal Plan. The Coastal Plan is just the first step in providing management of the coastal resources. The Sierra Club does not blindly oppose progress but we do oppose blind progress. The North Carolina Coastal Plan is like Hatteras light, which warns of the danger of Diamond Shoals. It seeks to warn ships not to venture too far in. The Plan does not guarantee protection of the coastal area and resources, but it does provide direction for coastal area management. The adoption of the Coastal Plan is just the first step, as I have already said. There are two other steps that are to come.

We must have implementation of the plan. Local authorities, have not in the past, mitigated coastal problems with the regulations and management tools that they had, so we wait to see how they will implement the plan, especially in the areas of environmental concern. We would like to see protection of the Maritime Forests, but a unique resources in the barrier islands. The second area that we await to see implementation of the regulations on, is the impact of development. That is the secondary impact that must be considered. As an example, division of a four-lane highway may not alleviate the present coastal traffic problems in a coastal area, such as going down to Morehead City, but it may provide for increased traffic, more coming into the area. Then we have to see what the secondary impacts are going to be in our needs for water and sewer and solid waste disposal. A third area we are watching for under implementation of the plan, is the compliance of the state and federal agencies with the Governor's Executive Order. The Governor's Executive Order is quite explicit and he had pointed out to Department Secretaries how he expects their programs to comply with the Coastal Management Plan. But we are awaiting to see how that is actually executed. A fourth area that we await to see from implementation of the Plan is a recommendation and for additional legislation which might be needed to achieve goals and policies that have been set up in the Governor's Executive Order and other parts of the Coastal Plan. The third step, after adoption of the plan and implementation of the plan, is the evaluation of the plan and how effective it actually is. That is, you have to see what the effects of growth are in this unique coastal area. How growth, that is allowed, and that is regulated, and that is managed and planned - How it actually effects the coastal resources. That will

take several years. The Sierra Club also shares some of the concerns of Mr. Curry representing the NRDC. We are concerned that there may be lack of statutory authority for enforcing some of the local regulations. We are also concerned that the authority to implement Executive Order 15, especially as it pertains to actions by council of state departments other than those that are cabinet level directly under the Governor's control, use these agencies to comply and make the program compatible with the Coastal Management Plan. We are additionally concerned that the Boards and Commissions that are set up directly under laws passed by the Legislature and are independent of state departments are aware of the Coastal Plan and the requirements to be in compliance with it when they take action of making policies that effect the coastal resources. In summary, I might say that the Sierra Club again, sees the North Carolina Coastal Plan as the first step in the procedure for the orderly and managed growth of the coastal area while preserving and protecting the environment and unique natural resources of the coastal area. Therefore, the Joseph LeConte Chapter of the Sierra Club endorses adoption of the North Carolina Coastal Plan.

J. C. Jones - Office of Marine Affairs - Department of Administration

(See Attachment D.)

William H. Weatherspoon - NC Petroleum Council

Due to the unforeseen malfunctions of electronic recording equipment, Bill Weatherspoon's comments were not available for transcription. By agreement with him, the attached comments are entered into the record on behalf of the North Carolina Petroleum Council.

Deputy Secretary Smith opened the floor for comments from anyone present.

No one indicated a desire to speak. The Public Hearing was adjourned at 2:15.

Attached to this transcript are written statements submitted for the Public Hearing record from the following individuals:

William Weatherspoon
Lora Lavin
Dorothy Crouch

John Curry
J. C. Jones

STATEMENT BY THE LEAGUE OF WOMEN VOTERS OF NORTH CAROLINA AND THE LEAGUE OF WOMEN VOTERS OF NEW HANOVER COUNTY TO THE COASTAL RESOURCES COMMISSION, JANUARY 13, 1978 REGARDING THE FINAL PLAN FOR IMPLEMENTATION OF THE COASTAL AREA MANAGEMENT ACT.

The League of Women Voters expresses its approval of the overall Coastal Plan and its appreciation of the amount of thought, work and preparation that has gone into this endeavor. It is our belief that in years to come the adoption of this plan will protect coastal life and resources in their delicate balance without sacrificing economic development that is also needed.

There are two considerations which we would like emphasized as essential to the success of this undertaking.

The first is continued effort toward a more simplified and expeditious permit system that will encompass federal, state and local permits; to have a system as locally oriented as possible; and to be sure that citizens do not have to travel long distances or be required to make many applications and endure long delays. Along with this there will have to be a clear understanding of the Areas of Environmental Concern and what development and activities would probably be possible in these Areas so that permit applications can be made accordingly. A system of advanced discussion is needed before any costly plans for development are made - it could save a lot of grief for all parties concerned.

A second consideration is the selection of the permit letting officers. It is imperative to have someone who can understand the natural processes in the coastal area well enough to work with citizens in achieving a mutual understanding of permit decisions. It is extremely important that there be a concentration of administrative personnel on the coast for CAMA and very limited personnel in Raleigh. The administrative personnel on the coast should keep an open door - an open ear so they are constantly

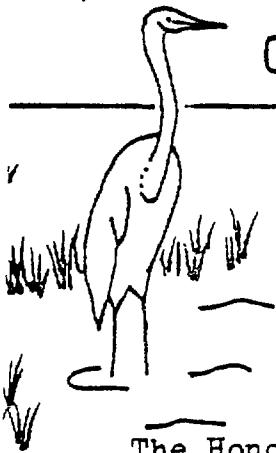
LEAGUE OF WOMEN VOTERS STATEMENT, JAN. 13, 1978 CONTINUED.

aware of how citizens feel about the program and so they can continue to discuss with citizens the things that must be done to take care of the coastal resources.

We again commend the Coastal Resources Commission and the Department of Natural Resources and Community Development on this tremendous undertaking. It has been good to see so many residents come to meetings and hearings to express their concerns and love for their coast. We are confident that continued working together and discussing and resolving differences as the Coastal Plan is implemented will bring long term benefits to the coastal region.

League of Women Voters of North Carolina
Ruth Mary Meyer, President
2637 McDowell St.
Durham, N.C. 27705

League of Women Voters of New Hanover County
Lora Lavin, President
330 Robert E. Lee Drive
Wilmington, N.C. 28403



CLEAN WATER

ASSOCIATION OF COASTAL N.C., INC.

P. O. BOX 1015 · WILMINGTON, NC 28401

January 9, 1978

The Honorable Howard Lee
Secretary
N.C. Department of Natural Resources & Community Development

Dear Mr. Secretary:

Our Association has reviewed the final draft of THE NORTH CAROLINA COASTAL PLAN and we are pleased to pass on the following comments to you.

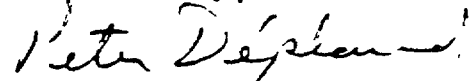
1. The State officials and technicians working on this Plan in both Administrations must be given high marks for persistence in pressuring local agencies into seeking broad public participation for setting goals and for having these formulated into official Land Use Plans. Similarly, State technicians deserve high praise for identifying so clearly and in such detail the complex problems associated with development of our coast. They are to be particularly cited for their insistency in pointing out the overriding importance of preserving the naturalness that is our heritage.
2. We laud the policies adopted by the State that future development of all kinds be consistent with the capability of the land and water to support it without environmental degradation. It is the administrative means for doing this that gives us problems.
3. To expect the elected officials of the twenty coastal counties to effectively carry out their adopted Land Use Plans, let alone enforce those State regulations delegated to them, is an abdication of responsibility.
4. In New Hanover County, for example, the Commissioners have strongly resisted revision of antiquated sub-division and zoning ordinances to conform with the goals of the Land Use Plan they approved. Until the State intervened recently, the Dune Protection Ordinance was ignored. The Soil Erosion and Sedimentation Control Ordinance is very loosely enforced. The County Sanitarian says that he does not have staff capable of making the soil tests necessary to carry out the State Septic Tank Regulations. The County Board of Health has not acted to provide the necessary authorization or funding.
5. Locally elected officials often represent the wants of vested interest such as large landowners, speculative realtors and developers rather than the identified goals of the general public.

This is to be expected at the local level where political pressures from a small power structure may be very strong. The detachment and objectivity of strong State oversight are a must if the valid objectives of THE NORTH CAROLINA COASTAL PLAN are to be realized. We ask that portions of the Plan which delegate enforcement responsibilities to local governments be revised to put the State back into enforcement in the manner that the Dredge and Fill Regulations and Shellfish Sanitation Laws are administered.

6. The Coastal Resources Commission has been too timid and slow in developing the Areas of Environmental Concern process. For example, in New Hanover County a 140 lot sub-division on what is obviously a critical area on a barrier island was rushed through so that construction could begin prior to State permit letting. We are convinced that this project would have been much better planned if the Coastal Resources Commission had acted more rapidly.

7. THE NORTH CAROLINA COASTAL PLAN as now drafted may give the citizens the false feeling that from now on coastal development will be done properly when actually all we have is excellent documentation and almost no improvement in administration. We are concerned.

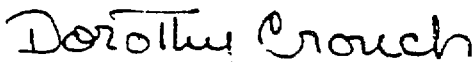
Sincerely,



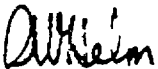
Peter Depland
President



Paul Foster
Vice president



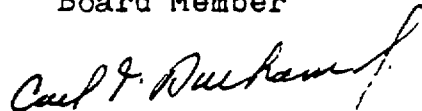
Dorothy Crouch
Treasurer



R.W. Helm
Secretary



Jean Jordan
Board Member



Carl T. Durham, Jr.
Board Member

cc: U.S. Office of Coastal Zone Management

enc: One



CLEAN WATER

ASSOCIATION OF COASTAL N.C., INC.

P O. BOX 1015 · WILMINGTON, NC 28401

September, 1977

WHAT WE ARE

The Clean Water Association of Coastal North Carolina was granted a State charter in June of 1977 to work to stop the growing pollution of our coastal waters.

It is a non-profit public service association of residents of our County who want action taken to stop the putrifaction of our few remaining clean creeks, sounds, waterways and marshes. Waters clean enough for oystering, clamming, swimming, fishing and pleasure boating are a heritage most of us want to keep.

WHY WE ARE

In New Hanover County most of our surface waters and marshes are contaminated with human wastes from septic tanks and other run-off. Just this spring, the State closed another square mile to shell fishing and swimming.

The steady increase of polluted waters can be stopped. Areas now degraded can be restored. Our County officials have the power to do this and have pledged to do so in the recently approved excellent New Hanover County Land Use Plan. However, instead of taking action to carry out this plan, they have gone the other way and approved land sub-divisions that will increase water pollution.

HOW WE WORK

Members of the Clean Water Association believe that what a person does on or with his land is his business as long as this causes no harm to others. This line has been crossed in coastal New Hanover County.

We make educational presentations on water pollution; keep in touch with responsible local, state and federal officials; and conduct water quality tests.

We would prefer to see our local officials carry out their clean water pledges. We hope they will. However, we will not hesitate to take action in the federal courts.

The Association is seeking membership and money. All contributions are deductible for federal and state income tax reporting.

Peter A. Depland, President

- 304 -
January 13, 1978

MRS. DOROTHY B. CROUCH
ROUTE 1, BOX 611-C
WILMINGTON, NORTH CAROLINA 28401

Comments by some concerned
citizens of New Hanover County.
We wish to express our support
of the North Carolina Coastal Plan
and to commend the Coastal
Resources Commission and the
Department of Natural Resources
and Community Development for
a task well done.

We submit the following comments
on the Final Draft:

- omit 1. on ~~p. 122 paragraph IV~~, after the
~~words affecting estuarine waters~~
~~add "or fragile natural resources~~
~~areas"~~ —
2. p. 149 Subject:
"Disposition of Major Development
Applications"
1st paragraph - 3rd sentence
Nevertheless, the decision must be
made within 90 days; we suggest
that this should read 120 days
as 90 days is not adequate
time for a scientific investigation
of the area being considered.
3. p. 151 Subject:
"Monitoring and Conflict Resolution"
paragraph 2 - sentence 2
"Coastal management staff
members and field enforcement

MRS DOROTHY K CROUCH
ROUTE 1, BOX 611-C
WILMINGTON, NORTH CAROLINA 28401

officers" - who are they? who pays their salaries? what department will they be assigned to? And where will they be located?

p.153

Under minor development
"approval or failure to act within 30 days is automatic approval."
we suggest this be extended to 60 days to give sufficient time for scientific investigation of the area being considered.

p.168 + 169

"Enforcement of Local Plans".

The CRC and Coastal Management Staff will review all pertinent local land use ordinances and regulations...

However, because localities cannot be compelled to make local ordinances consistent with their land use plans...

As the statutory language indicates this authority is of advisory nature and does not authorize the CRC to change local ordinances and regulations outside of AEC's.

we question if the CRC

MRS. DOROTHY B. CROUCH
ROUTE 1, BOX 611-C
WILMINGTON, NORTH CAROLINA 28401

is helpless here in this context.
Also, is there no recourse by
the CRC against local governments.

We will continue to take
an interest and an active role
to see that the North Carolina
Coastal Plan works for all
the citizens of the coast.

Dorothy B. Crouch

Randy Riley
(by DBC)

Frank B. Snyder

COMMENTS ON THE FINAL DRAFT OF THE NORTH CAROLINA
COASTAL PLAN

SUBMITTED TO:
THE NORTH CAROLINA DEPARTMENT
OF
NATURAL RESOURCES AND COMMUNITY DEVELOPMENT

BY:
NATURAL RESOURCES DEFENSE COUNCIL, INC.
122 East 42nd Street
New York, New York 10017

and

THE CONSERVATION COUNCIL OF NORTH CAROLINA
307 Granville Road
Chapel Hill, North Carolina 27514

and

THE NEW HOPE AUDUBON SOCIETY
Box 2693
Chapel Hill, North Carolina 27514

January 18, 1978

Prepared by:

John S. Curry
Attorney at Law
138 East Main Street
P.O. Box 130
Carrboro, North Carolina

The Natural Resources Defense Council (NRDC) is a national nonprofit organization dedicated to the wise use of natural resources of the United States. Because of serious threats to our nation's coasts by shortsighted development schemes, loss of public access to beaches, destruction of wildlife habitat, and serious marine and estuarine pollution, NRDC has developed an Atlantic Coast Project dedicated to the protection of coastal resources. As part of this project, NRDC has focused on state coastal zone management programs and their compliance with the Coastal Zone Management Act of 1972 (CZMA), the key national legislation for protection of coastal areas.

The Conservation Council of North Carolina (CCNC) is a citizen's environmental group made up of approximately 600 individual and fifteen affiliated organization members concerned about preserving North Carolina's irreplaceable natural resource heritage. In the past eight years CCNC has commented upon numerous state and federal policies and development activities which affected the environment in the coastal zone.

NRDC staff welcomed the opportunity to comment on the previous draft. With regard to the final draft, however,

NRDC strongly requests that the comment period be extended at least until January 25, 1978. Section 308 of CZMA requirements necessitate that all hearings be announced thirty days in advance and that all materials and data be available at the time of the announcement. Because of unanticipated demand and printing delays, the Plan and the Supplement were not available for the thirty day period prior to this hearing. NRDC received its copy of the final draft in early December, but did not receive the Supplement, which contains significant information, until the last week of December. In short, NRDC feels that there has not been sufficient time for complete public scrutiny of and comment upon the entire document.

In addition, NRDC urges the final draft not be submitted to OCZM until appropriate modifications based on public comments can be incorporated. It would be counter-productive for OCZM to circulate to other Federal agencies pursuant to Section 307 of the CZMA, a document which did not meet the threshold requirements of Section 306 and which was not responsive to public comments. NRDC recognizes an informal time table has been established by OCZM to guide the application process, but such a schedule should not be so arbitrary as to preclude full public participation in the process.

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On June 22, 1977, NRDC filed comments on the April, 1977, draft of the North Carolina Coastal Plan. These previous comments set forth a number of areas in which it was felt the Plan fell short of compliance with the applicable Sections of OCZM and pertinent Regulations. These comments will follow the same format of the previous ones and will often incorporate by reference criticisms which are relevant to the Final Draft Plan.

Permissible Land and Water Uses 305(b)(2)

It is still not apparent from a reading of the Final Draft that an inventory of the type required by 923.12(a)(2) was conducted and incorporated into the permissible use selection process. The observations made under this section in the earlier comments are incorporated herein.

Areas of Particular Concern (see Final Draft, p. 206)

The Final Draft does not "show evidence" that the State has made an inventory and designation of areas of particular concern as required by Section 305(b)(3) of the Act and Section 923.13(a) of the Regulations. Though it might be argued that the AEC selection process complies with this requirement, the Plan does not clearly state the manner

in which the inventory and designation were based on "a review of the natural and manmade coastal zone resources and uses and upon established criteria...."

The commentators feel strongly that the Plan should include a commitment for the designation of barrier islands as areas of particular concern and further that as promptly as possible, the State undertake to designate all barrier islands as AECs. It is now nationally recognized that the activities on upland areas of barrier islands can have considerable impact upon the fragile ecosystems in other parts of the island so that merely designating the ocean hazard area and the surrounding coastal waters as AECs is insufficient to insure protection of the entire ecosystem.

Local Regulations and Uses of Regional Benefit (see Final Draft, p. 194)

North Carolina proposes use of both acquisition of appropriate sites needed for uses of regional benefit and implementation of the "key facilities" concept as set forth in the CAMA (GS 113A-113). These procedures appear to meet the requirements of Section 306(e)(2).

Authorities and Organization

In its previous comments NRDC dwelt heavily upon the failure of the North Carolina Plan to demonstrate that the State possessed the necessary authorities to control land and water uses in the coastal zone as required by CZMA. The commentators herein continue to believe that the Final Draft contains major shortcomings in this area.

Activities Exempted from the AEC Permit Process

The Final Draft document still does not provide for adequate management of all significant land and water uses within the coastal area and AECs in particular.

The exclusion of forestry and agricultural activities from the AEC permit process continues to raise the issue as to whether the objectives and policies of the CZMA can be achieved through the use of the AEC concept as it now exists. Forestry and agriculture are among the most widespread activities within the coastal zone. Their potential for impact upon coastal waters is obvious. This problem is further compounded by the fact that forestry and agriculture are already exempt from other existing authorities which are necessary to prevent their activities from impacting upon coastal waters such as the Sedimentation Pollution Control Act of 1972 (GS 113A-50 et seq.)

Accordingly, the State has failed to identify a means for controlling these uses and has not shown evidence that it has the necessary authority to implement the management program as required by CZMA Section 305(b)(4) and 306(c)(7).

With respect to the construction of energy generating facilities the approval for the location of such facilities lies with the Environmental Management Commission located within DNRCD as well as the State Utility Commission. It is not clear that these agencies' statutory mandate is sufficiently broad to comply with coastal zone policies. There should be a demonstration that such is the case so that the Executive Order can assure compliance.

The Networking of Authorities and Conflict Resolution

Executive Order No. 15 goes a long way toward articulating the relationship between authorities. It mandates all State agencies to take account and be consistent with coastal policies, guidelines, standards contained in the guidelines, and local land use plans in all regulatory programs, use and disposition of State owned lands, financial assistance for public facilities, and encouragement and location of major public and private growth inducing industries.

At this time, however, the commentators have concerns regarding the legal effectiveness of the Order. It is not clear whether it will legally bind agencies headed by independently elected officials not directly answerable to the Governor. This would include the Department of Agriculture, the Insurance Commission, the Secretary of State, and the Attorney General's Office. It is also not clear whether the Order would bind independent boards established by statutory mandate. Examples of these would be the Pesticide Control Board, the Sedimentation Control Commission, the Environmental Management Commission and the Board of Transportation among others.

As the Final Draft document indicates, Executive Orders have historically been adhered to by all State agencies as a directive of the Chief Executive. However, there has been no legal test of the efficacy of such an Order nor has there been an instance of State agency conflicts resulting in Court action for settlement. In light of this, NRDC recommends that the Attorney General's Office be consulted and asked to submit an advisory opinion concerning these issues. This opinion should be incorporated within the Final Draft document.

In addition, the commentators feel the Executive Order and the management plan must set forth which agency will take

the initiative in identifying instances in which the terms of the Executive Order are being violated. For example, if a particular State agency is prepared to take or has taken action which is in violation of "coastal policies, guidelines and standards" NRCD or the CRC should be bound to point out the conflict and initiate the resolution procedure.

The commentators also feel that some means should be provided for third parties to intervene in order to trigger the conflict resolution process as set forth in the Executive Order. Those individuals or organizations whose interests lie in the area of protecting the coastal environment rather than in protecting economic interests should be given standing to intervene to insure enforcement of the full terms of the Executive Order. Such a procedure is especially important in a State such as North Carolina where standing requirements are narrow.

The Final Draft document's discussion of important coastal issues and problems in North Carolina and policies which address these issues and the inclusion of the Executive Order (if comprehensively binding) are significant advances. However, the document does not discuss how the authorities are to be implemented and their policies achieved as a practical matter. The Executive Order supplements GS 112-108 which

requires "any State land policies governing the acquisition, use and disposition of land by State departments and agencies shall take account of and be consistent with State guidelines..." and GS 113A-125 which mandates that "all existing regulatory permits within the coastal area shall be administered in coordination and consultation with (but not subject to the veto of) the Commission." The document does not contain a description of the process to be used to implement the Governor's directive and the CAMA provision. The details of this process should be included within the Final Draft.

The Capability of the Existing Network of State Authorities to Adequately Manage Critical Land and Water Uses Outside of AECs

There is a great deal of concern on the part of the commentators that North Carolina is relying on a network of authorities that have been in existence for some time now and which have not previously been successful in controlling uses with potential adverse environmental impacts in the coastal area. Furthermore, these authorities were enacted prior to the passage of CAMA and FCZMA and it was not entirely clear whether their policies and objectives are consistent with those of the State and Federal Acts. In any case, the State has the threshold obligation to demonstrate in some detail that the means relied upon must be capable of actually implementing the objectives, policies and individual components of the management program.

The Plan and the Appendix do nothing more than list the statutory powers given each authority. There is no analysis made as to whether the authorities individually and taken as a whole have the demonstrated capability to implement State policy in the coastal zone. It is incumbent upon the State to show in detail which authorities will be enforcing which policies. In addition, such an analysis must include a discussion of the extent to which the authorities can successfully deal with activities that are exempt from the Plan's control with AECS. No such discussion or analysis was found by the commentators.

The commentators note the section entitled "Direct State Regulation of Critical Activities" beginning on page 155 of the Final Draft, deals with the "breadth" and "scope" of authorities. However, this discussion does not demonstrate that the listed authorities are, in fact, adequate to control critical uses.

The Adequacy and Enforcement of Local Land Use Plans

Local control of land use is provided for in the CZMA Section 306(3)(1). Section 293.10(b)(2) of the NOAA Regulations allows that there will be uses within the coastal zone which do not have a direct and significant impact on coastal waters. Such uses may be regulated by local units of government within the framework of the management program. Uses that are local in nature are defined in the North Carolina Program as those uses not requiring a permit from a State agency or uses not within an AEC.

The commentators are aware of the role of the LUPs in the context of the North Carolina Plan and recognizes that critical uses will be managed independently by State regulatory programs. It is also pleasing to find that the

document clarifies that in the case of conflict between LUPs and coastal policies, the State Guidelines are the authoritative statement of policy and will control.

However, it should be pointed out, that local land use decisions, taken by themselves, do not impose serious burdens on coastal ecosystems, but the cumulative effect of local decisions could be devastating. Many small aquifer recharge areas might be paved over or built upon with a resulting decline in crucial groundwater supplies. Poorly planned public investments such as sewage treatment plants and roads could produce excessive population concentrations resulting in the generation of non-point sources of pollution such as auto emissions and sedimentation runoff. Overreaching carrying capacity constraints will impose burdens on those wishing to develop or live on the coast in the future. Those burdens should be shared by those using coastal resources now.

Some evidence already exists suggesting that local plans and the goals and objectives of CAMA will not always coincide. CAMA requires the use of growth guiding, uniform land classification systems as part of the local planning process. An evaluation of four county plans showed a significant

divergence between CAMA goals and policies and parts of each plan (see: S. French, Land Classification in North Carolina Coastal Planning, Center for Urban and Regional Studies, University of North Carolina). Although this study is not a comprehensive indictment, it does suggest that substantive State review of local plans is advisable. The commentators take this position in light of the fact that State Guidelines will control in the case of conflict since the local planning process is seen as laying a foundation for better local land use and resource management that will be critical to the long range success of any program for such a large coastal zone as North Carolina's.

With respect to enforcement of LUPs, local regulations and zoning ordinances are the most reasonable mechanisms for imposing lot size and density restrictions, controls on vegetation clearing during construction, or preservation of small open spaces. Local governments, however, are not statutorily mandated to exercise their zoning and subdivision authority in conformance with their adopted local land use plans. If the Executive Order is comprehensive enough to bind all State regulatory agencies to conform their permitting and development activities to the coastal management policies and local plans, then local enforcement, though desirable, is not absolutely critical. However, there is doubt as to the efficacy of the Executive Order.

Adequacy of State Policies

There are numerous State policies listed in the Management Plan beginning on page 80. The majority of these are very general and "broadly applicable to private development activities and/or government activities." The Plan does not include any demonstration of the extent to which these policies are adequate to insure the balanced use and preservation of coastal resources. It is essential that the Plan contain a definitive explanation as to whether or not the policies and goals set forth are sufficiently comprehensive to accomplish that purpose. This is especially important in view of the fact that the policies and goals will form the basis for defining coastal policy as that term is to be applied by the Executive Order.

Conflict Resolution with Regard to Policies

In reading the policies set forth on pages 80 to 106 of the Final Draft, the commentators noted that there were many potential conflicts between these policies. The commentators were unable to find a procedure set forth in the Plan for resolving such conflicts. It is felt that such authority should clearly be vested in the Coastal Resources Commission or some other appropriate entity.

North Carolina
Department of Administration
116 West Jones Street Raleigh 27603

James B. Hunt, Jr., Governor
Joseph W. Grimsley, Secretary

January 13, 1978

Statement by J.C. Jones, Director, Office of Marine Affairs, North Carolina Department of Administration, to the Coastal Resources Commission, at their public hearing on the North Carolina Coastal Plan, held on January 13, 1978 at Morehead City, North Carolina.

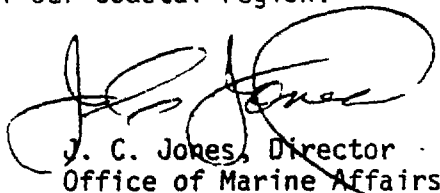
We would like to commend the Coastal Resources Commission, the Coastal Resources Advisory Council and staff personnel for their commitment and dedication to the people of the coastal area. The preparation of a comprehensive management plan has taken a great deal of time and effort, and the North Carolina Coastal Plan reflects the outstanding job that has been accomplished.

We feel that the scope of the plan goes beyond resource management considerations. The Department of Administration is concerned with certain elements of the North Carolina Coastal Plan, in particular, the description of roles of various state agencies involved in marine and coastal resources.

The Office of Marine Affairs endorses the concept of integrating the state's coastal management activities but at the same time reaffirms its role as the administrative mechanism within the Department of Administration established "to accomplish the necessary coordination in planning and implementation of current and future state and federal programs relating to the coastal and marine resources of North Carolina."

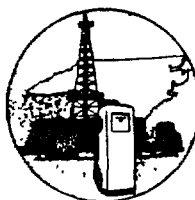
The North Carolina Coastal Plan on research, coordination, and program and policy development, pages 212 to 215, closely relate to the administrative and statutory responsibilities of the Office of Marine Affairs, the Marine Science Council and the Marine Resources Center Administrative Board to coordinate and foster applied research, to promote marine education, to maintain liaison with the coastal activities of nearby states and the federal government, and to advise in the coordination of efforts toward full development of the state's marine resources.

We look forward to the opportunity of working with the Coastal Resources Commission, the Advisory Council and staff in all areas of mutual interest and concern for the betterment of our coastal region.


J. C. Jones, Director
Office of Marine Affairs

NORTH CAROLINA PETROLEUM COUNCIL

A Division of the American Petroleum Institute



Post Office Box 467
Raleigh, North Carolina 27602
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January 24, 1978

WILLIAM H. WEATHERSPOON
Executive Director

STEPHEN C. MORRISETTE
Associate Director

Mr. Ken Stewart, Executive Director
Coastal Resources Commission
Department of Natural Resources and
Community Development
P. O. Box 27687
Raleigh, North Carolina 27611

Dear Mr. Stewart:

We have examined with interest the Final Draft of the North Carolina Coastal Plan. In keeping with my statement at the public hearing at Morehead City on January 13, 1978, the North Carolina Petroleum Council intends to file detailed comments concerning this plan.

When I learned from your staff on January 18 that you intend to transmit the Plan as currently written, along with all comments, to NOAA-OCZM on January 24, we quickly looked at the possibility of drafting detailed constructive comments in the short time allowed. We concluded we could not.

However, we would not like the Plan to go to NOAA-OCZM without at least a summary of our support and a preview of our criticism. Such a presentation is respectfully submitted in the attachment. Our detailed comments for the record will be forthcoming.

We appreciate very much your setting up the conference of February 13. We look forward to discussing our comments on the coastal program and the energy siting issues which concern us all.

Sincerely,

William H. Weatherspoon

WHW:bha

Attachments

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A PREVIEW OF THE NORTH CAROLINA PETROLEUM COUNCIL'S POSITION ON THE FINAL DRAFT
OF THE NORTH CAROLINA COASTAL PLAN

The North Carolina Petroleum Council concurs generally with the Final Draft of the North Carolina Coastal Plan ("Coastal Plan") as a program suitable to manage conservation and development of the State's Coastal resources. The Coastal Plan is built around the multiple compatible use concept so as to allow any compatible development which can meet stated policies, guidelines, and standards. We have studied the guidelines, and as we understand them, they would not prohibit reasonable and environmentally conscious petroleum related operations where needed--even in Areas of Environmental Concern. The need to allow activity of interest to the Nation and regions outside North Carolina's coastal zone is one of the goals of the State's Coastal Area Management Act and this goal is articulated in the Coastal Plan.

Thus, as we see North Carolina's Coastal Plan from the position of an industry interested in the balanced use of coastal resources (but also interested in supplying energy resources so vital to our national well-being), the Plan contains those basic structural members necessary to make it a good program. However, in our view, some changes and refinements are needed to make the program qualify for approval by the Secretary of Commerce under the Coastal Zone Management Act. We believe these items are essential to provide a smooth working program to serve the mutual interests of both State and Nation in accordance with the intent of the Federal Act.

Our concerns in this regard are summarized below:

1. THE COASTAL PLAN SHOULD DEFINE THE STATE'S MANAGEMENT PROGRAM AND EXPLICITLY SPECIFY ALL THAT WHICH COMPRISES SAME.

A person cannot abide by a law or regulation if he cannot clearly understand what he is supposed to do. A business, industry, or agency should not be required to certify consistency with a program unless they know precisely what they are to be consistent with. While a program made up of a network of State and local laws, regulations, and policies, etc., of several agencies having a varying degree of interest and authority over coastal resource management is not easy to define, a complete and clear definition of the program and what it entails is essential. This deficiency should be addressed and handled in a clear and concise manner.

II. THE COASTAL PLAN MUST BE DULY ADOPTED BY THE STATE.

While much of what is contained in the Coastal Plan has been duly adopted by the State of North Carolina and is effective at this time (e.g., the Coastal Area Management Act of 1974, the State Guidelines promulgated thereunder and the Local Land Use Plans), the Coastal Plan has not been approved as such. In order to be legally enforceable and approvable under the Federal Coastal Zone Management Act, every provision of the Coastal Plan must be adopted by the State Legislature and approved by the Governor.

III. THE COASTAL PLAN SHOULD BE STRENGTHENED ON THE REQUIRED CONSIDERATION AND ACCOMMODATION OF NATIONAL INTERESTS.

One of the main themes running through the history of the 1976 Amendments of the Federal Coastal Zone Management Act is the national need and interest in finding and developing of offshore petroleum reserves. In addition, the North Carolina

Coastal Area Management Act of 1974 ("CAMA") specifies, as a goal, the "orderly and balanced use and preservation of our coastal resources on behalf of the people of North Carolina and the nation."

While the CAMA and selected language in the Coastal Plan consider national interests in this regard and recognize the importance of doing so, the same is not true of the State Guidelines and those local land use plan summaries which we have examined. Inasmuch as the guidelines and local plans are to be consistent with the goals of CAMA and form part of the State's Management Program, the national interest provision should be spelled out clearly in them and procedures established to affirmatively accommodate such interests.

Whereas in the Coastal Plan various oil and gas activities are classed as "critical uses," are subject to State regulation outside Areas of Environmental Concern, and are specified to be of statewide concern (p. 158), such activities are not classified as uses of regional benefit for purposes of Section 306(e)(2) of the Federal Coastal Zone Management Act (p. 194). It should be made clear that "national interests" are to be determined using such sources as Presidential proclamations, Congressional declarations, federal law and regulations, federal agency policies, etc., and that such interests will be affirmatively accommodated in the State's management program. The statement that it is State policy "(t)o give meaningful consideration to balancing the national interests involved in planning and siting facilities with other national, state, and local interests related to coastal resource management and conservation (p. 104)," falls short of the mark. National interests must be accommodated and given effect.

IV. THE COASTAL PLAN SHOULD BE STRENGTHENED ON THE PROCEDURES FOR ADMINISTERING THE CONSISTENCY PROVISIONS OF THE FEDERAL COASTAL ZONE MANAGEMENT ACT.

The Coastal Plan suggests that review of consistency certification should be conducted at the State level, and we concur with this suggestion. However, this is only a suggestion and in order to have an effective consistency review procedure, it should be established.

Further, there is no mention of giving appropriate public notice of consistency review. This feature should be included in the procedure established.

Finally, the role of the Local Land Use Plans in consistency determinations should be clarified. This could be done, perhaps by excluding local plan consideration except for activities which will be conducted within the geographical boundary of the affected local jurisdiction. As it now stands, it is unclear whether each local plan would be involved in, for example, an OCS petroleum activity certification, or if not, which local plan or plans would be involved. See, in this regard, pp. 168, 169, 181-182.

THE NORTH CAROLINA PETROLEUM COUNCIL'S POSITION ON THE
FINAL DRAFT OF THE NORTH CAROLINA COASTAL PLAN AS IT CONSTITUTES
THE STATE'S COASTAL ZONE MANAGEMENT PROGRAM

The North Carolina Petroleum Council concurs generally with the Final Draft of the North Carolina Coastal Plan ("Coastal Plan") as a program suitable to manage conservation and development of the State's coastal resources. The Coastal Plan is built around the multiple compatible use concept so as to allow any compatible development which can meet stated policies, guidelines, and standards. We have studied the guidelines, and as we understand them, they would not prohibit reasonable and environmentally — conscious petroleum-related operations where needed - even in Areas of Environmental Concern. The need to allow activity of interest to the nation and regions outside North Carolina's coastal zone is one of the goals of the State's Coastal Area Management Act (CAMA) and this goal is articulated in the Coastal Plan.

Thus, as we see North Carolina's Coastal Plan from the position of an industry interested in the balanced use of coastal resources (but also interested in supplying energy resources so vital to our national well-being), the Coastal Plan contains those basic structural members necessary to make it a good program. However, in our view, some changes and refinements are needed to make the program qualify for approval by the Secretary of Commerce under the federal Coastal Zone Management Act of 1972 (FCZMA or federal CZMA). We believe these items, discussed below, are essential to provide a smooth working program to serve the mutual interests of both State and nation in accordance with the intent of the federal act.

It is emphasized that we have studied in detail only those features of the program which most heavily bear on petroleum industry activity. And whereas the other parts of the program, less critical to energy development, appear to be adequate, our silence with regard to these parts should not be taken as witness to their completeness and adequacy in every respect.

I.

THE COASTAL MANAGEMENT PROGRAM MUST BE EXPLICITLY DEFINED

A person cannot abide by a law or regulation if he cannot clearly understand what he is supposed to do. A business, industry, or agency should not be required to certify consistency with a program unless it knows precisely what it is to be consistent with. While a program made up of a network of State and local laws, regulations, and policies, etc., of several agencies having a varying degree of interest and authority over coastal resource management is not easy to define, a complete and clear definition of the program and what it entails is essential. This deficiency should be addressed and handled in a clear and concise manner.

According to NOAA's proposed program approval regulations, the FCZMA requires:

"That the policies, standards, objectives, and criteria upon which decisions pursuant to the program will be based are articulated clearly and are sufficiently specific to provide (i) a clear understanding of the content of the program, especially in identifying who will be affected and how, and (ii) a clear sense of direction and predictability for decision makers who must take actions pursuant to or consistent with the management program."

(Proposed 15 CFR, Section 923.3(a) (2).)

This need for a well defined management program is expressed in the Coastal Plan, insofar as the federal consistency provisions are concerned, in two different sections. First, in Chapter Three:

"In summary, the problem to be addressed by the coastal management program is how to insure that...the plan is presently clear enough to provide federal agencies with the guidance necessary to determine whether their activities are consistent."

(Coastal Plan, Page 78, emphasis added.)

And then again in Chapter Six:

"...it is imperative that a clear enumeration of the State's policies be available. The foundation of effective federal consistency is, indeed, a clear declaration of the State's policies and positions regarding coastal resources."

(Coastal Plan, Page 18, emphasis added.)

The Coastal Plan and the CAMA were closely examined for a concise definition of what made up North Carolina's management program. The only provision in the CAMA which seems to bear on definition of the management program says:

"Planning processes covered by this Article include the development and adoption of State guidelines for the coastal area and the development and adoption of a land-use plan for each county within the coastal area, which plans shall serve as criteria for the issuance or denial of development permits under Part 4."

(CAMA, Section 113A-106.)

This would appear to be inadequate statutory definition of the management program. Searching further, we find a general reference to a plan is contained in the findings of CAMA:

"The General Assembly therefore finds an immediate and pressing need exists to establish a comprehensive plan for the protection, preservation, orderly development, and management of the coastal area of North Carolina."

(CAMA, Section 113A-102(a).)

Thus, statutory definition of the management program is left in broad terms and is not specific enough to satisfy the intent of the federal CZMA or the NOAA proposed regulations.

In the Coastal plan, several partial definitions or inferences of definition of the management program are given. The only positive statement of what the program is comes in Chapter Five describing local plan enforcement:

"...North Carolina's coastal management program is a delicate balance of the proper roles and responsibilities for both state and local governments."

(Coastal Plan, Page 169, emphasis added.)

In another part of Chapter Five, we find:

"...both the State Guidelines and the local land use plans are a part of North Carolina's management program."

(Coastal Plan, Page 154, emphasis added.)

And, again in this same section:

"...inasmuch as the policies set forth in 'Guidelines for Local Planning' are a part of the state program..."

(Coastal Plan, Page 155, emphasis added.)

With respect to regulation outside of the AECs:

"The standards applied under the combination of permits applicable to a particular critical use should be viewed as a set of 'performance standards' for the critical use. It is important to note that North Carolina is relying primarily on this network of coordinated state regulations to directly manage the impacts of critical uses outside the AECs which are likely to affect coastal waters."

(Coastal Plan, Page 154, emphasis added.)

And:

"The matrix (attached in folder) is for the purpose of identifying the authorities (regulations) that are applicable to each of the critical (permissible) uses included under North Carolina's management plan."

(Coastal Plan, Page 159.)

The federal CZMA, Section 307, requires federal actions and federally-permitted activity to be "consistent" with the coastal management programs of the states. Thus, if we examine in North Carolina's Coastal Plan the stated requirements for determining such consistency, we can draw a strong inference as to what the program consists of. In Chapter Six, the section on Federal Consistency says:

"AEC policies and permit standards are in most instances explicit enough to allow a federal agency satisfactory guidance on consistency. Local land use plans will provide a statement of local goals and the proposed pattern of growth (land classification) which should be addressed in consistency determination. Statements of policies contained now or in the future in the 'State Guidelines' should be addressed specifically in the consistency determination made by federal agencies. In the determination of consistency, the 'State Guidelines' will be the dominant factor for consideration if there is a conflict between the local land use plan and the 'Guideline.' Finally, the policies of State agencies having valid interests in coastal resources should be considered in the analysis of consistency of federal actions with coastal management objectives."

(Coastal Plan, Page 182.)

But in a discussion in Chapter Five, we see added instruction for consistency review:

"However, because localities cannot be compelled to make local ordinances consistent with their land use plans, state and federal agencies should review local ordinances as well as local land use plans in determining consistency of their proposed actions."

(Coastal Plan, Page 168.)

Now if we combine all the inferences and specified parts of the management program cited above, we would conclude North Carolina's coastal management program consists of, but is not necessarily limited to, the following:

- (1) Proper and balanced roles of state and local governments.

- (2) State Guidelines for Areas of Environmental Concern.
- (3) Local land use plans.
- (4) State Guidelines for Local Planning.
- (5) Statutes, standards, and regulations governing critical uses outside the AECs.
- (6) Policies of State agencies having valid interests in coastal resources.
- (7) Local ordinances.

This is an impressive list of continuously changing ¹ guidelines, regulations, laws and policies. Without better definition of the program, no person, state, or federal agency will be able to assess whether a proposed activity "... affecting land or water uses in the coastal zone...complies with the state's approved program..."²

Clarification and specificity are essential to the effectiveness of the North Carolina program. They are essential (1) to accomplish the goals and objectives of the CAMA, (2) to allow reasonable control with reasonable State administrative staffing and expense, and (3) to allow desirable development and consistent federal and federally-permitted activities in a realistic time frame. Furthermore, such increased clarity would seem mandatory to obtain federal approval of the management program under Section 306 of the federal CZMA.

It is respectfully suggested that the North Carolina coastal zone management program be explicitly defined now, with specific provisions for revision at such time as laws, regulations, land use plans, ordinances, etc., are amended to cause the program to change. To be specific, we believe the description of the management program should itemize by name and number:

¹ See references at the end.

- (1) Each State law which, in its entirety, is part of the program.
- (2) Each provision of a State law not included in (1) above which is part of the program.
- (3) Each specific State rule, regulation, policy, standard, order, guideline or other directive, which is part of the program.
- (4) Each local land use plan, ordinance, city or county code, or other restriction which is part of the program.
- (5) Any other document, executive order, or descriptive material which is legally a part of the program.

The materials should be carefully screened so as to avoid inclusion of a large volume of requirements which really do not pertain to resource management in the coastal zone. Maximum effectiveness of the program will be obtained when persons are able to precisely predetermine requirements with a minimum of research. The effectiveness will be low and subject to questions of "equal treatment" if the network of regulation is so exhaustive and complex as to make such proposed activity a "special case" which must be studied by government experts to determine which requirements apply.

In addition to the detailed itemization above, there should be a clear description of where a person may write or call to quickly obtain a copy of the document listed, its cost, and how long it should be in transit.

Because the many parts which make up the program will be continuously changing through legislations, rule making and local land use plan revision, a procedure should be established for timely revision of the program definition.

These recommendations may seem tedious, time-consuming, and unnecessary. But the job can be much more easily, consistently, and objectively done once by State planners than it can possibly be done time and again by potential developers as they sequentially appear, ready to try to comply with the coastal management program, but unable to grasp a clear understanding of just exactly what it is.

II.

THE PROGRAM MUST BE DULY ADOPTED BY THE STATE

Much of what is contained in the Coastal Plan has been duly adopted by North Carolina and is effective at this time (e.g. the coastal Area Management Act of 1974 and the State Guidelines and Local Land Use Plans promulgated thereunder). Other resource management statutes and their implementing regulations to be included in the coastal management network have by their very nature been duly adopted by the State. But there is a need for the composite management program - the mortar which binds the network together - to be duly approved by the State.

Three provisions of the federal CZMA call for State adoption of the management program prior to approval by the Secretary of Commerce.

First, the term "management program" is defined in Section 304(11) as a "...comprehensive statement...prepared and adopted by the State..." Then again, Section 306(c) (1) requires, as a pre-condition of Secretarial approval, a finding that, "The State has developed and adopted a management program for its coastal zone in accordance with the rules and regulations promulgated by the Secretary..." And finally, in Section 306(c) (4) as an

added approval condition the Secretary must find, "the management program and any changes thereto have been reviewed and approved by the Governor." Thus, in addition to satisfying other requirements of the federal CZMA, a program must have been developed and adopted in compliance with the act and duly promulgated regulations.

Existing NOAA-OCZM regulations (15 CFR Section 923.42) simply observe that the provisions of the federal law are self-explanatory. The proposed revision to this regulation calls for documentation that the Governor of the State "Has reviewed and approved as State policy the management program, and any changes thereto..." (proposed 15 CFR Section 923.47(a) (1).) Most certainly it is obvious from the specific provisions of Section 306(c) (4) that approval by the Governor is required. But, we submit his review and approval alone does not cause a program to be duly adopted unless he has been statutorily granted this unusual power by the State Legislature.

In order that the State coastal zone management program will have full meaning and that it will fully qualify for Secretarial approval, we recommend the program as finally constructed and defined ~~be~~ approved by both the Governor and Legislature.

III.

THE COASTAL MANAGEMENT PROGRAM MUST BE STRENGTHENED ON THE REQUIRED CONSIDERATION AND ACCOMMODATION OF NATIONAL INTERESTS

One of the main themes running through the history of the 1976 Amendments of the Federal Coastal Zone Management Act is the national need and interest in finding and developing of offshore petroleum reserves. Just one example or the repeated references to the need for adequate consideration of energy siting in particular is found in the outset of the Conference report:

"The purpose of the conference substitute is to improve and strengthen coastal zone management in the United States and to coordinate and further the objectives of national energy policy

"The 1972 Act was enacted before the advent of the current and continuing energy crises; i.e., before attainment of a greater degree of energy self-sufficiency became a recognized national objective of the highest importance and priority. The conference substitute follows both the Senate bill and the House amendment in amending the 1972 Act to encourage new or expanded oil and natural gas production in an orderly manner from the Nation's outer Continental Shelf (OCS)."

(Report of Committee of Conference on S.586 to the House of Representatives, Report No. 94-1298, Page 23, emphasis added.)

In accordance with these and many other expressions of concern for energy development in seeking the national goal of energy independence, the national interest requirement for program approval in Section 306 (c) (8) of the federal CZMA was revised in the 1976 amendments as shown by the emphasized phrases below:

"The management program provides for adequate consideration of the national interest involved in planning for, and in the siting of, facilities, (including energy facilities in, or which significantly affect, such state's coastal zone) which are necessary to meet requirements which are other than local in nature. In the case of such energy facilities, the Secretary shall find that the state has given such consideration to any applicable interstate energy plan or program."

The changes made here, coupled with the increased funding under the development grants of Section 305, the administrative grants of Section 306, and the energy impact grants of Section 308, clearly shows Congress, in its 1976 amendments, was anxious to:

- o accelerate development of the state coastal zone management programs, and
- o cause the programs to be constructed in such a manner as to accommodate the national interests in Outer Continental Shelf (OCS) petroleum development.

The North Carolina Coastal Area Management Act of 1974 (CAMA) specifies as a goal:

"To ensure the orderly and balanced use and preservation of our coastal resources on behalf of the people of North Carolina and the nation."

(CAMA, Section 113A-102(b) (3), emphasis added.)

And the Coastal Plan includes many references to the need for accommodating interests which are greater than local in nature. For example, in Chapter Three we find:

"However, it is also necessary to recognize that certain uses that are of an overriding benefit to the nation and the State must not be arbitrarily excluded from the coastal areas because of local opposition."

(Coastal Plan, Page 78.)

The State's guidelines for local land use planning acknowledge the intent of the CAMA in a State policy.

"It should be borne in mind throughout the planning process that the county and municipal plans must take into consideration not only local and area needs, but state and national interests as well."

(North Carolina Administrative Code, Title 15, Chapter 7B, Section .0103 as furnished in the Coastal Plan, Appendix B, Page 7-5, emphasis added.)

Thus, as we view the North Carolina management program, there is a sincere attempt to provide assurance that this State and its local governments will not allow selfish interests to control in cases where there is a broader interest involved. Surely, the intent of North Carolina is to fully satisfy the requirement of the FCZMA Section 306(c) (8) requirement for program approval. But we respectfully submit there are inadequacies in expressing this intent in the State management program.

First, there is a provision of State law which should be clarified. In a provision called "Coordination with the federal government," the CAMA says:

"Where federal or interstate agency plans, activities, or procedures conflict with State policies, all reasonable steps shall be taken by the State to preserve the integrity of its policies." (CAMA, Sect. 113A-127.)

This provision, in the same statute where protection of national interests is a stated policy, would appear as an unintended conflict and place a cloud on the depth of the national interest policy. Most likely, such a misunderstanding can be easily clarified by the legislative history or a State legal interpretation of

Next, there should be an expression of the national interest concept in the Guidelines for Areas of Environmental Concern. The national interest provision of the CAMA, Section 113A-102(b)(3) did not exclude the AECs. It calls for "the orderly and balanced use" as well as for preservation of coastal resources. And the guidelines for AECs articulate this balance in all respects except for what may be an oversight in acknowledging the greater than local interest objective. This flaw could be easily cured by including some appropriate language in the introductory remarks of the Guidelines.

Next, it is unclear whether the local land use plans have, in accordance with Title 15, Chapter 7B, Section .0103, actually provided for interests greater than those of the local area. To be approvable by the Coastal Resources Commission, it would seem to require this provision. We had access only to the local land use plan summaries and understandably, there is no reference to such a provision in these summaries. However, if the complete plans do not contain appropriate provisions for the national interests, they should be so modified.

Finally, the method of determining just what the "national interests" are should be described in the program. Such sources as Presidential pronouncements, federal laws and legislation, regulations and statements made by federal agencies, and interstate agency plans and studies, have been suggested by NOAA-OCZM (proposed 15 CFR Section 923.52 (f)) as a proper means for the assessment of national interests. Although the NOAA-OCZM suggested procedure appears overly exhaustive, we concur with the general concept.

In summary, we believe North Carolina has the intention to provide for the national interests in its management of coastal resources. But we also believe, to be approvable under Section 306 of the federal CZMA, some strengthening of its program must be provided. To accomplish this, we respectfully recommend the following

- (1) Clarify the intent of CAMA Section 113A-127 so as to resolve any conflict with Section 113A-102(b)(3).
- (2) In the State Guidelines for Areas of Environmental Concern, Title 15, Chapter 7, provide either in Section .101 or in the "management objective" of each type of AEC, an appropriate statement concerning the need to consider the needs of greater than local interest in achieving the proper use balance of the area. Also, cite 113A-102(b)(3) as a statutory authority.
- (3) All county and municipal plans should be examined for proper articulation of the national interest concept. If such provisions are inadequate, they should be corrected as needed either individually or collectively through a legally enforceable legislative or administrative pronouncement.
- (4) Include in the management program a description of how national interests will be discerned.

IV.

THE COASTAL MANAGEMENT PROGRAM MUST FINALIZE PROCEDURES FOR
ADMINISTERING THE CONSISTENCY PROVISIONS OF THE FEDERAL CZMA

The Coastal Plan suggests a definitive and workable procedure³ for implementing the consistency provisions of federal CZMA, Section 307. In an orderly manner, the federal activities in which the State has an interest in reviewing consistency are listed⁴ and a detailed description of the consistency review process is presented⁵. We endorse the general concept of this proposal, but have some questions and suggestions which we hope may serve to make the procedure more efficient both from an administrative review standpoint and from the view of a federal agency or applicant.

Certification of consistency with the coastal management program of a "network" state such as North Carolina will not be an easy task even with the program closely defined as recommended in Part I above. A federal agency or applicant for a federal license or permit will be required to study a large volume of documents, laws, and regulations. Unless reduced to the minimum necessary, we are concerned that the volume may be so large as to defeat the purpose of the review. Specifically, we are of the opinion a review of fifty⁶ or more county and municipal land use plans would be bewildering and serve no real purpose in most instances. It seems appropriate that the local plans should be considered in the consistency determination only if the activity is conducted within the confines of the area considered by the local plan. For example, it is understandable that a large federally-financed housing project located in a township should be consistent

with the town's land use plan. Or if an oil company wished to locate a pipeline through a county, it should be consistent with the county plan. But a person seeking a federal permit to drill a well on the OCS should not have to certify consistency with each of the local land use plans. Nor should that person be required to consider the local ordinances in his consistency determination as inferred by the Coastal Plan.⁷ The consistency of an activity to be located outside the geographical boundary of a local land use plan should be determined solely on the basis of management program elements having statewide application.

An apparent oversight exists in the proposed procedure for administering consistency. In the section called "notification,"⁸ no mention is made of notice to the public. Such a feature should be included to comply with the federal CZMA, Section 307(c)(3)(A).

In summary, we recommend the following steps be taken to improve the consistency procedures and make the program more closely comply with the requirements for program approval:

- (1) Clarify the role of local land use plans and local ordinances in consistency determination. Limit their effect only to the extent essential to the accomplishment of program objectives.
- (2) Include a provision for public notice of consistency certifications with proper allowance for hearings when appropriate.
- (3) Formally adopt the consistency review procedures with coordination at the State level to become effective on federal approval of the management program.

1401-1

REFERENCES

- (1) Coastal Plan, p. ii, "The plans lack specificity in many areas, however, and must be built upon to achieve greatest usefulness. This will be accomplished over a period of time as local conditions change. State Guidelines are modified to require greater specificity, and local planning experience and acceptance is gained."
- (2) Federal Coastal Zone Management Act of 1972, Section 307(c)(3)(A).
- (3) Coastal Plan pp. 181-193.
- (4) Id. at pp. 185-188.
- (5) Id. at pp. 188-193.
- (6) Id. at p. 13.
- (7) Id. at p. 168.
- (8) Id. at p. 188.

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

National Forests in North Carolina
P. O. Box 2750, Asheville, NC 28802

1920
February 10, 1978



Mr. Kenneth Stewart
Director, Office of Coastal Management
Dept. of Natural Resources and Community
Development
P.O. Box 27687
Raleigh, NC 27611

Dear Mr. Stewart:

Our review of the Final Draft of the North Carolina Coastal Plan indicates a serious error as the plan is presently written.

National Forest lands administered by the Forest Service, USDA are not considered as excluded lands. On page 116, it states: North Carolina must exclude from our coastal zone those "areas owned, leased, held in trust or whose use is otherwise by law subject solely to the discretion of the federal government, its officers or agents" 15 CFR 923.33(a). Thus... all federal lands are excluded from the coastal zone. The location of major federally owned lands in North Carolina's coastal area which are excluded from the State's coastal zone, is shown in the Appendix E as Excluded Federal Lands." Appendix E does not exclude National Forest lands in Craven and Carteret Counties, nor do the maps in the back of the plan itself. National Forest lands amount to 60,953 acres in Craven County and 56,577 acres in Carteret County. The total acreage of the Croatan National Forest is 156,584 acres with the remaining 39,074 in Jones County.

The identification process stated in Appendix E items (A) and (C) was completed by attached January 9, 1976 letter to Dr. Arthur Cooper, N.C. Department of Natural and Economic Resources. Input for item (B) was accomplished by our District Ranger Richard Mills stationed at New Bern.

The only reference to the Croatan National Forest occurs on the last page of Appendix E under Multi-County Installations. The listing reads: "Bureau of Outdoor Recreation, 35,000, Croatan National Forest." To conform to the other listings it should read Agriculture, Forest Service, 156,584 acres, Croatan National Forest. In addition, it would seem that a listing should show in the preceding chart as follows:

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COASTAL RESOURCES COMM.

2.

<u>County</u>	<u>Town</u>	<u>Agency</u>	<u>Approx. Acres</u>	<u>Description</u>
Craven		Agriculture, U.S. Forest Service	60,933	Croatan NF
Carteret		Agriculture, U.S. Forest Service	56,577	Croatan NF

While it is our intent to manage the National Forest to support the Coastal Plan objectives to the maximum extent possible, the present Final Draft implies a degree of state control over federal activities that we feel was not actually meant. National Forest land should be excluded specifically as were other federal lands to be consistent with the exclusionary provisions of the August 1976 opinion issued by the Justice Department.

I would be happy to discuss this matter further if you desire.

Sincerely,



ROBERT L. PHILLIPS
Land Use Planning Staff Officer

National Forests in North Carolina
P. O. Box 2750, Asheville, N. C. 28802

1500
January 9, 1976

Dr. Arthur W. Cooper
N. C. Dept. of Natural & Economic Resources
Box 27637
Raleigh, N. C. 27611

Dear Dr. Cooper:

In reference to your letter of December 12, National Forest lands that fall within the Coastal Zone area management program include the Croatan National Forest. Section 304 (a) of the Federal Coastal Zone Management Act of 1972 excludes these lands from the Coastal zone. For your use, administrative maps are attached; acreage by counties was given previously along with map of Areas of Environmental Concern.

As for jurisdictional status of these lands, the Federal government has exclusive jurisdiction except that there is concurrent jurisdiction with the State of North Carolina in and over such lands so far that civil process in all cases and such criminal process as may issue under the authority of the State of North Carolina against any person charged with the commission of any crime without or within said jurisdiction may be executed thereon in like manner.

Regulatory activities include the management activities only on National Forest lands as specified under a variety of legislation but primarily the Agricultural Organic Act of 1862, Organic Administration Act of 1897, Weeks Act of 1911 and Multiple Use Act of 1960. A number of other acts along with various Presidential Executive Orders and regulations of the Secretary of Agriculture also apply.

Management functions of National Forest lands include the natural resources of soil and water, timber, wildlife, recreation, including cultural resources. Activities involve: protection from insects, diseases and fire; and a variety of public and private uses including road rights-of-way, utility rights-of-way, and agricultural uses.

Management is coordinated with state agencies by letter of agreement between the agency and the Forest Supervisor of the National Forests in North Carolina. Two such agreements are in effect with the North Carolina Forest Service and North Carolina Wildlife Resources Commission.

Regulatory functions deal with public use of National Forest lands as specified under Title 36 of the Code of Federal Regulations. Enforcement is coordinated locally with county, city, town and state agencies. A formal agreement is in effect with the Sheriff's Departments of Craven and Carteret Counties.

The Forest Service does not issue permits for activities outside of National Forest land. Review of applications for permits is made as prescribed by Federal law for the issuing agency.

Mineral exploration and mining on the National Forests are by permit and regulation of the Bureau of Land Management, Department of the Interior.

Coordination of the North Carolina Coastal Area Management Plan with National Forest management should be between this office, Forest Supervisor, National Forests in North Carolina, Asheville, N. C., with the Department of Natural and Economic Resources. On-the-ground coordination should be carried out between the District Ranger, Thurman Road, New Bern, N. C., with local planning units in Craven and Carteret Counties. The coordination would consist of mutual review of management plans and environmental impact statements of both agencies at appropriate levels.

Limited interaction such as in Pattern 1 with state agency participation or Pattern 2 appears to be appropriate between the Department of Natural and Economic Resources and the Forest Supervisor. Detailed interaction such as Pattern 3 would be to greatest mutual benefit if carried out at the local level between the District Ranger and county agencies.

If you need any additional information concerning administration of National Forests, please let me know.

Sincerely,

ROBERT W. CERNAK
Forest Supervisor

Encs.

January 13, 1978

Coastal Resources Commission
P.O. Box 27687
Raleigh, NC 27611

Dear Sirs:

I submit this letter as a written comment to the public hearing held on January 13, 1978 to review the State's Coastal Plan.

Given the State's interest in the coastal area, as evidenced by CAMA, it seems apparent that the intent is to preserve as much as possible this valuable resource for all citizens. In order to maintain the desirability of this region, it is mandatory that adequate water and sewerage services be available. However, available water and sewer capacity is often exceeded during the summer months due to the large tourist influx. Under such conditions, the coastal environment inevitably suffers. I think that you would agree that a poor marine environment means a poor tourist environment.

Since tourism is a vital part of the State's economy, I believe that it is in the State's best interest to help provide such services. This leads one to question the allocation of the \$116.5 Million raised by the Clean Water Bond Referendum of 1977. Specifically, why are the twenty (20) counties covered by CAMA not given extra consideration in the allocation of these funds? Was any thought given to CAMA in the existing allocation? Is it not proper for the coastal area to get a bigger share of this money to offset its development disadvantages caused by high water tables and poor soil types?

I look forward to receiving your comments on the above questions. Thanking you for your time, I am

Sincerely



Charles Pattison
P.O. Box 151
Topsail Beach, NC 28445

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COASTAL RESOURCES COMM.

NORTH CAROLINA
DEPARTMENT OF AGRICULTURE

RALEIGH, N. C. 27611



JAMES A GRAHAM
COMMISSIONER OF AGRICULTURE

January 19, 1978

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DIRECTOR OF PUBLICATIONS

MEMORANDUM

TO: Kenneth D. Stewart and H. Glenn Dunn
Coastal Management, Natural Resources and
Community Development

FROM: Kenneth Ray Forrest, David S. McLeod
Thomas W. Ellis III
Department of Agriculture

SUBJECT: Final Draft of the North Carolina Coastal Plan

Thank you for the opportunity to review and comment on the Final Draft of the North Carolina Coastal Plan. This publication is in much better condition than the first draft on the interim issue papers. The cooperation you have shown during the review process has been greatly appreciated.

Attached are a number of comments concerning questions raised during our review of the North Carolina Coastal Plan. Your consideration of these issues will be appreciated and we will be looking forward to discussing the coastal program with you again in the near future.

TWE,III:KWH

Attachment

There remains in this plan an inconsistency in the relative values of agriculture and fisheries. As we pointed out in our October 10, 1977 Memo, the value for agriculture is that of production while the value given for fisheries is for the total economic impact of the industry.

When it was noticed that the fisheries value to the State's economy was placed at \$200 million, Jim Brown of the North Carolina Division of Marine Fisheries was telephoned to investigate the inconsistency between this and the \$140 million he had quoted in October. His explanation was simple. The \$200 million figure is one of future potential for the fisheries industry. This would require a great deal of development in processing facilities which has not yet occurred. The plan must be realistic in addressing the economic importance of both fisheries and agriculture. The production value which is known to be \$29 million for fisheries and \$345 million for agriculture is what should be used to compare the relative economic importance of these industries in the 20 coastal counties, since the use of economic multipliers are often confusing and inaccurate.

Also of concern is the second paragraph on page 54 which reads,

"The current trend is for the individual farm to be larger with more intensive activity (production per acre). Productivity is increased, but also are the side effects of drainage, ditching, pesticides, chemicals, and animal waste runoff."

This whole paragraph is disjointed and has no relevance. Although the trend is for the individual farm to be larger, this has nothing to do with production per acre. Also, increasing productivity has nothing to do with increasing the adverse side effects mentioned. Actually, when a piece of farm land is managed properly to increase production this will control the side effects which are mentioned more efficiently through good soil and water conservation practices. It should also be realized that then current water quality regulations on animal waste runoff and the high prices on pesticides and fertilizers are combined with State and Federal dredge and fill regulations, regulatory and economic controls insure that the potentials for harmful effects are minimized. The purpose of this paragraph is highly questionable; therefore, it should be deleted.

In final comment to the agricultural and forestry issue paper, the ending paragraph treats these industries as necessary evils for the coast. If you will compare this paragraph with the closing paragraph for fishing and seafood

on page 52 and manufacturing on page 57, you will see there is a difference in emphasis. In the October 10th Memo we asked that this be considered; and on October 11th, we provided a substitute paragraph as follows:

"The North Carolina Coastal Management Program must address how to maintain, promote, and enhance the agricultural production of the coastal area. This shall be done in a manner consistent with the local economic objectives and long term productivity of our valuable agricultural resources."

Agriculture, forestry, and fishing are all important parts of the coastal economy and should all be promoted and enhanced for the benefit of our coastal citizens.

The farm community is proud of its contributions to North Carolina's economy. It should be mentioned that North Carolina presently ranks tenth in the nation in agricultural exports. In the discussion of ports on page 58, tobacco is mentioned as an important export. Corn, wheat, peanuts, soybeans and poultry products, which were not mentioned, are also important parts of our exports. Many of our crops show a potential for further development if an export market can be established or expanded. An expansion of foreign markets could promote the development of food processing facilities within North Carolina. This not only would help the agricultural community, but could provide more jobs within the coastal area. North Carolina's agricultural exports have grown rapidly. The value of these exports has increased from \$406 million in 1970 to \$786 in 1976. Further expansion of agricultural exports is a definite possibility for this State and further development of our ports would be necessary to handle the growth.

There is a problem on page 88. Paragraph seven under Agriculture and Forestry Policies is highly misleading. In reading this, a reviewer would believe that there is a significant problem with feedlot runoff effecting estuarine and other coastal waters. One would believe that the State adopted specific regulations to address feedlot runoff and its effects on coastal and estuarine waters. When in fact, Section 2H.0122 and .0123 of the Administrative Procedures Act refers to all "surface waters of the State" and does spotlight a specific coastal problem. This statement is also present on page 100 in paragraph one under Drainage.

There is another issue which should be address in Chapter Three. The State should attempt to evaluate the impact of planned development as well as sprawl on agricultural production. It must be recognized that growth and

economic development in agriculture is not necessarily measured in the same terms as industry. Quality and way of life are also extremely important in agriculture and to the coastal people. Development in other sectors does not automatically mean that it is good for agriculture. In many instances when an agricultural area is developed industrially, the agricultural community suffers from increased taxes, lack of labor, and more constraints in terms of local ordinances and regulations. This point should be approached, since the local citizens expressed a desire to grow industrially, but not at the expense of their currently established farming, forestry, and fishing activities. This was stated in many local plans and is mentioned in the State management plan on pages 48, 50, and 54.

This plan has raised a number of questions concerning land-use, local government, and State involvement. The following comments are intended to point out concerns which should be addressed. There is a disturbing sentence in the last paragraph on page 39 which reads,

. . ."for local government to determine transition areas, they had to study state and regional planning programs to become consistant with them."

Hopefully this was a poor choice of words and can be rephrased. As you know, one of the major areas of concern along the coast is the contention that the State was actually dictating the contents of the local plan to local government through the State Guidelines for Local Planning in the Coastal Area Under the Coastal Area Management Act of 1974, which were prepared by the Coastal Resources Commission. This sentence on page 39 can be validly interpreted to confirm their fears.

The local plans were required to list and summarize relevant State and Federal regulations affecting coastal land and water resources and these were provided by the Department of Natural and Economic Resources. The requirement for local plans to be consistant with State and regional planning programs in order to determine transition areas has not been located and seems inconsistent with other sections. As a matter of fact, on page 36 of the State Guidelines the definition of the transition category is, "lands where local government plans to accommodate moderate to high density development during the following ten year period and where necessary public services will be provided to accommodate that growth." The deliniation of transition lands is a decision for investment of public funds by local government. This is not where local

officials should be tied down to being consistent with regional or State decisions. This is an area of delicate wording and I hope that it will be further clarified.

Local ordinances and the possible conflicts with Coastal Resources Commission decisions have been of great concern to local government along the coast. The Coastal Resources Commission's authority in non-Areas of Environmental Concern lands is expressed well on page 168. This shows the Coastal Resources Commission as advisory in nature and without the authority to change or force the change of local ordinances, which may be inconsistent with Coastal Resources Commission policies.

On page 45, the local ordinances affecting areas of environmental concern are addressed. This section could be interpreted as a threat to local government's authority. The concern over inconsistencies of local regulations and areas of environmental concern standards is unnecessary. Areas of Environmental Concern use-standards are enforced by State regulatory powers vested in the Coastal Resources Commission. These standards must be followed in case of development, regardless of local ordinances which may be more lenient. This section should be reworded to more accurately show the authorities which would speak to development in the Areas of Environmental Concern.

There is an incorrect assumption under Growth Management Policies on page 83. This assumption is that the recommendations written by the Land Policy Council are more than merely recommendations. This is implied where it is stated that the Land Policy Council was statutorially mandated to establish policies; then later in the plan, Land Policy Council "policies" are referred to as State policies.

In 1974 when the Land Policy Council was created there was no mechanism in the Act to allow for the implementation of the Council's recommendations. N.C.G.S. 113A-155(c) gives the procedures to be followed with the recommended policies.

An Executive Order dated February 4, 1977 gives the Governor's approval to the recommendations, thus allowing them to be forwarded to the General Assembly for action. The recommendations were subsequently introduced as Senate Bill 565 and House Bill 980. Neither of these bills passed either House; and therefore, died in Committee when the Legislature adjourned in July. Since the original legislation did require the Governor to bring his

recommendations to the Legislature, it must be assumed that legislative action was necessary for implementation. Since passage of these bills did not occur, these recommendations would appear to have no more authority than any other recommendations. Therefore, all references to the Land Policy Council and Land Policy Act of 1974 should be deleted from the North Carolina Coastal Plan.

The alternative definitions of the coastal area considered section on pages 113 through 115 are not relevant to the purpose of Chapter Four. This chapter should address why these 20 counties are being used as the coastal zone under the Federal Coastal Zone Management Area. The land area considered in unsuccessful versions of the Coastal Area Management Act has nothing to do with the designation of the coastal zone for the Coastal Zone Management Act.

After reading the last sentence on page seven and reviewing Chapter Four, our concerns over the coastal zone boundary continues. It would be appropriate at this point to express some of our concerns which were in our July 15, 1977 Memo which are:

"Within the definition of coastal zone in the Coastal Zone Management Act of 1972, section 304 (a) is a requirement concerning the landward boundary designation. 'The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on coastal waters.'

The present area used in the plan goes far beyond this definition. Although 15 CRF § 923-11(b) (1) allows political boundaries to be used as the coastal zone for administrative convenience, the regulations also state that there must be a reasonable relationship to the statutory requirement of shorelands, the uses of which have direct and significant impact upon the coastal water.

It is hard to believe that ALL of the land in the 20 county coastal zone is necessary to control the shorelines.

Under CAMA, the only areas to receive direct protection are the AEC's. Present regulatory means are left to handle impacts which result from lands not designated as AEC's. The Office of Coastal Zone Management will have to decide whether or not present regulatory programs will suffice to 'control shorelands, the uses of which have a direct and significant impact on coastal waters.'

The designation of the 20 coastal counties by CAMA was not done for the benefit of planning under the Coastal Zone Management Act. Rather, this area seems to have been used for Coastal Zone Management planning by default. Some of these counties were selected due only to the seawater encroachment in the rivers on their boundaries. Identical physiological areas adjacent to lands in designated counties were not included simply because the saltwater encroachment line did not touch a part of their county. The designation of counties was intended to promote good land-use planning at the local level and to provide for consistent countywide planning, rather than meeting

Coastal Zone Management requests.

In regard to these items it should be pointed out that no other alternatives (of lesser land areas than the entire 20 county area) have been discussed as providing the shorelands necessary for compliance with the definition of the coastal zone, under the Federal Coastal Zone Management Act."

A great many people feel that inclusion of all the land in the 20 county area in the Coastal Zone Management program has been done without the public having the chance to comment on it. An explanation of the decision-making process which leads to the determination of land area to be included would be welcomed.

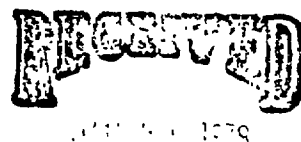
For the most part, the discussion of Areas of Environmental Concern and related resources seems to be well explained. It would, however, be advantageous for all the plan to consider these following points:

It would be helpful in the descriptions of Areas of Environmental Concern in Chapter Five to list existing statutory authorities which are presently in effect in an attempt to protect these areas.

Also the heading, Coastal Wetland Preservation on pages 74 and 101, is hardly an appropriate title for any section in a plan which tries to address coastal North Carolina's economy as well as the environment. The word preservation is a cold word denoting a final state. This is not what is meant within the section. The final paragraph of the section on the top of page 75 is an excellent statement of general intent. The word conservation would fit much better than preservation in this context.

Many of the lingering concerns surrounding the North Carolina Coastal Programs have been directly connected to the issue of drainage. The removal of excess water has been the concern which unites farmers, developers, and homeowners. The continued economic viability of these coastal counties is dependant upon the accessibility and continuance of good drainage. The importance of drainage has been discussed in several sections; however, it has not been shown as a major priority for state and federal consistency. A strong statement setting forth North Carolina's determination to provide for the construction and maintenance of adequate drainage is needed in this plan. Such a statement as this would mitigate some of the concerns of the coastal citizens.

Finally on page 144, when addressing coastal areas that sustain remnant species, you should mention the existing program in the State which is concerned with this area. The North Carolina Wildlife Resources Commission has assumed responsibility for implementation of an Endangered and Threatened Species Program for North Carolina through a cooperative agreement with the United States Fish and Wildlife Service. Both a Scientific Advisory Committee and an Interagency Task Force have been formed to address the needs of the endangered and threatened animal species in the State.



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

COASTAL RESOURCES COMM.

RALEIGH, N. C. 27611

JAMES B. HUNT, JR.
GOVERNOR

January 27, 1978

DIVISION OF HIGHWAYS

THOMAS W. BRADSHAW, JR.
SECRETARY

Mr. Kenneth Stewart
Executive Secretary
Coastal Resources Commission
Post Office Box 27687
Raleigh, North Carolina 27611

Dear Mr. Stewart:

The staff of the Department of Transportation has reviewed "Subchapter 7K-Major Development Permit-Letting Program" as was presented at the January 12, 1978, public hearing. Our comments are as follows:

1. The requirement that a copy of deed or other instrument under which the applicant claims title to the property must be attached to the permit application could cause us problems. There may be cases where we would want all necessary permits to insure approval of construction prior to the acquisition of right of way.
2. The list of activities in AEC's which do not require a permit includes road maintenance within the existing right of way. We feel that this should be expanded to include improvements within the existing right of way. If the exclusion is limited to maintenance it would be necessary to obtain a permit for paving a secondary road.
3. The termination of the permit three (3) years after issue appears to create the need to reapply even if an effort is underway. A clearer understanding of this element in the Permit-Letting Program would be necessary to react to the impact on the Department of Transportation.

Mr. Stewart

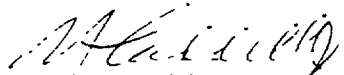
January 27, 1978

4. Even though G. S. 113A-119 provides that the applicant may be charged a fee for administrative cost of the permit application, it does not seem appropriate for one State agency to charge another a fee for processing such an application.

I would like very much to arrange for a joint meeting between your staff and personnel from the Department of Transportation to review the Permit-Letting Program in order to better understand the direction and interpretation that you expect to place on the definitions, application process and procedures. We will be glad to meet with you or your staff at your earliest convenience.

We appreciate the opportunity to comment on these proposed rules.

Sincerely,


W. F. Caddell, Jr.
Chief of Planning

WFCjr/jgp



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COASTAL RESOURCES COMM.

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

P.O. BOX 25201

RALEIGH 27611

January 19, 1978

JAMES B. HUNT, JR.
GOVERNOR

DIVISION OF AERONAUTICS
(919) 733-2491

THOMAS W. BRADSHAW, JR.
SECRETARY

Ken Stewart, Director
Office of Coastal Management
North Carolina Coastal Resources Commission
Post Office Box 27687
Raleigh, North Carolina 27611

Dear Mr. Stewart:

In accordance with our recent conversation, I have reviewed the draft of the North Carolina Coastal Plan and in particular, the regulations associated with it. As I mentioned on the telephone, my concern is over the deletion of airports under the transportation areas.

I noted in the regulations a section entitled "Activities in AEC's Which Do Not Require Permit". Under this particular heading was a subheading entitled "Activities Not Considered Development". Then, further on down in the body, they deleted work by a highway or road agency for the maintenance of an existing road if the work is carried out on land within the boundaries of the existing right-of-way. The Department of Transportation feels that a similar exemption should be included for work by governmental agencies for the maintenance of an existing airport if the work is carried out on land within the boundaries of the existing airport property lines.

The above specific change and appropriate recognition of airports in the transportation areas will make the document more meaningful from a total transportation standpoint. I am well aware of the many difficulties in putting together such a document. If my Division can be of assistance to you in any way in your endeavors, please do not hesitate to contact us.

Sincerely,

A handwritten signature in dark ink, appearing to read "Willard G. Plentl, Jr.".

Willard G. Plentl, Jr.
Director

WGPjr:msp

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DEC 27 1977
COASTAL RESOURCES COMM.

State of North Carolina
Wildlife Resources Commission
RALEIGH, N. C. 27611

A C. BOYD, Kernersville
BRIDGES, Greensboro
E. E. CASE, Hendersonville
D. CLONINGER JR., Dallas
HONEYCUTT, Locust
MOORE, JR., Clinton

J. ROBERT GORDON, Lenoir
Chairman

ROBERT B. HAZEL, Raleigh
Executive Director

LEE L. POWERS, Lake Lure
M. WOODROW PRICE, Gloucester
EDWARD RENFROW, Smithfield
DEWEY W. WELLS, Camden
V. E. WILSON, III, Rocky Mount
W. STANFORD WHITE, Manns Harbor

December 21, 1977

Mr. Ken Stewart, Executive Director
Office of Coastal Management
P. O. Box 27687
Raleigh, N. C. 27611

Dear Ken:

This is in response to Secretary Lee's letter of December 9, 1977, to Director Hazel, concerning our review of the final draft of "The North Carolina Coastal Plan."

Several items of significance within the document were discussed in detail with Mr. Glenn Dunn on December 20, 1977. Mr. Dunn made complete notes on those items and comments and we were informed that our suggestions would be given due consideration in the final document. These topics generally concerned clarifications of wording, inclusion of fish and wildlife aesthetic and economic values, clarification of the state policy statement concerning riverine floodplains, etc.

Two specific omissions were discussed, including the General Statute relating to the prohibition of deposition of logging and other debris in public water courses, and the G.S. dealing with the protection of aquatic plants of value as waterfowl foods.

We feel that Mr. Dunn's comprehension of our comments and recommendations is sufficient, and that no further written comments are necessary at this time.

Sincerely,


T. Stuart Critcher, Assistant Chief
Interagency Wildlife Coordination Section

TSC:ss

cc: Mr. Robert B. Hazel



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COASTAL RESOURCES COMM.

STATE OF NORTH CAROLINA

DEPARTMENT OF HUMAN RESOURCES

325 NORTH SALISBURY STREET

RALEIGH 27611

JAMES B. HUNT, JR.
GOVERNOR

SARAH T. MORROW, M.D., M.P.H.
SECRETARY

TELEPHONE
919 733 4534

January 10, 1978

Mr. Ken Stewart, Executive Director
Office of Coastal Management
P. O. Box 27687
Raleigh, North Carolina 27611

Dear Mr. Stewart:

The North Carolina Department of Human Resources is statutorily responsible for three functions in relation to the North Carolina Coastal Plan. These are: the Ground Absorption Sewage Disposal Act, Solid Waste Disposal Act, and the Sewer and Sanitation Act.

The Sanitary Engineering Section staff within the Division of Health Services in my department has reviewed the plan and finds that it satisfactorily incorporates the several functions for which the Department of Human Resources has statutory responsibility. There is every reason to believe that the specific programs such as solid waste management and public water supply, as now operating in cooperation with other state, local and federal agencies, will adapt readily in the implementation phase of the North Carolina Coastal Plan.

In closing I want to commend you and the staff of the Office of Coastal Management on the successful completion of a very difficult assignment.

Respectfully yours,

A handwritten signature in cursive script that reads "Sarah T. Morrow, M.D.".

Sarah T. Morrow, M.D., M.P.H.



REPLY TO
ATTENTION OF:

DAEN-FEB-N

DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON, D.C. 20314

15 FEB 1978

Mr. Ken Stewart
Department of Natural & Economic Resources
Box 27687
Raleigh, NC 27611

Dear Mr. Stewart:

In reviewing Coastal Zone Management Programs submitted by the individual states to the National Oceanic and Atmospheric Administration (NOAA) for approval, we note that Army military properties are not always listed. It is, therefore, requested that the inclosed list of Army installations adjacent to State coastal zones be considered when identifying properties which should be excluded from a State's Coastal Zone Program. Also included is a list of Army State representatives who act as the overall Army coordinator at the State level in the development and review of the Coastal Zone Management Program for military properties. This individual may or may not be the same as the Army representative for Civil Works.

Sincerely yours,

2 Incl
As stated

Lewis H. Blakey
LEWIS H. BLAKEY
Deputy Director for Technology
and Engineering
Facilities Engineering Directorate

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COASTAL RESOURCES COMM.

ARMY INSTALLATIONS ADJACENT TO
STATE COASTAL ZONES

Explanation: This table lists all Army installations located adjacent to State coastal zones.

For the most part, all installations located in coastal counties are included in this table, because many States are basing their coastal zone planning area on the first tier of political jurisdiction. The table encompasses a relatively broad area because, regardless of the fact that all Federal lands are excluded from State coastal zones, all Federal agencies that conduct activities that directly affect a State coastal zone must comply with the consistency provisions of the Act

<u>INSTALLATION</u>	<u>COUNTY</u>	<u>ACREAGE</u>	<u>COMMAND</u>
<u>MAINE</u>			
N.G. Auburn	Androscoggin	164	National Guard
USARC Auburn	Androscoggin	5	FORSCOM
USARC Bridgton	Cumberland	4	FORSCOM
USARC SACO	York	3	FORSCOM
<u>NEW HAMPSHIRE</u>			
USARC Portsmouth	Rockingham	3	FORSCOM
<u>MASSACHUSETTS</u>			
Camp Edwards	Barnstable	10,689	National Guard
Nike Boston - 05	Essex	76	FORSCOM
Nike Boston - 15	Essex	6	FORSCOM
Nike Providence - 29	Bristol	5	FORSCOM
S. Boston Support Activity	Suffolk	34	FORSCOM
USARC Ft. Rodman	Bristol	13	FORSCOM
USARC Hingham - Cohasset	Plymouth	758	FORSCOM
USARC Quincy	Norfolk	1	FORSCOM
USARC Roslindale	Suffolk	4	FORSCOM
<u>RHODE ISLAND</u>			
N.G. Ft. Adams	Newport	3	National Guard

<u>INSTALLATION</u>	<u>COUNTY</u>	<u>ACREAGE</u>	<u>COMMAND</u>
<u>RHODE ISLAND (continued)</u>			
Nike Providence - 38	Bristol	21	FORSCOM
Nike Providence - 58	Washington	8	FORSCOM
USARC Bristol	Bristol	5	FORSCOM
USARC Ft. Nathaniel Greene	Washington	104	FORSCOM
USARC Providence	Providence	3	FORSCOM
USARC Warwick	Kent	5	FORSCOM
<u>CONNECTICUT</u>			
Nike Bridgeport - 15	New Haven	2	FORSCOM
Nike Bridgeport - 17	New Haven	4	FORSCOM
Nike Bridgeport - 65	Fairfield	7	FORSCOM
Nike Bridgeport - 73	Fairfield	6	FORSCOM
USARC Fairfield	Fairfield	5	FORSCOM
USARC Milford	New Haven	3	FORSCOM
USARC New Haven	New Haven	6	FORSCOM
<u>NEW YORK</u>			
AFRC Niagara Falls	Niagara	21	FORSCOM
Ft. Drum	Jefferson/ St. Laurence	107,265	FORSCOM
Ft. Hamilton	Kings	177	TRADOC
Camp Hero	Suffolk	161	TRADOC

<u>INSTALLATION</u>	<u>COUNTY</u>	<u>ACREAGE</u>	<u>COMMAND</u>
<u>NEW YORK (continued)</u>			
Manhattan BCH HSG	Kings	5	FORSCOM
NY Maintenance Shop, Bellmore	Nassau	16	FORSCOM
Nike NY 04, 05	Rockland	115	FORSCOM
Nike NY 23	Nassau	46	FORSCOM
Nike NY 24	Suffolk	75	FORSCOM
Nike NY 25	Suffolk	115	FORSCOM
Nike Niagara Falls 41	Erie	182	FORSCOM
Stewart Annex	Orange	506	USMA
Ft. Tilden	Queens	2	TRADOC
Ft. Tilden	Queens	92	TRADOC
USARC Albany	Albany	3	FORSCOM
USARC Amherst	Erie	6	FORSCOM
USARC Bullville	Orange	153	FORSCOM
USARC Hempstead	Nassau	4	FORSCOM
USARC Kingston	Ulster	4	FORSCOM
USARC Massena	St. Laurence	5	FORSCOM
USARC Ogdensburg	St. Laurence		FORSCOM
USARC Poughkeepsie	Dutchess	3	FORSCOM
USARC Queens	Queens	4	FORSCOM
USARC Rochester	Monroe	5	FORSCOM
USARC Tonawanda	Erie	3	FORSCOM

<u>INSTALLATION</u>	<u>COUNTY</u>	<u>ACREAGE</u>	<u>COMMAND</u>
<u>NEW YORK (continued)</u>			
USARC Watertown	Jefferson	4	FORSCOM
Ft. Wadsworth	Richmond	226	TRADOC
Watervliet Arsenal	Albany	138	DARCOM
West Point Mil Res	Orange	15,975	USMA
<u>NEW JERSEY</u>			
Ft. Dix	Burlington/Ocean	30,009	TRADOC
Ft. Monmouth	Monmouth	637	DARCOM
Ft. Monmouth Charles Wood	Monmouth	512	DARCOM
Ft. Monmouth Coles	Monmouth	32	DARCOM
Ft. Monmouth Wayside Area	Monmouth	153	DARCOM
Ft. Hancock	Monmouth	1,579	TRADOC
Highlands Army Air			
Defense Site	Monmouth	227	TRADOC
Bayonne Military Ocean			
Terminal	Hudson	679	MTNC
Ft. Evans	Monmouth	253	DARCOM
Oakhurst N.A.S.	Monmouth	6	DARCOM
N.G.S. Plainfield	Middlesex	81	National Guard
Nike NY 54	Monmouth	4	TRADOC
Nike NY 60	Middlesex	91	TRADOC
Nike NY 60 HSG	Middlesex	138	TRADOC

<u>INSTALLATION</u>	<u>COUNTY</u>	<u>ACREAGE</u>	<u>COM1AND</u>
<u>NEW JERSEY (continued)</u>			
Nike Phila 41, 43	Camden	138	TRADOC
Nike Phila 58	Gloucester	71	TRADOC
Pedricktown Support Fac.	Salem	120	TRADOC
USARC&CIMS Kilmer	Middlesex	76	TRADOC
USARC Camden	Camden	8	TRADOC
USARC Caven PT	Hudson	88	FORSCOM
USARC CFMS Kearny	Hudson	29	FORSCOM
USARC Hackensack	Bergen	4	FORSCOM
USARC New Brunswick	Middlesex	5	FORSCOM
USARC Newark	Essex	1	FORSCOM
USARC Northfield	Atlantic	6	TRADOC
 <u>PENNSYLVANIA</u>			
AFRC Phila 03	Phila	14	FORSCOM
Defense Personnel			
Support Center	Phila	86	DARCOM
Frankford Arsenal	Phila	110	DARCOM
Frankford Tacony	Phila	17	TRADOC
USARC Bristol	Bucks	17	FORSCOM
USARC Newportville	Bucks	13	FORSCOM
USARC Chester	Delaware	5	FORSCOM
USARC Phila	Phila	5	FORSCOM

<u>INSTALLATION</u>	<u>COUNTY</u>	<u>ACREAGE</u>	<u>COMMAND</u>
<u>DELAWARE</u>			
1st Army Recreation Area			
(Ft. Miles)	Sussex	192	FORSCOM
N.G. New Castle	New Castle	224	National Guard
USARC Dover	Kent	4	FORSCOM
USARC Lewes	Sussex	5	FORSCOM
USARC Seaford	Sussex	3	FORSCOM
USARC Wilmington	New Castle	9	FORSCOM
<u>MARYLAND</u>			
Aberdeen Proving Ground	Harford/Baltimore	79,286	DARCOM
East Coast Radar			
Receiving Station	Charles	430	CE
Harry Diamond Test Area	Charles	2,000	DARCOM
FBIS Monitoring Station	Prince George's	96	
Ft. Holabird	Baltimore City	238	FORSCOM
Ft. Meade	Anne Arundel	13,561	FORSCOM
Globe Com Radio			
Receiving Station	Prince George's	1,648	
N.G. Phoenix	Baltimore	18	National Guard
N.G. Woodstock	Baltimore	16	National Guard
Nike BA 18	Harford		National Guard

<u>INSTALLATION</u>	<u>COUNTY</u>	<u>ACREAGE</u>	<u>COMLAND</u>
<u>MARYLAND</u> (continued)			
Nike Wash Balto 03	Baltimore	73	FORSCOM
Nike Wash Balto 25	Anne Arundel	49	FORSCOM
Nike Wash Balto 30, 31	Kent	110	FORSCOM
Nike Wash Balto 35 HSG	Prince George's	4	MDW
Nike Wash Balto 79	Baltimore	77	FORSCOM
Nike Wash 44	Charles	31	National Guard
NSA Kent Island	Queen Anne	210	COMLAND
Suitland Microwave Tower	Prince George's	2	MDW
USARC Andrews AFB	Prince George's	6	FORSCOM
USARC Annapolis	Anne Arundel	27	FORSCOM
USARC Balto Sheridan	Baltimore City	4	FORSCOM
USARC Balto Turner	Baltimore City	2	FORSCOM
USARC Curtis Bay	Anne Arundel	37	FORSCOM
USARC Greenspring	Baltimore	14	FORSCOM
USARC Jecelin	Baltimore City	6	FORSCOM
USARC Riverdale	Prince George's	5	FORSCOM
Army General Services			
Admin Depot	Anne Arundel	83	
Governor's Bridge			
Globe Com	Anne Arundel	1,023	

<u>INSTALLATION</u>	<u>COUNTY</u>	<u>ACREAGE</u>	<u>COMMAND</u>
<u>VIRGINIA</u>			
Alexandria USO Site 44-175	Fairfax		MDW
Army Map Service, Herndon			
Site	Fairfax		
Arlington Hall Station	Arlington	86.56	
Arlington National Cemetery	Arlington	511.35	
Arlington Road Photographic			
Storage Facility	Arlington		
Big Bethel Mil. Reservation	Hampton/York	508	
Ft. Belvoir	Fairfax	9,237	TRADOC
Cameron Station	Alexandria City	168	MDW
Ft. Eustis	Newport News City	8,228	TRADOC
Ft. A.P. Hill	Caroline/Essex	77,139	TRADOC
Ft. Lee	Prince George	5,645	TRADOC
Quantico Microwave Station	Prince William	1	TRADOC
Ft. Monroe	Hampton City	1,069	TRADOC
N.G. Wash Balte 74	Fairfax	38	National Guard
Nike Norfolk 52	Portsmouth	51	CE
Ft. Myer	Arlington	364	MDW
Nike Norfolk 85 HSC	Newport News City	11	TRADOC
Pentagon Building			
Site, Annex #2		259	
Ft. Ritchie, Tysons			
Corners Site			

<u>INSTALLATION</u>	<u>COUNTY</u>	<u>ACREAGE</u>	<u>COMMAND</u>
<u>VIRGINIA (continued)</u>			
Ft. Story	Norfolk	1,451	TRADOC
USAMC Woodbridge			
Research Facility	Prince William	579	DARCOM
USARC Alexandria	Fairfax	8	TRADOC
USARC Chincoteague	Accomack	31	FORSCOM
USARC Hampton	Hampton City	21	TRADOC
USARC Norfolk	Norfolk	2	TRADOC
USARC Suffolk	Nansemond	10	TRADOC
USCONARC Radio Site	Isle of Wight	4	TRADOC
Woodbridge Housing Site	Prince William	7	TRADOC
 <u>NORTH CAROLINA</u>			
Sunny Point Military			
Ocean Terminal	Brunswick	16,324	MTMC
New Hanover County Airport	New Hanover	41	National Guard
N.G. Elizabeth City	Pasquotank	2	National Guard
USARC Morehead City	Carteret	6	FORSCOM
USARC Wilmington	New Hanover	4	FORSCOM
 <u>SOUTH CAROLINA</u>			
Charleston Army Depot	Berkeley	1,040	DARCOM
USARC Charleston	Charleston	2	TRADOC

<u>INSTALLATION</u>	<u>COUNTY</u>	<u>ACREAGE</u>	<u>COMMAND</u>
<u>SOUTH CAROLINA</u> (continued)			
USARC North Charleston	Charleston	9	TRADOC
 <u>GEORGIA</u>			
Cu Chi Stage Field	Chatham	225	FORSCOM
Dau Tieng Stage Field	Bryan	225	FORSCOM
Hunter Army Airfield	Chatham	5,685	FORSCOM
Hunter I. Middle Marker	Chatham	1	FORSCOM
Hunter I. Outer Marker	Chatham	2	FORSCOM
Loc Ninh Stage Field	Effingham	228	FORSCOM
Kings Bay Military			
Ocean Terminal	Camden	14,756	MTMC
Ft. Stewart	Liberty/Long/Bryan	279,270	FORSCOM
USARC Savannah	Chatham	5	FORSCOM
 <u>FLORIDA</u>			
AAD Support Facility	Monroe	11	FORSCOM
AADCP Facility HM01	Dade	6	FORSCOM
Ft. Benning, Moreno Pt.	Okaloosa	13	TRADOC
Cape St. George	Franklin	6	FORSCOM
Hawk HM12	Dade	60	FORSCOM
Hawk HM39	Dade	59	FORSCOM
Hawk HM59	Dade	59	FORSCOM

<u>INSTALLATION</u>	<u>COUNTY</u>	<u>ACREAGE</u>	<u>COMMAND</u>
<u>FLORIDA (continued)</u>			
Hawk HM84	Dade	71	FORSCOM
Hawk KW10	Monroe	71	FORSCOM
Hawk KW24	Monroe	44	FORSCOM
Hawk KW65	Monroe	90	FORSCOM
Hawk KW80	Monroe	35	FORSCOM
Nike Herc HMO3	Dade/Broward	374	FORSCOM
Nike Herc HM40	Monroe	336	FORSCOM
Nike Herc HM69	Dade	234	FORSCOM
Nike Herc HM95	Dade	382	FORSCOM
Orlando Branch Office	Orange	1	DARCOM
USARC Coral Gables	Dade	3	FORSCOM
USARC Ft. Lauderdale	Broward	4	FORSCOM
USARC Jacksonville 02	Duval	5	FORSCOM
USARC Jacksonville 03	Duval	6	FORSCOM
USARC Melbourne 01	Brevard	7	FORSCOM
USARC Miami Masters Field	Dade	8	FORSCOM
USARC Orlando 01	Orange	5	FORSCOM
USARC Palatka	Putnam	3	FORSCOM
USARC Panama City	Bay	4	TRADOC
USARC Pensacola	Escambia	5	TRADOC
USARC Richmond NAS	Dade	161	FORSCOM
USARC St. Petersburg	Pinellas	8	FORSCOM

<u>INSTALLATION</u>	<u>COUNTY</u>	<u>ACREAGE</u>	<u>COMMAND</u>
<u>FLORIDA (continued)</u>			
USARC Tampa	Hillsborough	14	FORSCOM
USARC West Palm Beach 01	Palm Beach	1	FORSCOM
USARC West Palm Beach 02	Palm Beach	4	FORSCOM
USARC West Palm Beach 03	Palm Beach	3	FORSCOM
 <u>ALABAMA</u>			
USARC Mobile	Mobile	6	TRADOC
 <u>MISSISSIPPI</u>			
N.G. Gulfport	Harrison	6	National Guard
USARC Gulfport 02	Harrison	7	TRADOC
 <u>LOUISIANA</u>			
Gulf Outport MTMCEA	Orleans	18	MTMC
USARC Camp Leroy Johnson	Orleans	17	FORSCOM
USARC Houma	Terrebonne	6	FORSCOM
USARC Lafayette	Lafayette	8	FORSCOM
USARC Lake Charles	Calcasieu	3	FORSCOM
USARC New Orleans	Orleans	16	FORSCOM
Lake Charles Radar Site	Calcasieu	4	FORSCOM
USARC Michoud	Michoud	6	FORSCOM

<u>INSTALLATION</u>	<u>COUNTY</u>	<u>ACREAGE</u>	<u>COMMAND</u>
<u>TEXAS</u>			
USARC Bay City	Matagorda	2	FORSCOM
USARC Beaumont	Jefferson	7	FORSCOM
USARC Brownsville	Cameron	4	FORSCOM
USARC Corpus Christi	Nueces	5	FORSCOM
USARC Harlingen	Cameron	6	FORSCOM
USARC Pasadena	Harris	4	FORSCOM
USARC Port Arthur	Jefferson	7	FORSCOM
USARC Sinton	San Patricio	5	FORSCOM
USARC Victoria	Victoria	4	FORSCOM
USARC Galveston	Galveston		FORSCOM

OHIO

Nike Cleveland 11	Lake	73	TRADOC
Nike Cleveland 34	Cuyahoga	20	TRADOC
Nike Cleveland 69	Cuyahoga	76	TRADOC
Camp Perry, Erie Army Depot	Ottawa	92	TRADOC
USARC Cleveland			
Gearfield Park	Cuyahoga	4	TRADOC
USARC Cleveland Harvard Rd	Cuyahoga	5	TRADOC
USARC Fremont	Sandusky	3	TRADOC
USARC Parma	Cuyahoga	5	TRADOC
USARC Sandusky	Erie	10	TRADOC
USARC Toledo	Lucas	4	TRADOC

<u>INSTALLATION</u>	<u>COUNTY</u>	<u>ACREAGE</u>	<u>COMMAND</u>
<u>INDIANA</u>			
USARC LaPorte Home			
Station Training	LaPorte	11	FORSCOM
USARC LaPorte			
Outdoor Training	LaPorte	995	FORSCOM
USARC E. Chicago	Lake	4	FORSCOM
USARC Gary	Lake	6	FORSCOM
<u>ILLINOIS</u>			
Nike Chi Milw 54	Cook	1	CE
Ft. Sheridan	Lake	720	FORSCOM
US Army Support Center	Cook	1	FORSCOM
USARC Chicago 06	Cook	7	FORSCOM
USARC Waukegan	Lake	5	FORSCOM
<u>WISCONSIN</u>			
N.G. County Line	Racine	51	National Guard
USARC Green Bay	Brown	2	FORSCOM
USARC Kewaunee	Kewaunee	4	FORSCOM
USARC Manitowoc	Manitowoc	5	FORSCOM
USARC Milwaukee S. Side	Milwaukee	6	FORSCOM
USARC Racine	Racine	3	FORSCOM

<u>INSTALLATION</u>	<u>COUNTY</u>	<u>ACREAGE</u>	<u>COMMAND</u>
<u>WISCONSIN</u> (continued)			
USARC Sheboygan	Sheboygan	4	FORSCOM
West Silver Spring			
USARC Comp Training	Milwaukee	127	FORSCOM
<u>MICHIGAN</u>			
Detroit Arsenal	Macomb	272	DARCOM
Detroit Arsenal Tank Plant	Macomb	80	DARCOM
Keeweenaw Field Station	Houghton	27	DARCOM
N.G. Camp Lucas	Chippewa	9	National Guard
Michigan Army Missile Plant	Macomb	311	DARCOM
US Army Forward Spt Cen	Macomb	3	FORSCOM
USARC Bay City	Bay	4	FORSCOM
USARC Detroit 3	Wayne	9	FORSCOM
USARC Detroit 4	Macomb	5	FORSCOM
USARC Detroit East	Wayne	3	FORSCOM
USARC Inkster	Wayne	4	FORSCOM
USARC Marine City	St. Clair	31	FORSCOM
USARC Muskegon	Muskegon	5	FORSCOM
USARC River View	Wayne	7	FORSCOM
USARC Traverse City	Grand Traverse	5	FORSCOM

<u>INSTALLATION</u>	<u>COUNTY</u>	<u>ACREAGE</u>	<u>COMMAND</u>
<u>MINNESOTA</u>			
USAR Maintenance Center,			
Duluth	St. Louis	5	FORSCOM
USARC Duluth	St. Louis	4	FORSCOM
 <u>ALASKA</u>			
Eklutna Dispersal Site	3rd Judicial Division	500	FORSCOM
Eklutna Mountain			
Glacier Site	3rd Judicial Division	18,240	FORSCOM
Neklason Lake Signal Site	3rd Judicial Division	1	FORSCOM
N.G. Akiachak (Bethel)	3rd Judicial Division	1	National Guard
N.G. Alaknuk (Bethel)			National Guard
N.G. Aviation Complex	Gaab	15	National Guard
N.G. Bethel	4th Judicial Division	1	National Guard
N.G. Brevig Mission		1	National Guard
N.G. Nome		1	National Guard
N.G. Camp Carroll	Anchorage	136	National Guard
N.G. Campbell Creek	Anchorage	40	National Guard
N.G. Cheforak		1	National Guard
N.G. Chevak		1	National Guard
N.G. Deering			National Guard
N.G. Dillingham			National Guard
N.G. Eek		1	National Guard
N.G. Elim		1	National Guard

<u>INSTALLATION</u>	<u>COUNTY</u>	<u>ACREAGE</u>	<u>COMMAND</u>
<u>ALASKA</u> (continued)			
N.G. Emoneak		1	National Guard
N.G. Gambell			National Guard
N.G. Goodnews Bay		3	National Guard
N.G. Hooper Bay		1	National Guard
N.G. Kaktovik		1	National Guard
N.G. Kipnuk		2	National Guard
N.G. Kivalina		1	National Guard
N.G. Kotlik		1	National Guard
N.G. Kotzebue			National Guard
N.G. Koyuk		1	National Guard
N.G. Kwethluk		1	National Guard
N.G. Kwigillingok		1	National Guard
N.G. Little Diomede		1	National Guard
N.G. Mekoryuk			National Guard
N.G. Napakiak		2	National Guard
N.G. Napaskiak		1	National Guard
N.G. Newtok		1	National Guard
N.G. Noorvik		1	National Guard
N.G. Nunapchuk	4th Judicial District	1	National Guard
N.G. Point Barrow		1	National Guard
N.G. Point Hope		1	National Guard
N.G. Quinhagak		1	National Guard

<u>INSTALLATION</u>	<u>COUNTY</u>	<u>ACREAGE</u>	<u>COMMAND</u>
<u>ALASKA</u> (continued)			
N.G. Savoonga		1	National Guard
N.G. Scammon Bay		1	National Guard
N.G. Selawik		1	National Guard
N.G. Shaktoolik		1	National Guard
N.G. Shishwaref		1	National Guard
N.G. St. Michael		1	National Guard
N.G. Stebbins		1	National Guard
N.G. Teller			National Guard
N.G. Togiak			National Guard
N.G. Tooksook Bay		1	National Guard
N.G. Tuntuliak		1	National Guard
N. G. Tununak		1	National Guard
N.G. Unalakleet			National Guard
N.G. Wainwright		1	National Guard
N.G. Wales			National Guard
Nike Alaska Bay	3rd Judicial District	1,340	FORSCOM
Nike Alaska Point	3rd Judicial District	1,030	FORSCOM
Nome Army Site	2nd Judicial District	6	FORSCOM
Port of Haines Dry Cargo Dock		63	FORSCOM
Ft. Richardson	3rd Judicial District	71,372	FORSCOM
Seward Recreational Area	3rd Judicial District	23	FORSCOM
Whittier Anchorage Pipeline	3rd Judicial District	263	FORSCOM

<u>INSTALLATION</u>	<u>COUNTY</u>	<u>ACREAGE</u>	<u>COMMAND</u>
<u>WASHINGTON</u>			
Bothell Fed Reg Ctr	Snohomish	42	FORSCOM
Ft. Lawton	King	213	FORSCOM
Ft. Lewis	Pierce/Thurston	86,759	FORSCOM
Camp Murray (N.G.)	Pierce	3	National Guard
Midway N.G.	King	15	National Guard
Nike - Seattle 03	King/Snohomish	5	FORSCOM
Nike - Seattle 13, 14	King	197	FORSCOM
Nike - Seattle 20	King	8	FORSCOM
Nike - Seattle 32, 33	King	9	FORSCOM
Nike - Seattle 43	King	10	FORSCOM
Nike - Seattle 61	King	86	FORSCOM
Nike - Seattle 82	Kitsap	6	FORSCOM
Nike - Seattle 92	Kitsap	353	FORSCOM
USARC - Bellingham	Whatcom	5	FORSCOM
USARC - Everett	Snohomish	3	FORSCOM
USARC - Renton	King	8	FORSCOM
USARC - Tacoma	Pierce	5	FORSCOM
USARC - Tumwater	Thurston	2	FORSCOM
Worden Fort Cemetery	Jefferson	1	FORSCOM
<u>OREGON</u>			
Stevens Fort Mil Cemetery	Clatsop	2	FORSCOM
USARC - Astoria	Clatsop	2	FORSCOM

<u>INSTALLATION</u>	<u>COUNTY</u>	<u>ACREAGE</u>	<u>COMMAND</u>
<u>CALIFORNIA</u>			
Baker Fort East	Marin	546	FORSCOM
Branch USDB-Lompoc	Santa Barbara	3,206	FORSCOM
Ft. Funston	San Fran	6	FORSCOM
USAR - Hamilton	Marin	9	FORSCOM
HF - Radio-Santa Rosa	Sonoma	69	ACC
Ft. Hunter Liggett	Monterey	166,325	FORSCOM
Lawndale Army Missile Plant	L.A.	23	CE
Lockwood Army Com Fac	Monterey	8	FORSCOM
Ft. MacArthur	L.A.	270	FORSCOM
Miramar Training Site	San Diego	1,200	National Guard
Presidio of Monterey	Monterey	393	FORSCOM
Monterey USO Rec Ctr	Monterey	1	
Camp Roberts (N.G.)	Monterey/		
	San Luis Obispo	42,361	National Guard
Nike Aircraft Maintenance	L.A.	5	CE
Nike Admin HQ	L.A.	5	FORSCOM
Nike - L.A. 78	L.A.	144	CE
Nike - L.A. 88	L.A.	110	CE
Nike - S.F. 51	San Mateo	9	FORSCOM
Ft. Rosecrans Natl Cem		72	
Nike - Travis AFB 10	Solano	921	FORSCOM
San Luis Obispo USO Site	San Luis Obispo		
Nike - Travis AFB 86	Solano	13	FORSCOM

<u>INSTALLATION</u>	<u>COUNTY</u>	<u>ACREAGE</u>	<u>COMMAND</u>
<u>CALIFORNIA</u> (continued)			
Norad CTB - San Pedro Hill	L.A.	31	FORSCOM
Oakland Army Base	Alameda	581	MTMC
Fort Ord	Monterey	27,831	FORSCOM
Baywood Pk Train Area	San Luis Obispo		FORSCOM
Rio Vista Storage Area	Solano	16	DARCOM
Camp Roberts Annex	San Luis Obispo	22	ACC
Presidio of San Francisco	San Francisco	1,573	FORSCOM
Camp San Luis Obispo	San Luis Obispo	1,914	CE
Dana Point Harbor		2	FORSCOM
Taft USO Site		1	
USARC - Rio Vista	Solano	28	FORSCOM
USARC - Bell	L.A.	22	FORSCOM
USARC - Camp Pendleton	San Diego	0	FORSCOM
USARC - El Monte	L.A.	24	FORSCOM
USARC - Lompoc	Santa Barbara	3	CE
USARC - Long Beach	L.A.	5	FORSCOM
USARC - L.A. 1	L.A.	4	FORSCOM
USARC - West Los Angeles	L.A.	5	FORSCOM
USARC - Oakland	Alameda	17	FORSCOM
USARC - San Diego	San Diego	8	FORSCOM
USARC - Santa Barbara	Santa Barbara	3	FORSCOM

<u>INSTALLATION</u>	<u>COUNTY</u>	<u>ACREAGE</u>	<u>COMMAND</u>
<u>CALIFORNIA (continued)</u>			
USARC - Santa Cruz	Santa Cruz	4	FORSCOM
USARC - Santa Monica	L.A.	2	FORSCOM
USARC - Santa Rosa	Sonoma	12	FORSCOM
USAR - Amphibious Tng Site		8	
Southern California Outpost			
Western Area		5	
Fort MacArthur AA Support Facility		5	
USARC - Vallejo	Sola	4	FORSCOM
USARC - Van Nuys	L.A.	6	FORSCOM
White Point Seacoast Battery	L.A.	153	FORSCOM
USARC San Pedro	San Diego		FORSCOM
<u>HAWAII</u>			
Aliamanu Mil Res	Honolulu	529	FORSCOM
Army Airfield, Wheeler AFB	Honolulu	67	FORSCOM
Army Recruiting Station Site	Honolulu		FORSCOM
Ft. DeRussy	Honolulu	73	FORSCOM
Dillingham Mil Res	Honolulu	665	FORSCOM
Welemano Rad Rec Sta	Honolulu	281	FORSCOM
Honoluluuli Mil Res	Honolulu	70	FORSCOM
Kaena Pt Mil Res	Honolulu	87	FORSCOM

<u>INSTALLATION</u>	<u>COUNTY</u>	<u>ACREAGE</u>	<u>COMMAND</u>
<u>HAWAII</u> (continued)			
Kahuku Tng Area	Honolulu	9,223	FORSCOM
Kamewamewa Ft.	Honolulu	506	FORSCOM
Kapalama Mil Res	Honolulu	136	FORSCOM
Kawaihai	Hawaii	7	FORSCOM
Kilanea	Hawaii	70	FORSCOM
Kipapa	Honolulu	659	FORSCOM
Wakua	Honolulu	5,284	FORSCOM
Mauna Kapu Comm Site	Honolulu	16	FORSCOM
Mokuleia Army Beach	Honolulu	17	FORSCOM
NG Waiawa Gulch Storage Area	Honolulu	30	National Guard
Nike Site 2	Honolulu	181	FORSCOM
Nike Site 5,6	Honolulu	127	FORSCOM
Nike Site 3,4	Honolulu	14	FORSCOM
North Sector Command Post	Honolulu	6	FORSCOM
Pohakuloa Tng Area	Hawaii	116,423	FORSCOM
Pupukea Paa Laa Uka Mil Rd	Honolulu	109	FORSCOM
Ft. Ruger	Honolulu	34	FORSCOM
Schofield Bks Mil Res	Honolulu	14,112	FORSCOM
Ft. Schafter	Honolulu	1,340	FORSCOM
Signal Cable Trunking System	Honolulu	204	FORSCOM
Tripler Army Medical Center	Honolulu	367	FORSCOM
USARC Hilo	Hawaii	4	FORSCOM

<u>INSTALLATION</u>	<u>COUNTY</u>	<u>ACREAGE</u>	<u>COMMAND</u>
<u>HAWAII (continued)</u>			
USARC Wailuku	Maui	5	FORSCOM
Waianae Kai Mil Res	Honolulu	19	FORSCOM
Waiawa Mil Res	Honolulu	198	FORSCOM
Waikakalaua Ammo			
Storage Tunnels	Honolulu	320	FORSCOM
<u>PUERTO RICO</u>			
Camp Santiago	Salinas	11,431	National Guard
Ft. Buchanan	San Juan	1,106	FORSCOM
Puerto Nuevo Site	San Juan	43	FORSCOM
Rodriguez Army Hospital	San Juan	10	FORSCOM
USARC Aguadilla	Aguadilla	4	FORSCOM
USARC Ponce	Ponce	5	FORSCOM
USARC Puerto Nuevo	Puerto Nuevo	21	FORSCOM
USARC Salinas	Puerto Rico	3	FORSCOM
<u>VIRGIN ISLANDS</u>			
USAR St. Thomas			FORSCOM
<u>GUAM</u>			
NONE			
<u>SAMOA</u>			
NONE			

MILITARY ARMY STATE REPRESENTATIVE FOR COASTAL ZONE MANAGEMENT

NORTH ATLANTIC DIVISION

Army Corps of Engineers

(Point of contact not yet designated)

90 Church Street

New York, NY 10007

Maine

New Hampshire

Massachusetts

Rhode Island

Connecticut

New York

New Jersey

Pennsylvania

Delaware

Maryland

Virginia

Ohio

SOUTH ATLANTIC DIVISION

Army Corps of Engineers

(Point of contact not yet designated)

510 Title Bldg.

30 Pryor Street, S.W.

Atlanta, GA 30303

North Carolina

South Carolina

Georgia

Florida

Alabama

Mississippi

Puerto Rico

Virgin Islands

SOUTHWESTERN DIVISION

Army Corps of Engineers

(Point of contact not yet designated)

Main Tower Bldg.

1200 Main Street

Dallas, TX 75202

Louisiana

Texas

MISSOURI RIVER DIVISION

Army Corps of Engineers

ATTN: Mr. Basil Burks, Jr.

Chief, Military Branch

Missouri River Division

U.S. Army Corps of Engineers

P. O. Box 103, Downtown Station

Omaha, Nebraska 68101

402-221-7328

Michigan

Indiana

Illinois

Wisconsin

Minnesota

NORTH PACIFIC DIVISION
Army Corps of Engineers
(Point of contact not yet designated)
P. O. Box 2870
Portland, OR 97208

Alaska

SOUTH PACIFIC DIVISION
Mr. Thomas Nissen
Military Design Branch
Engineering Division
Sacramento District
US Army Corps of Engineers
Sacramento, CA 95814
916-449-3507

Washington
Oregon

Mr. Richard L. Frazer
Technical Engineering Branch
Engineering Division
South Pacific Division
US Army Corps of Engineers
630 Sansome Street
San Francisco, CA 94111
415-556-5982

California

PACIFIC OCEAN DIVISION
Army Corps of Engineers
(Point of contact not yet designated)
APC San Francisco 96558

Hawaii
Guam



United States Department of the Interior

GEOLOGICAL SURVEY
RESTON, VIRGINIA 22092

In Reply Refer To:
U.S. Geological Survey
National Center-MS 750
Reston, Virginia 22092

FEB 8 1978

Ken Stewart
Department of Natural & Economic Resources
Box 27687
Raleigh, North Carolina 27611

Dear Mr. Stewart:

The enclosed "General Statement for Coastal Zone Managers" may help you to understand the U.S. Geological Survey's interests and concerns with coastal zone management. Please feel free to use any or all of this statement directly in your management plan when referring to the national interests of the Geological Survey, within the Department of Interior. The statement can be tailored specifically to the unique needs of your State by contacting our local representative:

Ralph C. Heath
District Chief
Water Resources Division
U.S. Geological Survey
P.O. Box 2857
Room 436, Century Station
Raleigh, North Carolina 27602
(919) 755-4510

If you do not currently have my name on your mailing list, please add it for the purpose of receiving newsletters and preliminary coastal zone management plans for Federal agency review.

Sincerely yours,

Robert Schoen
Coordinator, CZMA Act
RALI Program, LIA

Enclosure

cc: District Chief

GENERAL STATEMENT
ON
U.S. GEOLOGICAL SURVEY FOR COASTAL ZONE MANAGERS

January 10, 1977

The U.S. Geological Survey provides the Nation with its principal source of research and information about the composition and arrangement of rocks at and beneath the earth's surface; about the distribution of oil, gas, mineral, and water resources; is the Nation's principal civilian map-maker; and regulates the extraction of oil, gas, and some minerals from public lands. These earth-science activities are performed by four Divisions--Water Resources, Topographic, Geologic, and Conservation, and by the Land Information and Analysis Office.

Water Resources Division measures and evaluates the quantity, quality, movement, and use of surface and underground water including the analysis of the frequency and height of floods to aid in planning for the use of flood plains. In the coastal zone these studies include the problems of encroachment of seawater into fresh ground-water supplies, sinking of land due to fluid withdrawals (such as pumping of ground water), and the role of freshwater in maintaining the ecologic health of estuaries. The majority of these studies include the cooperative participation of other State and Federal agencies and local governments.

Topographic Division carries out the National Mapping Program to provide basic information about the configuration of the land surface and to provide general purpose maps. Products include 7½-minute topographic maps, aerial photography, digital cartographic data, intermediate scale (1:100,000 and 1:50,000) maps, and special products such as slope maps. A goal in coastal areas is to complete the 7½-minute topographic quadrangle maps in the next five to seven years and to review and update these coastal maps on a five-year cycle. The National Ocean Survey (in the National Oceanic and Atmospheric Administration) provides bathymetric data to the Topographic Division to assist in the addition of sea bottom contours to maps of coastal areas. A "Coastal Zone Mapping Handbook" will be available in the summer of 1978 to help coastal planners match their needs with map products available from Federal agencies. The Topographic Division also operates the National Cartographic Information Center which provides information on cartographic data available from Federal and State agencies.

Geologic Division, through research on geologic processes and earth history, produces information on the rocks and materials that lie at or beneath the earth's surface. On the Nation's continental shelves, the Geologic Division assesses potential energy and mineral resources as

well as the geological-environmental hazards, such as earthquakes caused by active faulting, unstable slopes, and areas of excessive erosion, which could affect offshore oil and gas platforms and pipelines.

Conservation Division, with assistance from Geologic Division, classifies Federal public lands as to their value for mineral leasing and also identifies those lands that are favorable for water power and geothermal energy development. Some of these lands are adjacent to State coastal zones. The Geological Survey does not issue mineral leases on Federal land (that is the responsibility of the Bureau of Land Management), but the Survey has the responsibility to supervise mining and drilling operations by the leaseholders. Conservation Division supervises the exploration for and development of minerals on Federal (including the OCS) and Indian leases in order to assure compliance with environmentally sound plans and regulations, to assure optimum recovery of the resource, and to collect royalties due on production.

The Land Information and Analysis Office develops multidisciplinary earth-science and other natural science studies within the Survey and the Department of Interior aimed at land and water management. Special support expertise within the Office includes land-use geography analysis, remote sensing, environmental impact analysis, and natural resource planning assistance.



COMMANDANT FIFTH NAVAL DISTRICT
COMMANDER, NAVAL BASE
NORFOLK, VIRGINIA 23511



A002
11210

20 JAN 1973

RECEIVED

Mr. Kenneth B. Stewart
Executive Secretary
Coastal Resources Commission
P.O. Box 27687
Raleigh, North Carolina 27611

COASTAL RESOURCES COMM.

Dear Mr. Stewart,

Thank you for this further opportunity to review the draft of the North Carolina Coastal Plan (NCCP).

The following comments and recommendations are provided for your consideration during the development of the final NCCP:

a. Page 188-191, Federal Consistency Determination-A Process

This section should be revised to reflect the intent of the Department of Commerce (National Oceanic and Atmospheric Administration) proposed policies and procedures for federal consistency with approved Coastal Zone Management programs; Federal agencies, rather than coastal states, have the authority to determine whether their activities "directly affect" the coastal zone, and if so, whether such activities are "consistent to the maximum extent practicable" with an approved management program.

b. Page 192, Chart 6

The distinction between routine and non-routine consistency certification reviews is unclear. It is recommended that all submissions (consistency, EIS, A-95, etc.) by federal agencies be directed to one agency at the state level to maintain an efficient, effective program.

c. Attachment, Excluded Federal Lands Map

Descriptions of Navy controlled areas should be revised as shown on the attached map.

A002
11210

d. Appendix E, Excluded Federal Lands

Descriptions of federal land holding (less than 10 acres) should be revised as indicated in the attached updated list.

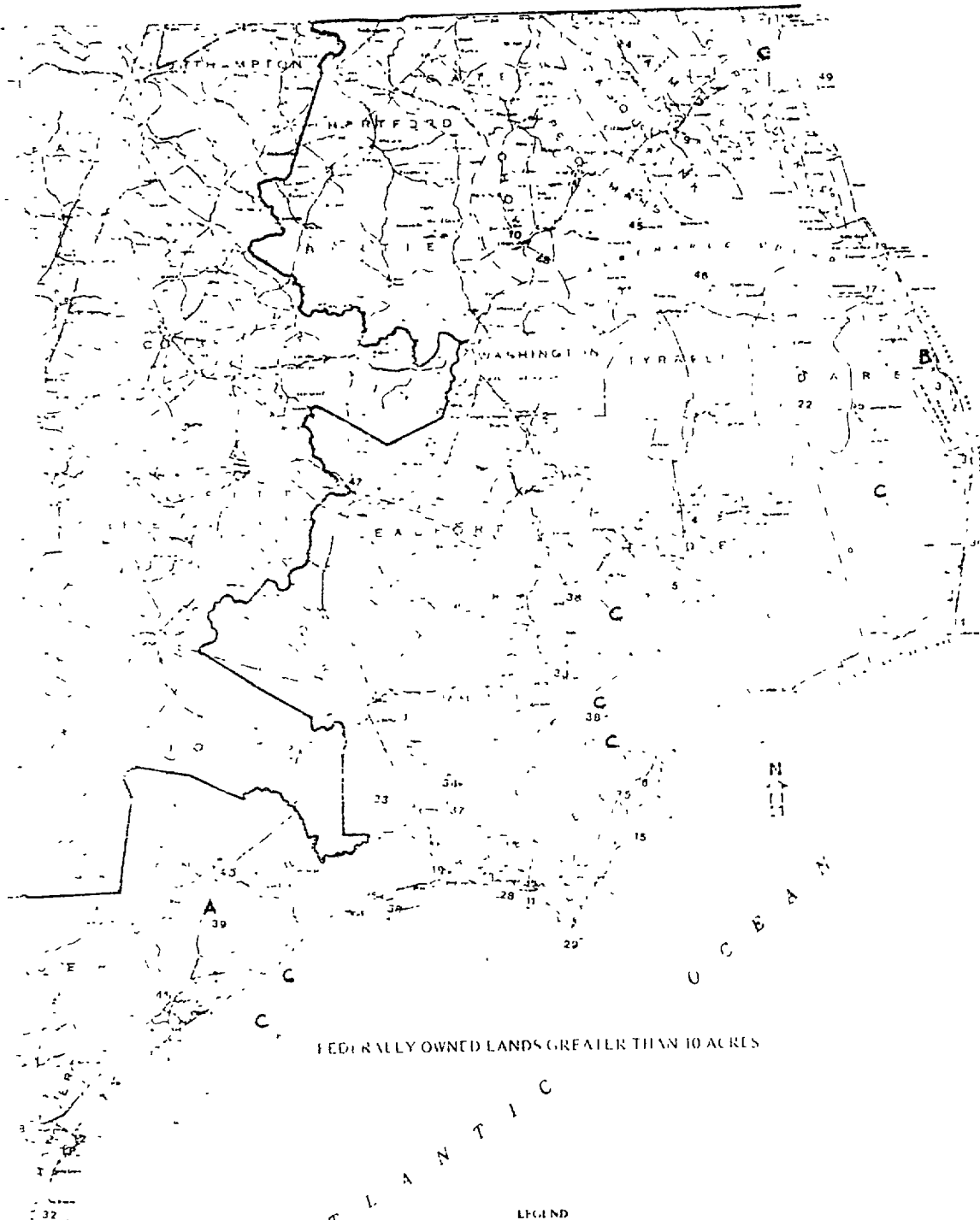
We appreciate the opportunity to work with your staff on all phases of the North Carolina Coastal Plan formulation, and offer our support and assistance as required.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. S. Ross", with a stylized flourish at the end.

D. S. ROSS
Captain, U. S. Navy
Chief of Staff

Enclosures



ADD -
 A NEW RIVER MARINE CORPS AIR STATION
 B AIR CRAFT MANEUVERING RANGE TRAINING STATION
 C DANGER ZONES AND FIRING RANGES

EXCLUDED FEDERAL LANDS

COUNTY	TOWN	AGENCY	APPROXIMATE ACREAGE	DESCRIPTION
Beaufort	Washington	Navy, Bureau of Facilities	2.0	NAVAL RESERVE CENTER Res. Electronic Facility
	Washington	Post Office, Treasury	0.6	Post Office & Court House
	Washington	Coast Guard, Defense	0.5	Washington LAS
	Belhaven	Ac Engineers (civil)	1.0	Belhaven Harbor Bk Water
Brunswick	Smith Island	Treasury, Coast Guard	10.0	Baldhead Radio Beacon
	Cape Fear	" " "	30.0	Cape Fear Light Station
	Caswell Beach	" " "	57.2	Oak Island LB Station
	-	Defense, Army	11,116	Sunny Point Army Terminal
Camden	-	U. S. Army Corps	1,473	Eagle Island Disposal Area
	South Mills	Defense, Corps of Eng. (civ.)	260.7	IW-Dismal Swamp Canal
	Beaufort	NOAA	10.6	Beaufort Biological Lab
Carteret	-	Defense, Navy	21.0	Amphibious Base
	-	BOR	12,526	Cedar Island Nat'l Wild- life Refuge
	Beaufort	Post Office, Bureau of Fac.	0.8	Post Office, Front & Pollock Streets
	Morehead City	Post Office	0.3	Post Office; 706-708 Arendell Street
	-	Treasury, Coast Guard	6.4	Cape Lookout Light

COUNTY	TOWN	AGENCY	APPROXIMATE ACREAGE	DESCRIPTION
		Treasury, Coast Guard	11.0	Target Areas
	-	" " "	30.4	Base Fort Macon
	Atlantic	" " "	42.5	Atlantic Lab Station
	-	" " "	16.0	Cape Lookout LBS
	-	" " "	2.1	Not Indicated
	-	Defense, Corps of Eng. (civil)	5.0	Cape Lookout
Chowan	Edenton	Interior, Fish & Wildlife	63.6	Edenton Fish Hatchery
	Edenton	Navy	1299.0	Air Station Aux.
	Edenton	Post Office, Bur. of Fac.	0.5	Post Office-North Broad & Church Streets
Craven	New Bern	Post Office, Bur. of Fac.	0.7	Post Office Court & Custom House Middle Street
	New Bern	Defense, Army	8.0	New Bern National Cemetery
	Navy	Navy	9.3	Radio Range
Currituck	Currituck	Interior, Fish & Wildlife	5669.9	Mackay Isl. Wildlife Refug
	Corolla	Defense, Navy	1481.0	Radio Station
	-	Treasury, Coast Guard	0.8	Currituck Beach Light
	Coinjock	Treasury, Coast Guard	6.7	Coinjock Light Station
	"	Corps of Engineers	5.6	Coinjock & Core Ck. Bridge

COUNTY	TOWN	AGENCY	APPROXIMATE ACREAGE	DESCRIPTION
	-	Treasury, Coast Guard	1.5	Currituck Sound Lts
	-	" " "	1.0	North River Lights
	-	" " "	2.3	Poyners Mill Labs
	-	" " "	5.7	Wash Woods Lab-Station
	-	" " "	3.0	Caffeys Inlet Labs
Dare	Buxton	Commerce, Weather Bureau	3.4	Observatory
	Kill Devil Hills	Interior, National Parks Ser.	324.0	Wright Brothers Nat. Mem.
	Manteo	" " "	18.5	Ft. Raleigh Nat. His. Site
	Manteo	Fish & Wildlife Services	5858.7	Pea Island Refuge
	Buxton	Defense, Navy	58.0	Facility Cape Hatteras
	Manteo	Treasury, Coast Guard	0.2	Bodie Island Light
	-	" " "	9.0	Oregon Inlet Lab-Station
	-	" " "	17.5	Little Kinnakeet Lab-Station
	Rodanthe	" " "	10.9	Chicomaccmico Lab-Station
	-	Air Force	190.0	Target Range
	Hatteras	Treasury, Coast Guard	1.3	Hatteras Lab-Station
	Kill Devil Hills	" " "	3.0	Kill Devil Hills Labs
	-	Defense, Army	9.6	Radar Facilities Nags Head
Hertford	Ahoskie	Post Office, Bur. of Fac.	0.4	Post Office-Main & Mitchell Streets

COUNTY	TOWN	AGENCY	APPROXIMATE ACREAGE	DESCRIPTION
	"	USAF Hurricane Center	42.1	Blumenthal Airfield Hewlett Drv.
	Kure Beach	Defense, Air Force	245.0	Fort Fisher
	Wilmington	Defense, Corps of Eng. (civil)	2.8	Eng. Boat & Rep Yard
Onslow	Camp Lejeune	Defense, Navy	2671.0	Marine Corps Air Facility
	Jacksonville	"	114.0	Hospital
	Swansboro	Treasury, Coast Guard	0.6	Swansboro Labs
	Holly Ridge	Defense, Air Force	1.0	Holly Ridge Gap
Famlico	Hobucken	Treasury, Coast Guard	8.0	Hobucken Las
	"	Defense, Corps of Eng. (civil)	3.1	ICW Goose Crk. to Bay P.
	"	Defense, Corps of Eng. (civil)	2.8	Hobucken Bridge
Pasquotank	Elizabeth City	Defense, Navy	6.0	Title VIII, Housing
	"	Post Office, Bureau of Fac.	1.0	Post Office & Court Mse Main & Martin Streets
	"	Treasury, Coast Guard	754.6	Elizabeth City Air Stati
	"	"	0.6	Elizabeth City Depot
	"	Defense, Army	2.0	NG Fac. Elizabeth City
Pender	Currie	Interior, National Park Service	42.2	Moore's Creek Nat. Mil. P
Perquimans	-	U. S. Navy	1269.0	Harvey Point
Tyrrell	-	U. S. Navy	1.9	Palmetto Pt. Target Area

MULTI-COUNTY INSTALLATIONS

Army Corps Eng. (Civil)	3,538.3	ICW
National Park, Service	18,858.8	Cape Hatteras National Seashore
Defense, Navy	2,086.8	Air Station
Defense, Navy	11,548.9	Marine Corp Air Station (Cherry Pt.)
Bureau of Outdoor Recreation	35,000	Croatan National Forest
Bureau of Outdoor Recreation	15,000	Pungo National Wildlife Refuge
Bureau of Outdoor Recreation	22,000	Dismal Swamp National Wildlife Refuge



United States Department of the Interior

1738 (930)

BUREAU OF LAND MANAGEMENT

EASTERN STATES OFFICE
7981 Eastern Avenue
Silver Spring, Maryland 20910

Mr. Ken Stuart
Executive Director
Office of Coastal Management
P.O. Box 27687
Raleigh, North Carolina 27611

JAN 10 1978

Dear Mr. Stuart:

Thank you for the copy of the North Carolina Coastal Plan and your request to participate in the review process. Instead of commenting directly to your office, our procedure on review of formal draft CZM documents is to submit our comments to the BLM, Washington Office for review, consolidation and submission as part of a combined Department of the Interior review. We were informed that our comments will be due to the Washington Office sometime next month.

Sincerely yours,

Director
Eastern States

RECEIVED
JAN 10 1978

COASTAL RESOURCES COMM.





DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION

Suite 216-B
1568 Willingham Drive
College Park, Georgia 30137
December 30, 1977

COASTAL REGION
REGION TWO
Atlanta, Georgia

Mr. Ken Stewart
Executive Director
Office of Coastal Management
P. O. Box 27687
Raleigh, North Carolina 27611

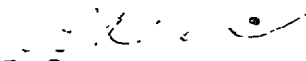
Dear Mr. Stewart:

Thank you very much for including our office in the distribution of the document concerning coastal management of North Carolina.

Since there is very little railroad involvement at this time, we have no objections to the plan. Also, we do not plan to be in attendance at the public hearing on January 13.

If we can help in any way in the future, please call on us.

Sincerely yours,


Mac E. Rogers
Director
Office of Federal Assistance

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION

Region 4
1776 Peachtree Street NW
Atlanta, Georgia 30309



December 14, 1977

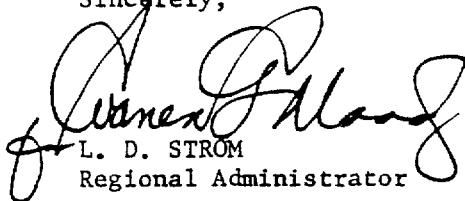
Mr. Ken Stewart
Executive Director
Office of Coastal Management
State of North Carolina
P. O. Box 27687
Raleigh, North Carolina 27611

Dear Mr. Stewart:

We have reviewed your final draft of The North Carolina Coastal Plan and do not have any specific comments to offer at this time.

Thank you for the opportunity to participate in your CZM program.

Sincerely,


L. D. STROM
Regional Administrator

RECEIVED
DEC 19 1977
COASTAL RESOURCES COMM.



DEPARTMENT OF THE ARMY
WILMINGTON DISTRICT, CORPS OF ENGINEERS
P O. BOX 1890
WILMINGTON, NORTH CAROLINA 28401

IN REPLY REFER TO

SAWEN-E

12 January 1978

Mr. Howard N. Lee, Secretary
N.C. Department of Natural Resources
and Community Development
PO Box 27687
Raleigh, NC 27611

RECEIVED
OFFICE OF THE SECRETARY
JAN 15 1978
N.C. DEPT. OF NATURAL
RESOURCES & COMMUNITY
DEVELOPMENT

Dear Mr. Lee:

You and your staff are to be commended for the extensive efforts being made to develop North Carolina's Plan into a model for the Nation. I especially appreciate the continuing opportunity extended to members of my staff to participate in the excellent coordination bringing us all to this point in the Plan's development. The Wilmington District enjoys a complex but informal day-to-day coordination between individual members of my staff and their knowledgeable counterparts with State offices. Now, it is anticipated that this informal one-to-one approach, long successful in achieving the shared goal of the orderly development of North Carolina's coastal water resources, must give way to a more **formal and structured process of determining consistency with the N. C. Coastal Plan**. Hopefully, the new requirements will not unnecessarily encumber the processes whereby we try to provide maintenance and construction of needed public facilities. To this end my staff has **reviewed the final draft N.C. Coastal Plan and prepared the inclosed comments** directed primarily to the need to strengthen and clarify those sections lacking specificity and to the need to correct certain inaccuracies and overstatements regarding Corps activities and regulatory program.

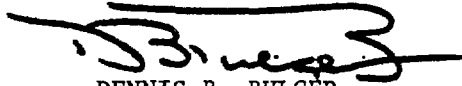
SAWEIN-E

12 January 1978

Mr. Howard N. Lee

As the time grows short in your schedule of acquiring approval of the N.C. Coastal Plan, I offer my personal attention and that of members of my staff to further informal and formal review of your future Plan revisions. Please contact me if you have any questions on these comments or on other matters of which I can provide assistance.

Sincerely yours,



DENNIS B. BULGER
LTC, Corps of Engineers
Acting District Engineer

1 Incl
Comments

CF:

Mr. Ken Stewart
Executive Director
Office of Coastal Zone Management
PO Box 27687
Raleigh, NC 27611

Mr. George Allen/SADPD-R

A. FEDERAL CONSISTENCY.

1. General. It is suggested that the discussion in Chapter 6 be reorganized to separate the consistency determination-review process for a Federal activity from the consistency certification-review process of an applicant for Federal license or permit. A suggested organization for a portion of the chapter regarding Federal consistency is the organization found in the proposed Federal OCZM Regulation (FR Volume 42, Number 167, pages 43586-43610 dated 29 August 1977) as follows:

- 1 - Consistency for Federal activities.
- 2 - Consistency for activities requiring a Federal license or permit.
- 3 - Consistency for outer continental shelf (OCS) exploration, development, and production activities.
- 4 - Consistency for Federal assistance to State and Local Government.

Items 1 and 2 are of special concern to the Corps of Engineers and must be treated separately and distinctly. There is, for instance, no "certification" of consistency which the State can require of the Federal agency (as stated in the second line of page 189) but rather a "determination" of consistency. Certification of consistency is required from each non-Federal permit applicant. Further on page 189 it is stated that permits and licenses will be reviewed through existing permit procedures; yet the chart on page 192 does not include this feature. We agree that existing coordination and review procedures should be utilized, and separate discussions of the processes would provide clear explanation as to just what review process a Federal agency or a permit applicant could expect. The actual contact personnel who will be on the administrative chain that will or will not concur with (1) agency action consistency and (2) permit project consistency must be clearly identified. This is necessary in order to effect face-to-face meetings to develop a formalized procedure through which each proposal will be directed. The need for such a contact point already exists but will be imperative as the plan is effected. Again, we anticipate two distinct processes--one for Corps activities and one for applicants for Corps permits.

2. Consistency of Federal Activities. Although it is averred that the specific mechanism for each agency to follow in its consistency determination may be addressed through future State-Federal coordination meetings, the process that will exist under current authorities will be awkward even for bureaucracies. What will formally be established is another layer of paper and an additional review authority. For example, many of our coastal navigation projects have EIS's on file with CEQ. These EIS's then form the planning springboard from which dredging is coordinated with agencies responsible for conservation of aquatic resources (including the N.C. Division of Marine Fisheries). Personnel

from these agencies advise the District on preferred methods of disposing of dredged material to minimize adverse environmental effects. The paper product produced will be a one- or two-page-long public notice of the intent to dredge and the agreed upon disposal practice. But, upon promulgation of the coastal management plan and the Department of Commerce's regulation, a formal consistency statement will be required which will summarize how well the dredging event was foreseen in the plan, in LUP's, in the State's guidelines, and in other State legislation and authorities. The specificity and the length of this consistency determination are not defined but will probably increase as the lawyers start prosecuting CZMA cases (for example, the litigation in California). Unfortunately, the soundness of the action will become subordinate to the volume of the consistency determination. This event should be able to be avoided if the State would better define the exact nature of the paperwork expected of an acceptable consistency determination. This could be done by including examples of consistency determinations for hypothetical projects with different levels of effects on the coastal zone. This limitation, by example, is the only way to prevent the escalation of paper production for which bureaucracies receive justified criticism.

Further, the production of the paper determination should not and, hopefully, will not be the State's substantive involvement with the District's processes. It is essential that CZM personnel be identified and available for consultation with District personnel responsible for project formulation. A planning ideal would be for a joint preparation of the consistency determination. For only by this method will the finer nuances of the State program be capable of being incorporated into the proposed Federal action. Your program has been concerned with the myriad permits associated with a particular construction activity in the coastal zone. The number of constraints or things to be considered in the planning of a Federal activity are far more numerous. Therefore, if the additional planning constraints to be established under the Coastal Zone Management program are to be adequately incorporated at a meaningful level, personal coordination between the agencies is essential and must be stressed, whereas paper production should have secondary importance.

The final point on consistency determinations is the apparent redundancy of the review process and the substitution of decision makers. Even though four broad areas of authority should be reviewed by a Federal agency during a consistency determination, it is recognized by the CZM agency that assessing the compatibility of a given Federal activity between any two of these authorities will vary in difficulty. In fact, at least one ranking of authorities occurs in the plan, i.e., if a LUP conflicts with State guidelines, State guidelines prevail. However, the relationships between the various levels of policy are subtle, and the people who can best judge if conflicts occur are the people responsible

for generating the differing policies, i.e., the CZM agency and the governmental body responsible for the LUP. This should not be a function of the Federal agency. Certainly the District is neither the right place, nor do we desire to be the place where conflicts are resolved among State-generated policies. Again, there should be someone in the CZM agency that can red flag and, hopefully, resolve such conflicts and develop a coordinated State position within which District activities can be evaluated.

Therefore, the process outlined above suggests that the plan reflects that the CZM agency will resolve conflicts among the various administrative levels within the State, will act as a clearinghouse from which issues coordinated State positions for the Coastal Zone and will actively integrate the State CZM concerns at every level of project planning by the District. These responsibilities, coupled with the desire to minimize any mushrooming of paper production, would insure that the District's Federal activities would not only be conducted to the maximum extent practicable, consistent with the approved State management program, but also could look forward to doing so.

3. The Influence of the State's Concurrence with Consistency Certification on Permit Decisions. For many months discussion has taken place between Corps and State representatives, and many comments have also been written addressing the desire and intent of the State to preempt the Federal permit decision through the CZM consistency provision. Federal courts at every level have agreed that the Secretary of the Army has exceedingly broad discretionary authority regarding the issuance or denial of permits, particularly under the Rivers and Harbors Act of 1899. This regulatory program has its constitutional basis, the Commerce clause, and that within the authority of the Federal Government to regulate commerce lies the further authority and responsibility to prevent interference with navigation. Congress codified several related laws into one law in 1899 which effectively prohibits "...work of any kind..." in the navigable waters of the United States in the absence of permission from the Secretary of the Army. Fundamental to a decision that the Secretary may make to issue such permission (permit) is the Secretary's assurance that the proposal is in the public interest. The process by which that assurance is sought has, therefore, come to be known as the "public interest review" and is described in detail in the code of Federal Regulations (33 CFR 209.320). The District Engineer, acting in behalf of the Secretary of the Army, is bound by the policy and procedure found in these and related administrative regulations. There is further included in these regulations a requirement that each non-Federal permit proposal must be considered by the State to be consistent with the State's approved Coastal Zone Management Plan prior to the Corps' issuance of the permit. Consistency is recognized as only a factor in the public interest review, and there is no requirement that the Corps' review process must reach the same conclusion as the State.

Beyond the Department of the Army regulations are proposed rules and procedures published in the Federal Register, Volume 42, Number 167, dated 29 August 1977, entitled "Federal Consistency with Approved Coastal Zone Management Programs." On page 43603 of that publication under Section 930.65(c), there is the following statement:

If the State agency issues a concurrence or is conclusively presumed to concur with the (permit) applicant's consistency certification, the Federal agency may approve the Federal license or permit application. Notwithstanding State agency concurrence with a consistency certification, the Federal permitting agency may deny approval of the Federal license or permit application.

This section is in complete harmony with established Department of Army policy, practice and procedure, and confirms the discretion available to the Secretary of the Army in the Corps' permit program. Under existing Federal regulations, therefore, and as confirmed by additional proposed regulations, the State may effect the denial of the permit by its non-concurrence with a certification of consistency, but the State does not have the authority under its own statutes or through existing Federal legislation to require permit approval by a Federal permitting agency. The last sentence on page 149 is, therefore, in error and should be deleted.

Related to this topic is the discussion on page 191 which speaks of "organized" and "coordinated" position of the State "truly represents State interests." This is perhaps one of the strongest positive features of the plan and provides the various Federal agencies with a unity of direction and priorities from the State that has not usually been available before. With respect to the earlier comments regarding the State's influence on the issuance of Federal permits or licenses, it is clear that when the State presents its views with the strength and unity that this plan implies, Federal agencies will be hard pressed to rule contrary to that position. The measure of this strength will be the degree to which the State agencies do, in fact, "organize" and "coordinate" and lay aside interagency rivalry and dispute in favor of a unified State position. It is the uncertainty on the part of the Corps of Engineers that the State agencies will actually make decisions and judgments in a new spirit of State interagency cooperation that insists that the Corps preserve its option to disagree with the State's determinations of consistency within the Corps regulatory program.

B. SHORT COMMENTS AND EDITORIAL NOTES.

Page 51, 1st paragraph, 4th line. Apparently, the phrase should be "...through destruction of protective frontal dunes."

Pages 58 through 60. Ports--the commercial statistics are apparently only those from the N. C. State Ports Authority facilities at Wilmington and Morehead City. The commerce in each harbor is several times more than is stated. Attached are tabulations of the waterborne commerce statistics for those ports and for the Atlantic Intracoastal Waterway (AIWW) for 1976. These tabulations were compiled by the Corps of Engineers Waterborne Commerce Statistics Center in New Orleans, Louisiana. Data for each waterway has a ten-year comparative table, as well as a breakdown of commodities for 1976. Citation of this information should be made to the publication: Waterborne Commerce of the United States, Calendar Year 1976, Part 1, Waterways and Harbors, Atlantic Coast, U.S. Army Corps of Engineers.

Pages 61 and 73. The statements concerning problems associated with dredging and disposal of materials are at least overstated, and some are incorrect. Discharges from hydraulic pipeline dredges may cause a period of lower water quality which may be ephemeral and very small in magnitude. This is because shoal material in many instances is not polluted and neither fine grained nor disposed in open water. Further, man-induced landform changes in estuarine environments are not necessarily catastrophes. Some dredge islands support colonially nesting shorebirds; elevated bottoms are colonized by sea grasses, and intertidal zones are capable of supporting marsh grasses. Maintenance dredging is a phenomenon where many people can agree that the shoal material should be picked up, and no one agrees that it should be put back down. We look forward to the CZM agency's involvement in planning future water-oriented transportation programs and helping in the identification of sound maintenance dredging practices.

Pages 148 through 150. CAMA Permit Process for Major Development. Wilmington District has objected previously to the advent of the addition of yet another permit review to the process now in practice in Coastal North Carolina. Unfortunately, the CAMA permit is another permit requirement and will require another level of review beyond the existing State permits. This office is particularly concerned about the timing of the State's review proceedings in light of this new requirement and the effect these delays will have on the decision process for Federal permits for the same projects. An analysis has been made of the 370 permit actions between 1 November 1976 and 1 October 1977 that involve both Corps and State permits for dredge and fill projects. Our coordination procedure during this period (as it has been for several years) involved the deferment of action on the Corps permit until a copy of the State permit has been received by the Corps. The statistics show that the average processing time for the State permit is 76 days and the Corps permit followed in an average of six days. The complete process averages a total of 82 days and ranges from a low of 20 days to a high of 320 days. There were 28 cases in which the State process was proceeding so slowly as to cause the Federal permit to be issued in advance of the State permit. These statistics belie the statement found on page 198 that the Federal process takes "considerably longer" than the State

process. Although, the Corps' procedures can be streamlined, Wilmington District has in the past elected to wait on the State decision. If we had not, the statistics would have been significantly different. Now that the State process will become more complex by the addition of the CAMA overview, it will be necessary that we keep close records to assure that the Corps permits are not unnecessarily delayed by our waiting for the conclusion of the new State process.

Page 183. Licenses Required by Corps of Engineers--should be "Sections 9 and 10" of the River and Harbor Act of 1899 instead of "Sections 10 and 11."

Page 190 under "Evaluation," 2nd paragraph, 4th line. Word "of" should be "or".

Page 197. Criticism of Existing State-Federal Permit Coordination. Beginning with a so called "Permit Coordination Report," released in early 1975, there has been an unwarranted priority of effort and policy development directed by the CRC and its staff at solving the "problems" identified in that report. Wilmington District has commented on this matter previously, but the final draft plan continues to contain numerous statements and a critical tone having their origin in the 1975 report. In another effort to overcome rhetoric with fact, it must be noted that, since the beginning of North Carolina dredge and fill program (1970), the Wilmington District has never denied a permit which the State of North Carolina favored, nor has Wilmington District issued a permit to which the State of North Carolina objected. It should be noted that the State dredge and fill statute (G.S. 113-229) requires that each State permit application must receive a decision in 90 days or the permit is considered issued. The Statute also specifies that the State must make a negative finding within one or more of five somewhat narrow factors of interest. In practice, what this means is that the State-review staff occasionally cannot adequately develop a sufficient negative finding to deny a permit within the 90-day period, and thus issues the permit with their objections unresolved. In other cases the staff may succeed with the negative finding and deny the permit, only to have their decision overturned by a review board. In those situations, the Corps has, in the review record, the unresolved objections of State staff. These objections usually prohibit a conclusion from being reached that the proposal is in the public interest, and thus the Federal permit is denied. The Corps is then often accused by the public of failing to coordinate with the State. This problem needs priority attention from CRC, and their staff is not improving Federal-State coordination (although that is an ever-present challenge). The first problem to be solved is the lack of a unified position of all of the State's interests in its own permit actions. Once this interest is clearly expressed, require the permit applicant to resolve his differences instead of allowing him to negotiate them in an arbitration session.

Pages 200 through 205. Recommendations. We suggest that "recommendations" have no place in the management plan in the absence of an explanation for implementation. If these recommendations remain in the document, Wilmington District requests the opportunity to comment on them at a later date.

Appendix D, page 129, next to last line. Where in Chapter 6 is the location of land use plans included?

Appendix E, Excluded Federal Lands. Danger zone designations should be noted and perhaps included on the list. For North Carolina these are found in 33 CFR 204.54-204.56. Also, the list of Federally excluded lands should carry a note that it will be updated as occasion warrants.



DEPARTMENT OF TRANSPORTATION
REGIONAL REPRESENTATIVE OF THE SECRETARY
1720 PEACHTREE ROAD, NORTHWEST
SUITE 515
ATLANTA, GEORGIA 30309

RECEIVED

JAN 18 1978

January 16, 1978

COASTAL RESOURCES COMM.

Mr. Ken Stewart, Executive Director
Office of Coastal Management
P. O. Box 27687
Raleigh, NC 27611

Dear Mr. Stewart:

Enclosed are comments on your final draft Coastal Plan forwarded by Secretary Lee's letter of December 7, 1977.

Permit Letting (Chapter 6):

The Federal Coastal Zone Management Act of 1972 as amended 1976 (FCZMA), does not distinguish between "site specific" and "non-site specific" licenses and permits. It is the policy of the Coast Guard that only "site specific" licenses and permits are subject to consistency requirements. Three Coast Guard administered permits are involved:

1. Bridge and Causeway Permits;
2. Deepwater Port Development; and
3. Private Aids-to-Navigation.

The last of these (number 03) is absent from the NCCP listing. We once again reiterate that state permit regulations that interfere or conflict with the exercise of federal functions are void nor are we required by the FCZMA to obtain state permits for our activities.

Analysis of Projected Coastal Zone Use and Priorities of Usage:

The NCCP does not provide an overall analysis of existing, projected and potential uses of the coastal zone with respect to the level and extent of impact upon the coastal waters. Such an analysis is required by 15 CFR 923, NOAA Approval Regulations, and is vital to the Fifth Coast Guard District's ability to anticipate and plan for the development of its activities in a manner consistent to the maximum extent practicable with the NCCP. The NCCP should also identify national defense as well as Coast Guard public service responsibilities

as important priority uses of the coastal zone. In addition, the NCCP should provide some assurance that the land surrounding a Coast Guard facility remains compatible with federal operations.

Federal/State Coordination (Chapter 6):

The NCCP, through coordinated federal/state regulatory programs, would attempt to eliminate duplication, conflict, or unnecessary red tape for permit applicants. The NCCP method for achieving these goals "...may include delegation of federal functions to state agencies with appropriate safeguards, withdrawal of federal agencies from fields occupied by state agencies, and sharing of functions in an efficient and mutually agreed fashion." To obtain this unusual degree of federal/state coordination, the North Carolina Coastal Resources Commission (CRC) recommends that "...North Carolina put itself in position to take maximum advantage of the consistency mandate of the North Carolina Coastal Areas Management Act (CAMA) to pursue consolidation and coordination of key state permit programs affecting the state's coastal zone." The meaning and ramifications of this statement are not clear; however, it would appear inappropriate for federal agencies to delegate their functions to state agencies to the extent contemplated by North Carolina. It is recommended that the NCCP elaborate on this proposal.

Sincerely,

D. R. Geoffrion /ds

D. R. Geoffrion
Deputy Secretarial Representative



- 472 -

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Duval Building
9450 Koger Boulevard
St. Petersburg, FL 33702

January 9, 1978

RECEIVED

JAN 12 1978

COASTAL RESOURCES COMM.

Mr. Ken Stewart
Executive Director
Office of Coastal Management
P.O. Box 27687
Raleigh, NC 27611

Dear Mr. Stewart:

The National Marine Fisheries Service has reviewed the final draft for "The North Carolina Coastal Plan" that accompanied Mr. Howard N. Lee's letter of December 7, 1977. In keeping with our responsibility for conservation and enhancement of marine, estuarine, anadromous and freshwater commercial fishery resources and protection of the habitat vital to these resources, we offer the following comments.

General Comments:

We suggest that those sections of the draft pertaining to Federal Consistency, minor development, and Designated Local Official be discussed in more detail, as indicated in the following specific comments.

Specific Comments:

The Major Development Permit Process

Disposition of Major Development Applications

Page 149, paragraph 2. This paragraph should explain that issuance of a CAMA permit does not guarantee issuance of Federal licenses or permits. Because of existing Federal legislation such as the Fish and Wildlife Coordination Act and the National Environmental Policy Act, a Federal license or permit may be denied.

Minor Development Permit Process

Page 150-151. In our opinion, the public interest would best be served if public notices were also required as part of this process. Also, we believe that minor developments, especially

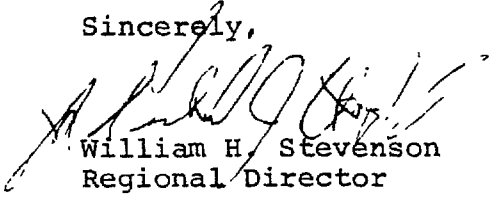


for erosion control of estuarine shorelines, could have cumulative adverse impacts on estuarine habitat.

The Distribution

Page 150. This section should be expanded to explain training requirements for the Local Designated Official (LDO). If existing State legislation such as the State Dredge and Fill Law are changed, considerable responsibilities could be vested in the LDO.

Sincerely,



William H. Stevenson
Regional Director



Department of Energy
Region IV
1655 Peachtree Street, NE
Atlanta, Georgia 30309



COASTAL RESOURCES COMM.

January 13, 1978

Mr. Ken Stewart
Executive Director of the Office of
Coastal Management
P. O. Box 27687
Raleigh, North Carolina 27611

Dear Mr. Stewart:

We have reviewed your Final Draft of the North Carolina Coastal Plan which you recently submitted to us. Because of the importance of energy development for the Nation, and the emphasis placed on it by the Admendments of 1976 to the Coastal Zone Management Act, the Department of Energy is particularly concerned with the policies and actions of individual states involving coastal zone management and energy. Acting on this concern, we offer the following comments on your final draft which may aide you in your CZM plan development.

Initially it is important that state CZM plans recognize that energy self-sufficiency is a national objective. A state plan should contain policy statements regarding the national interest in its coastal zone and of the state's responsibility for helping to meet national energy needs. The North Carolina plan does recognize this national interest (pages 177-179) and states its intent to "promote continued growth of economical public utility services and to cooperate with other states and with the Federal Government in promoting and coordinating inter-state and intrastate public utility services." These policy statements within the North Carolina final plan adequately recognize national policy and responsibility for helping to meet national energy needs.

An area of particular concern to the Department of Energy, based on national energy objectives, is that the procedures and criteria used to determine coastal zone users should give full consideration to current and future energy needs. The economic welfare of the state and region can be adversely affected if appropriate emphasis is not given to the siting of energy facilities in the coastal zone. As

North Carolina develops this portion of the CZM plan, a facility planning procedure should be developed and criteria established for assessing site suitability for needed facilities. Additionally the state CZM plan should identify energy facilities likely to locate in or significantly affect the coastal zone. Assistance in the identification of planned power generating plants (typically through 1990) can be obtained from Carolina Power and Light, Virginia Electric Power Company, the North Carolina Public Utilities Commission, and the Energy Division of the North Carolina Department of Commerce. If additional information is needed beyond what these sources can provide you may wish to contact the Nuclear Regulatory Commission or the Federal Energy Regulatory Commission of the Department of Energy.

The energy facility siting portion of the North Carolina CZM plan should be coordinated with the Energy Division of the North Carolina Department of Commerce. Specifically, the CZM plan should contain stated State energy policies which have been developed by the North Carolina Energy Policy Council to serve as guidance in the siting of power plants and energy facilities.

The North Carolina CZM final draft addresses Outer Continental Shelf policy in detail and references the permit authority of the Oil and Gas Conservation Act, G.S. 113-381, and the prohibitions of the Oil Pollution Control Act, G.S. 143-215. The Department of Energy interest in state CZM plans emphasizes the need for a specific procedure for reviewing OCS energy activity (including exploration, development, and production). The North Carolina plan in its current form does adequately include OCS among the activities which are reviewed to determine the extent of their impact upon the coastal zone. Some additional specific criteria should be developed for the accepting/rejecting of permit applications for OCS activities.

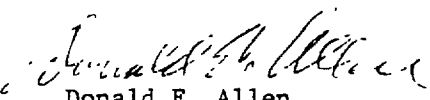
Within a state CZM plan we also advise that there be specified means of controlling energy related land uses and land uses which may otherwise infringe on sites identified for energy use. State and local land use controls should be sufficient to serve the dual objectives of controlling energy related land use and protecting sites earmarked for energy use from encroachment. As discussed on pages 194 and 195 of the final draft, the designation of "major energy transmission or generating facilities" as "Areas of Environmental Concern" would prevent this encroachment. Obviously land use priorities and the criteria used to determine priorities should be clear in the CZM plan. In those coastal areas determined to be suitable for energy facility sites (normally outside the already designated AEC's), we advise that energy related uses should receive high priority.

Lastly, a CZM program should demonstrate consultation with neighboring states and interstate commissions on energy planning. Regional energy needs should also be considered in the CZM program. Our review of the

North Carolina CZM plan indicates fully adequate coordination with federal, state, and local planners in the plan's development.

We appreciate this opportunity to comment on the North Carolina CZM Final Draft and hope these comments will be of some value in your plan development. Please contact Bill Rankin of my staff (404/881-4464) if we can provide further information or assistance.

Sincerely,



Donald E. Allen
Regional Representative

UNITED STATES DEPARTMENT OF AGRICULTURE

SOIL CONSERVATION SERVICE

Post Office Box 27307, Raleigh, North Carolina 27611

Telephone 755-4210

January 13, 1978

Mr. Ken Stewart, Executive Director
Office of Coastal Management
Post Office Box 27687
Raleigh, North Carolina 27611

Dear Mr. Stewart:

Thank you for the opportunity of reviewing the final draft of The North Carolina Coastal Plan. It represents a tremendous input on the part of your staff and we commend you for the job that has been done.

The following specific comments are offered for your consideration as the Commission nears the implementation phase of the program:

1. The Act includes areas of prime forestry land (sites capable of producing 85 cubic feet per acre-year marketable timber) as eligible for designation as areas of environmental concern. We are concerned that such a designation could involve a high percentage of the forestland in the coastal area. For example, about 40 per cent of the woodland in Chowan County would meet the criteria. Although the Commission has stated it does not intend to place the AEC designation on prime forestland, we want to be on record as opposing such a designation should the Commission reconsider the matter at a later date. Many of these prime forestlands are also prime for other agricultural uses. We believe that the landowner should not be denied the option of converting forestland to other uses or that he should be required to obtain a permit in order to do it. Timber is a renewable resource and conversion of forestlands to other uses is seldom irreversible.
2. We strongly endorse a system of issuing permits that would allow a citizen to obtain all necessary permits from one state agency. The permit should either be granted or denied with minimum delay.

Listed below are items of particular interest to SCS that have been adequately addressed in the plan. We believe they require strong county, state and federal coordination to minimize adverse impacts.

1. Provisions for erosion control on sites where land disturbance occurs.
2. Installation and maintenance of conservation land treatment.

RECEIVED

COASTAL RESOURCES COMM.



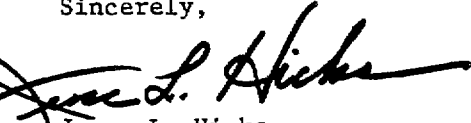
Mr. Ken Stewart

January 13, 1978

3. The environmental impact evaluations needed prior to making land use decisions.
4. Provisions for protection of prime farmlands from premature or ill-advised conversion to other uses.
5. The provisions that allow drainage of agricultural land so that natural drainage patterns may be maintained or improved.

The Soil Conservation Service will cooperate with the state in every way possible to bring about orderly implementation of The North Carolina Coastal Plan. Feel free to call on us at any time.

Sincerely,



Jesse L. Hicks
State Conservationist

cc: V. H. Barry, Jr., SCS, Washington, D. C.
J. Vernon Martin, SCS, Fort Worth, Texas
H. A. Smith, Dept. of Natural Resources
and Community Development, Raleigh, N. C.



United States Department of the Interior

OFFICE OF THE SECRETARY

Southeast Region : 148 International Blvd N.E. : Atlanta Ga 30303

January 12, 1978

Mr. Ken Stewart, Executive Director
Office of Coastal Management
P. O. Box 27687
Raleigh, North Carolina 27611

Dear Mr. Stewart:

The Department has reviewed the final draft of the North Carolina Coastal Plan as requested in Mr. Howard N. Lee's letter of December 7, 1977.

Comments from individual Bureaus within the Department are attached.

If this office can be of further service to you as your plan progresses, please let me know.

Sincerely yours,

Roy K. Wood
Special Assistant to the Secretary
Southeast Region

Attachments

RECEIVED

COASTAL RESOURCES COMM.

UNITED STATES GOVERNMENT

memorandum

January 5, 1978

Area Manager, Asheville, North Carolina

Review of Coastal Zone Management Plan for North Carolina

Special Assistant to the Secretary, Southeast Region, U.S.
Department of the Interior, Atlanta, Georgia

The final draft of the North Carolina Coastal Zone Management (CZM) Plan has been reviewed by the Fish and Wildlife Service as requested in your memorandum dated December 21, 1977. The following comments are submitted for your consideration for inclusion in the Regional review of the plan.

General Comments

The final draft of the North Carolina Coastal Plan is a marked improvement over the Preliminary Draft Plan which this Service commented on by our July 1977 letter. The Coastal Resources Commission's (CRC's) efforts to develop a comprehensive and responsible management plan are apparent. Several problems remain, however, and need to be recognized and resolved prior to submission of the final plan to the Office of Coastal Zone Management (OCZM).

One major deficiency we find in the plan is its lack of essential detail regarding State objectives and policies concerning Service activities in the permit review process and in routine Service operations on Service owned refuges and hatcheries. We believe that the CRC should specifically state its objectives and policies with regard to these activities. In addition, avenues of communication and certain fundamental agreements should be established prior to submission of the final plan to OCZM. Without such understanding and agreement this Service shall maintain a decisive role in overlapping CRC and Service activities, as authorized in accordance with Section 307(e) of the CZM Act of 1972.

Along these lines, we find that the plan fails to provide federal agencies with a decisive role in post-adoption amendments to the plan which could directly affect resources for which this Service has stewardship obligations. The plan should be expanded to allow decisive federal authority in making amendments which will significantly affect the activities of a particular agency or agencies. In this regard, we believe that the plan is improperly balanced in favor of federal agency exclusion and gives less weight to federal participation and interests.

We find that the plan continues to lack aggressiveness in the area of protect

preservation and enhancement of critical habitat, unique natural coastal environments and fragile coastal ecosystems. Furthermore, the plan does not address the ever increasing demand for public access in the coastal zone. Basically, these responsibilities have been assigned to the Designated Local Official (DLO), the North Carolina Department of Parks and Recreation and the newly created Natural Heritage Program.

While any one of these persons or agencies may be capable of preserving and/or managing the resource, they are presently either ineffective, due to a lack of funding and authority, or untested. (One need only examine present ownership and proposed development in the coastal zone to realize the inadequacy of the present management scheme). Since the management responsibilities of these three groups are all shared by the CRC, and since it is the CRC which will ultimately be held accountable for the coastal zone status quo, we believe that the CRC should develop a master plan for habitat preservation and public access which meets present and future local, state and national needs.

As a final note of general concern we found that the plan includes only cursory mention of endangered species and critical habitat. Federal consistency and the Federal designation of critical habitat under Section 4 of the Endangered Species Act as viewed by the CRC should be made absolutely clear prior to submission of the final plan to OCZM.

Specific Comments

page 87, item 6 - The construction of ditches in coastal wetlands should be declared unacceptable except under strict guidelines for "normal" agricultural and silvicultural activities. As worded, ditching is acceptable except in instances of "significant adverse effect." The plan should instead indicate that this activity is generally unacceptable.

Page 90-91 - Regarding highways, the plan fails to adequately consider Areas of Environmental Concern (AEC's) except from a monetary and safety perspective. Highway construction through AEC's should be declared unacceptable except under strict guidelines and only when feasible and less environmentally damaging alternatives do not exist.

Page 94-95 - State policy regarding unique cultural and natural resources is either inadequate or inadequately expressed in the plan. No mention is made of ecosystems which are fragile and/or unique in terms of their flora and fauna. Also, State policy concerning the protection and preservation of endangered species and their critical habitat should be clearly expressed.

Page 102, item 3 - The first sentence in this section should be re-worded. As presently stated issuance of a dredge-and-fill permit would be denied unless there would be a significant adverse effect "...on the use of water by the public...".

Page 109, paragraph 1 - "Exempted activities" referred to in this section should be documented and reference to such documentation should be included where applicable. In this regard we have assumed that "exempted activities" are those referred to in G.S. 113A-103(5)(ii) of the State Guidelines.

Page 118, paragraph 2 - The State should designate to the maximum extent possible all potential Fragile Natural Resource Areas prior to plan approval. It is difficult to ascertain the scope and effectiveness of this classification based on the "future nomination and designation" of unidentified lands. (See comments below under Appendix B, page 7-23 (71.0500)).

Page 121-122 - As pointed out in our comments on the Preliminary Draft Plan, certain developmental activities that could seriously degrade AEC's have been legislatively exempted from the regulatory provisions of the North Carolina Coastal Area Management Act (CAMA). We continue to express concern over Section 113A-1-3(5)(ii) of the CAMA which exempts from AEC regulations:

"Work by any railroad company or by any utility and other persons engaged in the distribution and transmission of petroleum products, water, telephone or telegraph messages, or electricity for the purpose of inspection, repairing, maintaining, or upgrading any existing (facilities)..."

It is our experience that activities of these types can do great damage to sensitive ecological areas, and we urge that they be brought under the jurisdiction of the AEC regulations. In this regard we find that Section 113A-103(5)(iii) of the CAMA (Page 121 of the plan) is similarly unacceptable. Exemption of "work by any utility...for the purpose of construction of facilities for the generation and transmission of energy..." should also fall within the CRC's review authority and should be deemed development under the CAMA.

Page 122, item vi - Wetlands should be included with sand dunes and beaches as areas where accessory building construction involving filling, excavation and alteration is considered development.

Page 122, item vii - The word "initiation" as used on the CAMA and as interpreted by the CRC needs to be defined. Also the meaning of a "duly approved and recorded utility, road or related facility" is unclear. Under certain definition these activities should be classified as development and should be subject to CRC regulation.

Page 123-141 - "First priority" uses of the various AEC's seem to be appropriate. Essential to such use, however, is AEC preservation. A discussion of preservation needs and of plans assuring AEC preservation should be provided under the section titled: "Relationships of AEC Standards to Priority of Uses" or within the "priority of use" section

for each ALC discussed. Of major concern is how the uses of private lands designated as AEC's will be made to conform with AEC standards. There should be a specific discussion of what measures will be used (zoning, tax incentives, etc.).

Page 130, paragraph 4 - We feel the major significance of the Ocean Hazard Areas is the intrinsic balance and fragility of this zone. Some mention of this feature should be made.

Page 141-147 - As previously stated ("Page 118, paragraph 2") as many potential Fragile Coastal Natural Resource Areas as possible should be designated prior to final approval of the plan by OCZM. In all cases, highest priority should be given to the preservation of these fragile areas. The plan should clearly state its preservation policy and its procedures for insuring preservation.

Page 142, paragraph 3 - Lands designated as "critical habitat" in accordance with Section 4 of the Federal Endangered Species Act should be classified as AEC's as expeditiously as possible. Any failure to classify "critical habitat" as an AEC should be reported to the Staff Specialist for Endangered Species in the Fish and Wildlife Service and a mutually acceptable classification should be established.

As the primary agency charged by Congress with the responsibility of conducting the Federal endangered species program nationwide, the Fish and Wildlife Service is greatly interested in North Carolina's program for protecting endangered species' habitat. Accordingly, we would like to have input into the AEC-designation process for endangered species habitat.

As a minimum, remnant species coverage should always include the Federal listing of endangered and threatened species and any federally listed "critical habitat" areas. Coverage should also include species designated by the North Carolina Wildlife Resources Commission and those nominated by other sources.

It should be noted by the CRC that changes in species listing and in the status of "critical habitat" areas are a continuing process, making it essential for concerned agencies to keep a current record of these actions by reference to the Federal Register, or by regular contact with the Fish and Wildlife Service. If information should be needed on the "critical habitat" concept, it can be found in the Federal Register of April 22, 1975, pages 17764 and 17765. Dr. James Kirkwood's letter of February 18, 1977, addressed to Mr. David Adams, Assistant Secretary, Department of Natural and Economic Resources, also amplifies these matters and provides other supplemental information relating to the Federal interest in endangered and threatened species.

Page 147, paragraph 3 - According to the plan, "major development" is defined as "any development that requires the authorization, permission,

certification, approval, or licensing of another State agency, or will occupy a land or water area in excess of 20 acres..." The meaning of "another State agency" in this context is quite significant in terms of the permit review process, and we believe that the phrase should be explained.

If as "another State agency" the present regulatory authority of the Division of Marine Fisheries or the Wildlife Resources Commission were legislatively removed, considerable permit review authority would, by default, be given to the Designated Local Official. Resources and related activities which are of state and national importance, would then be regulated by local interests without the benefit of close State and Federal overview, and this would be unacceptable.

In further reference to "major development" we believe that projects to be handled by the CRC should be based on their potential for adverse environmental impact(s) rather than on their acreage. Potential impacts should be assessed by trained and competent biologists who have professional expertise in coastal ecology and fish and wildlife biology.

Page 149, paragraph 1 - As written, interested citizens and groups will be required to request information considering a proposed development on a case-by-case basis. Such a procedure is not practical for review agencies such as this Service. We desire to have input in North Carolina's coastal permitting process and request that we receive copies of all public notices and project descriptions for proposed work in the coastal zone.

Page 149, paragraph 3 - We find this paragraph to be unacceptable and contrary to the proposed policies and procedures outlined in the Federal Register (Vol. 42, No. 167, dated August 29, 1977). Specifically we refer to page 43593, 3rd column, 3rd paragraph which reads:

"In response to requests for explicit clarification within the body of the regulations, NOAA has indicated that following State agency concurrence with a consistency certification, the Federal permitting agency is not required to approve the license or permit application (930.65(c)). For example, notwithstanding State agency concurrence, a proposed Federally permitted project may still require Federal agency rejection on NFPA, Endangered Species Act, Fish and Wildlife Coordination Act, or other overriding national interest grounds."

Simply put, mere issuance of a State permit does not require that appropriate federal permits be issued in the interest of federal consistency, as may be indicated in the plan.

Page 150, paragraph 3 - The distribution of minor permit applications should be conducted in the same manner as major development permit applications. Distribution to interested citizens and groups (including interested federal agencies) should be automatic and a mailing list of

such persons and agencies should be maintained.

Page 154-169 - The "networking" plan for program management outside of the AEC's is a potentially ineffective management scheme. Essentially, its effectiveness depends upon the degree of State agency adherence to the Executive Order concerning State consistency and upon the desire of the local governments to adhere to local plans through zoning ordinances. Considering the reluctance of some coastal counties to participate in coastal zone management we do not see how a voluntary enforcement program can succeed. The failure of the plan to point out the CRC's lack of enforcement authority and to express the need for meaningful legislation in this regard should be corrected.

Page 168, paragraph 5 - A consistency determination of proposed activities by federal agencies and local plans and ordinances is both inappropriate and physically impossible. The CRC should be capable of representing local interests in the consistency determination processes and should be the sole clearinghouse for federal coordination under the CAMA.

Page 171 - missing.

Page 181, paragraph 4 - The statement "Uses, activities, or development projects on excluded Federal lands are exempt from the State's management program except where the impacts of those uses or activities extend beyond the Federal property boundaries and affect the State's coastal zone." is inaccurate as written. Actually, the use of Federal lands and the impacts of such use on the adjacent State coastal zone is exempt unless a direct and significant impact results from those actions.

Page 180, paragraph 2 - As stated in the plan, a definitive set of criteria establishing what Federal projects should be reviewed for consistency needs to be established. We concur with this statement and we further suggest that every possible effort be made to resolve issues regarding Federal consistency prior to final approval of the plan by OCZM.

Page 201, paragraph 2 - As a possible method of expediting the permit review process, it is suggested that Federal functions be delegated to the State agencies with appropriate safeguards. We consider this to be both a feasible and a desirable plan given proper limitations. Generally, we find that Service recommendations and those of the Department of Natural Resources and Community Development regarding permit activities are very similar. Therefore, we believe that acceptable State review procedures and guidelines can be agreed upon. Such procedures would of course involve Service policy and would require coordination and approval at the appropriate level of authority within the Service. Furthermore, all procedures would have to be in compliance with the Fish and Wildlife Coordination Act.

Page 206, paragraph 3 - We disagree with the determination that APC's "are not essential to the protection of the estuarine system". Activities such as sand dune protection, septic tank ordinance enforcement, zoning, and development permitting are essential to estuarine protection when they occur within close proximity of estuaries. These activities can have profound effects on estuarine water quality, aesthetics and estuarine geomorphological characteristics.

Page 207 - Considering the significance of AEC's to certain Federal agencies such as this Service, and in view of the Service's role in the CAMA review, it would appear that a more decisive role in reclassifying AEC's is in order. Any proposed change in the plan which may affect Service operations and mandated responsibilities should be subject to our approval. We realize that it may require revision of CAMA, but during the nomination and evaluation procedures for creating new AEC's, provisions should be included in the plan which would require all proposed or previously authorized work in those areas be held in abeyance pending final designation by the CRC. Permits which have been approved, prior to the areas' designation as an AEC, and on which no work has begun, should be reevaluated and modified in accordance with the AEC land use criteria.

Appendix B, page 7-47 - (Sec. 7B.0310) According to the existing land classification scheme, it would appear that Federal refuges and hatcheries closely fit the definition of "National Parks". Since we believe that these areas, which comprise a large part of the North Carolina Coastal Zone, should be defined, it would seem appropriate to either extend the section designated "Existing National or State Parks" to include such areas to establish a separate category for their inclusion. Although these areas are technically not a part of the coastal zone their designations as AEC's could prove beneficial to their perpetual use for conservation purposes should management responsibilities or ownership revert to the State.

Appendix B, page 7-23 - (Sec. 71.0500) The Administrative Code should include a "use standard" statement which establishes a strong policy of preservation of Fragile Coastal Resource Areas.

Appendix D, page 122 - Comments submitted by the U.S. Fish and Wildlife Service on the Preliminary Draft Coastal management should be included in their entirety. Furthermore, the response to those comments is grossly inadequate and should be expanded to address each issue raised.

Appendix E - Cedar Island, Pungo, and Dismal Swamp National Wildlife Refuges are incorrectly listed as belonging to the Bureau of Outdoor Recreation. These lands belong to the Department of the Interior.

Map of Excluded Federal Lands - All six (6) National Wildlife Refuges listed are incorrectly shown as belonging to the Bureau of Outdoor Recreation. Also, the Dismal Swamp National Wildlife Refuge has been omitted from the list of federally owned (and excluded) lands.

Michael A. Service



IN REPLY REFER TO:
5101

United States Department of the Interior

BUREAU OF OUTDOOR RECREATION
SOUTHEAST REGIONAL OFFICE

148 Cain Street
Atlanta, Georgia 30303

JAN 11 1978

Memorandum

To: Special Assistant to the Secretary, U.S. Department of the Interior, Southeast Region

From: Regional Director, Bureau of Outdoor Recreation, Southeast Region

Subject: Review of Draft of the North Carolina Coastal Plan

Thank you for the opportunity to comment on the North Carolina Coastal Plan. In compliance with Bureau guidelines we are forwarding an advanced copy of our comments to our Washington Office.

The North Carolina Plan recognizes the important role that recreation plays along the estuarine shorelines and ocean beaches of the State. In fact recreation is allocated the highest priority of use in the AEC estuarine shorelines and AEC ocean beaches designations. The plan also recognizes that the highest priority of use for frontal dunes shall be preservation.

An important concern of the Bureau is that the Coastal Plan be well coordinated with the SCORP. The present draft (pp. 83, 93) provides ample evidence that this coordination has taken place. We are pleased with this effort.

In relation to the identification of criteria for AEC, it would be desirable to include sections of the State Trails System and the Natural Heritage System (pp. 16-17).

The value and importance of the State's Natural Heritage Program in the identification of Areas of Environmental Concern (AEC) and Geographic Areas of Particular Concern had been included in the Plan's preliminary draft. The Natural Heritage Program is able to provide the type of information necessary to avoid potential land-use conflicts. Consideration of this program is essential.



Another point worth noting is that the map illustrating "Federally Owned Lands Greater Than 10 Acres" designated the Bureau of Outdoor Recreation owning areas 1-6, BOR does not own nor manage land. The Fish and Wildlife Service should be substituted in this instance.

Finally, in its letter of December 5, 1977, the Office of Coastal Zone Management suggested that the plan make a clear distinction among the three kinds of Federal actions that would possibly occur or have a significant effect on the coastal zone. We concur with OZCM remarks and suggest that you correct this oversight.

Robert M. Baker



United States Department of the Interior

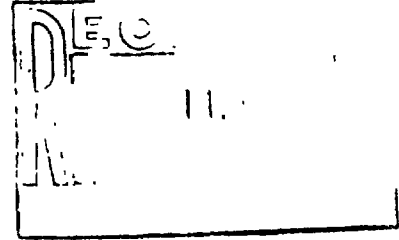
NATIONAL PARK SERVICE
SOUTHEAST REGIONAL OFFICE

1895 Phoenix Boulevard
Atlanta, Georgia 30349

IN REPLY REFER TO:

L7019-SER-PC

JAN 10 1978



Memorandum

To: Special Assistant to the Secretary, Southeast Region

From: Acting Associate Regional Director, Planning and Assistance, SER

Subject: Review of Final Draft - The North Carolina Coastal Plan

We have reviewed the final draft plan for Coastal Zone Management in North Carolina.

With one exception this plan is generally compatible with mission and objectives of the National Park Service. The exception is the inadequate treatment of historic and cultural resources. The plan recognizes the need to "support a comprehensive program for identification and preservation of valuable cultural resources in the coastal area" but the plan poses no solutions toward implementing this policy.

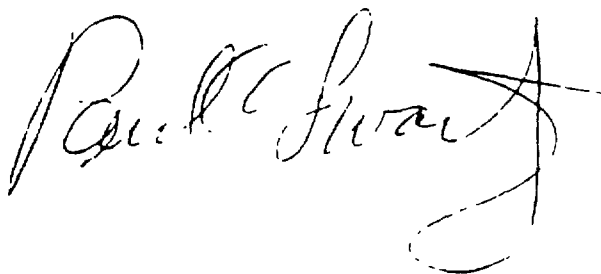
The coastal zone program should objectively seek discovery and identification of historical values and make specific provisions for protecting those values from destruction by its own or associated programs. The Coastal Zone Management program is a federally subsidized program and is therefore subject to the National Historic Preservation Act of 1966 and Executive Order 11593. They require the program agency to make provision for identifying properties listed on or eligible for The National Register of Historic Places. The State Historic Preservation Officer and the Advisory Council on Historic Preservation must be consulted in an effort to avoid or at least mitigate potential adverse effects of Federal or Federally assisted projects on identified historic resources. The Draft Coastal Plan does not meet these requirements.

The Draft Plan adequately addresses Federal Consistency but does not go quite far enough in describing procedures for ultimate mediation of conflicts. The National Park Service will have no problem using the A-95 and National Environmental Policy Act procedures for advisement of projects as we are currently working within both systems.

We suggest that the following items be added to the chart in Appendix E, Excluded Federal Lands.

<u>County</u>	<u>Town</u>	<u>Agency</u>	<u>Acreage</u>	<u>Description</u>
Carteret	-	USDI-NPS	24,223.7	Cape Lookout National Seashore
Hyde	-	USDI-NPS	5,102.6	Cape Hatteras National Seashore
Dare	-	USDI-NPS	19,335.5	Cape Hatteras National Seashore
Dare	Kill Devil Hills	USDI-NPS	431.4	Wright Brothers National Memorial
Dare	Manteo	USDI-NPS	155.9	Fort Raleigh National Historic Site

We appreciate the opportunity to review this draft of the North Carolina Coastal Plan.

A handwritten signature in black ink, appearing to read "Paul H. Smith", with a large, stylized flourish extending from the end of the name.



United States Department of the Interior

BUREAU OF MINES

2401 E STREET, NW

WASHINGTON, D.C. 20241

January 9, 1978

Memorandum

To: Special Assistant to the Secretary, Southeast Region

From: Chief, Office of Environmental Coordination

Subject: North Carolina's Coastal Zone Management Plan

North Carolina's mineral policy on pages 88 and 89 reflects the State's understanding of the importance of mineral development; it also provides reasonable environmental safeguards to adequately protect those lands affected by mineral operations.

Mineral production in the coastal counties amounts to over \$20 million per year, nearly 25 percent of the State's total production. The plan should mention this on page 55 under "Mining." In the same section, North Carolina acknowledges the regional significance of minerals; the report should, therefore, include mineral resources in the listing on page 194 under "Uses of Regional Benefit."

We also have one minor editorial comment. On page 108, the word "possible" should replace "impossible" in the second sentence.

W.L. Dare



**DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION**

DEC 22 1977

AIRPORTS DISTRICT OFFICE
1568 Willingham Drive
Suite "C", Room 116
College Park, GA 30337



Mr. Howard N. Lee, Secretary
North Carolina Department of Natural
Resources and Community Development
Post Office Box 27687
Raleigh, North Carolina 27611

Dear Mr. Lee:

The Final Draft of the North Carolina Coastal Plan submitted by your letter of December 7, 1977, has been reviewed by this office.

We have no comment on the Draft Plan.

Thank you for providing us the opportunity of reviewing the plan.

Sincerely,

A handwritten signature in dark ink, appearing to read "George F. Altman", is written over the typed name.

GEORGE F. ALTMAN
Chief, Planning Section

cc:
Mr. W. G. Plentl, Jr.

RECEIVED
OFFICE OF THE SECRETARY
U.S. DEPT. OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

- 493 -

DEPARTMENT OF THE AIR FORCE
REGIONAL CIVIL ENGINEER, EASTERN REGION (HQ USAF)
326 TITLE BUILDING, 30 PRYOR STREET S.W.
ATLANTA, GEORGIA 30303



REPLY TO
ATTN OF: ROV2

21 December 1977

SUBJECT: Final Draft of the North Carolina Coastal Plan

TO: North Carolina Department of Natural
Resources & Community Development
Attn: Mr. Howard N. Lee, Secretary
P. O. Box 27687
Raleigh, North Carolina 27611

1. We have reviewed the subject plan forwarded by your letter of 7 December 1977. The attached comments are for your consideration in your continued development of the North Carolina Coastal Zone Management (CZM) Program.

2. We appreciate the opportunity to participate in this phase of your program. Your consideration and incorporation of our comments are also appreciated. If we can be of further assistance, please contact us.


CHARLES R. SMITH
Regional Civil Engineer

1 Atch
AFRCE-ER Comments

Cy to: AFSC/DEV w/Atch
TAC/DEV w/Atch
701RS/DE w/Atch
4CES/DEV w/Atch

RECEIVED
OFFICE OF THE SECRETARY

N. C. DEPT OF NATURAL
RESOURCES & COMMUNITY
DEVELOPMENT

AFRCE-ER Comments on Final Draft of the North Carolina Coastal Plan

1. Page 77, Federal Consistency and National Interest. We concur with your position that the Federal lands are excluded from the coastal zone; that the Federal agencies are mandated to conform to the maximum extent practicable to the State plan; and that the plan be clear enough so that the Federal agency can determine consistency.
2. Page 116, Excluded Federal Lands. We concur with your definition of Federal land and your position that the Federal land is excluded from the coastal zone.
3. Page 179, National Defense. We do not feel this paragraph adequately reflects the Air Force's interest in the coastal zone. No reference is made to the existing Air Force installations which are located in the coastal zone or to the potential for locating new installations in the area in the future. Air Force installations utilize over 45,000 acres in the coastal zone. These installations are located in North Carolina for specific defense purposes and actions of the surrounding communities could impact the missions and effectiveness of these installations. With respect to proposals for new or expanded defense facilities, the North Carolina program should not seek to question the National Security justification but rather strive to ensure that all feasible alternative sites and mitigation measures are explored so that conformance to the maximum extent practicable is reached in accordance with the policies of the North Carolina coastal management program. We request that a statement be included noting the Air Force's interest in the coastal zone; the existence of Air Force installations in the coastal zone; and the potential for new or expanded Air Force installations in the future.
4. Page 188, Federal Consistency Determination. We do not agree with the policy and procedures set forth in this portion of the plan. Our position is that the consistency determination is made by the Federal agency and the notification to the State is to provide documentation of the determination. The State has the right and responsibility to review and evaluate the determination as presented. If the State feels the determination is inadequate, the Air Force will consider any comments or recommendations the State may have.
5. Page 192, Federal Consistency Determination Chart. The chart indicates two (2) different routes of notification of consistency. One route is identified for routine projects and the other for non-routine projects. The delineation between the two is not clear and is not discussed in the text. We prefer the utilization of the existing A-95 clearinghouse system for notification for all projects or programs under Coastal Zone Management (CZM). The Air Force's position is that a single

contact point should be designated by the State. Once the clearinghouse has received a consistency notification, the distribution to DNRCD, the CZM staff and other interested agencies become a routine matter inside the State agencies.

6. Appendix E.

a. The text states that all Federal property greater than ten (10) acres were identified on the map. The map does not include Fort Fisher Communications Annex which is 141 acres, nor the Dare County Range which is 46,652 acres. The number 22 is located at the approximate location of the Dare County Range, but is not included in the legend. The Fort Fisher Communications Annex is not identified in any way.

b. The text implies that the list includes only property of less than ten (10) acres, yet the list includes many items of more than ten (10) acres. It is suggested that the list include all Federal property which is located in the twenty (20) counties comprising the coastal zone and that the text be revised to reflect that fact.

c. Information concerning the Air Force property located in the North Carolina coastal zone was provided in our letter to you on 2 January 1976. Some of this information is not included in the list of excluded Federal lands. We request that the following Air Force property be listed in Appendix E as excluded Federal lands:

<u>COUNTY</u>	<u>TOWN</u>	<u>AGENCY</u>	<u>APPROX. ACREAGE</u>	<u>DESCRIPTION</u>
Carteret	-	Air Force	27	Crowatan Ground Air Transmitter-Receiver (GATR) Facility (Radar Site)
Dare	-	Air Force	46,652	Dare County Target Range
New Hanover	-	Air Force	101	Ft. Fisher Air Force Station
New Hanover	-	Air Force	141	Ft. Fisher Air Force Communications Annex
New Hanover	-	Air Force	75	New Hanover County Municipal Airport

d. Two (2) items listed as Air Force property are no longer under the control of the Air Force. The items are Holly Ridge Gap listed under Oslow County and Engelhard Gap listed under Hyde County. Both items should be deleted from the list of excluded Federal land as Air Force property.

FEDERAL ENERGY REGULATORY COMMISSION

REGIONAL OFFICE

730 Peachtree Street, N. E.

Atlanta, Georgia 30308

January 24, 1978

RECEIVED
U. S. FEDERAL ENERGY COMMISSION

JAN 26 1978

U. S. DEPT. OF NATURAL
RESOURCES & COMMUNITY
DEVELOPMENT

Mr. Howard N. Lee, Secretary
North Carolina Department of
Natural and Economic Resources
Post Office Box 27687
Raleigh, North Carolina 27611

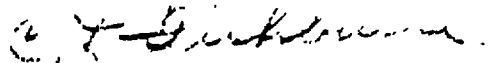
Dear Mr. Lee:

This is in response to your letter dated December 7, 1977, with which you attached a final draft of the North Carolina Coastal Plan for our comments.

Any comments we would offer at this time would be similar to those we expressed in our letter of July 14, 1977, to you. For your convenience we have attached a copy of that letter.

If we can be of any further assistance to you in the development and management of your coast plan, do not hesitate to contact us.

Very truly yours,



C. L. Fishburne
Regional Engineer

Attachment

730 Peachtree Street, N.E.
Atlanta, Georgia 30308
July 14, 1977

Mr. Howard M. Lee, Secretary
North Carolina Department of
Natural & Economic Resources
Post Office Box 27687
Raleigh, North Carolina 27611

Dear Mr. Lee:

This is in response to your letter dated May 20, 1977, in which you enclosed a draft copy of the North Carolina Coastal Plan. Also, as you noted in your letter, a meeting was set up with Ken Stewart, director of the Coastal Management staff, on June 26, 1977.

As discussed with Mr. Stewart, the Federal Power Commission is concerned with electric supply and reliability as well as interstate natural gas facilities. Included in this concern would be the possible impact of construction and operation of land and/or water developments on the bulk electric power and interstate gas facilities. If any of these are affected by a proposed project, they should be properly protected. In the field of electrical energy, the FPC has the responsibility of issuing licenses as covered by law for hydroelectric generating installations. By nature, the coastal zone areas do not contain hydroelectric installations (licensed projects), so that does not appear to be an item of general concern for our region. In the case of steam-electric generation, our concern is mainly supply and reliability with no licensing responsibilities. The lack of water or restrictions placed on water for cooling purposes could be a deterrent in meeting the electrical energy requirements. It is, therefore, the responsibility of all parties concerned to examine the needs and to arrive at a practical solution within a reasonable time.

Senate Bill 972, Article 7, Section 113A-103, Paragraph (5)(b), exempts, in a sense, the FPC area of concern from the restrictions placed on development in the Coastal Area Management program. We recognize, however, that it offers no exemption from the proper judicious use of water in the area.

We are looking forward to working with you and implementing the Coastal Area Management program. If we can be of any further service to you in its development, do not hesitate to contact us.

Very truly yours,

C. L. Fishburne

C. L. Fishburne
Regional Engineer



**DEPARTMENT OF TRANSPORTATION
REGIONAL REPRESENTATIVE OF THE SECRETARY**
1720 PEACHTREE ROAD, NORTHWEST
SUITE 315
ATLANTA, GEORGIA 30309

February 22, 1978

Mr. Kenneth D. Stewart
Executive Secretary
Coastal Resources Commission
N.C. Dept. of Natural and Economic Resources
P. O. Box 27687
Raleigh, N.C. 27611

Dear Ken:

Enclosed for your information and use is our Coast Guard
comments on your final draft Coastal Zone Plan.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. R. Geoffrion". The signature is fluid and cursive, with a long horizontal stroke at the end.

D. R. Geoffrion
Deputy Secretarial Representative

Enclosure

NORTH CAROLINA COASTAL PLAN
COMMENTS ON DRAFT AND APPENDICES OF NOVEMBER 1977

1. Permit Letting

a. Page 149 of the Draft states,

"When the CAMA (North Carolina Coastal Management Act) permit is issued or denied, the project is thereby certified as consistent or inconsistent with North Carolina's Coastal Management Plan. Any federal license or permit decision that is contrary to the CAMA permit decision will thus be inconsistent with the State plan and must be based on an overriding national interest in order to justify such inconsistency with the CAMA permit determination."

The Federal Coastal Zone Management Act (FCZMA) does not distinguish between site specific and non-site specific licenses and permits. In review of Section 930.54 of the 29 August 1977 proposed NOAA consistency regulations, the Department of Transportation's Assistant Secretary for Environment, Safety and Consumer Affairs published on 9 December 1977 that,

"There is no legal basis for vesting in the states the authority to specify which federal licenses and permits are subject to state consistency determinations. Each federal agency, in consultation with the states, and with NOAA's advice, should identify those licenses and permit actions subject to the (Federal) Act's consistency requirements."

It is the policy of the Coast Guard that only site-specific licenses and permits are subject to consistency determinations by the State. Examples of these permits are:

- | | |
|--|----------------------|
| (1) Bridge and Causeway permits | 33 USC 401, 491, 525 |
| (2) Deepwater Port Development permits | 33 USC 1501 |
| (3) Private Aids-to Navigation permits | 14 USC 83 |
| Not listed in the Draft, page 183. | |

b. Page 176 of the Draft. The DNRCD incompletely paraphrases section 307(c)(3) of the FCZMA. No mention is made in the NCCP that the Secretary of Commerce may approve permits, which while not consistent with a State's program, are "...in the interest of national security." This important exception should be included in order to convey the full Federal/State relationship concerning permit consistency.

c. Page 200 of the Draft. The DNRCD, through coordinated Federal/State regulatory programs, would attempt to eliminate duplication, conflict, or unnecessary red tape for permit applicants. The method for achieving this goal "...may include delegation of federal functions to state agencies with appropriate safeguards, withdrawal of federal agencies from fields occupied by state agencies, and sharing of functions in an efficient and mutually agreed fashion." To obtain this degree of Federal/State coordination, the North

Carolina Coastal Resources Commission (CRC) recommends that "...North Carolina put itself in position to take maximum advantage of the consistency mandate of the Federal Coastal Zone Management Act by using the permit coordination mandate in CAMA to pursue consolidation and coordination of key state permit programs affecting this State's coastal zone." The meaning and ramification of this statement is not clear; however, it would appear inappropriate for Federal Agencies to delegate their functions to State Agencies to the extent apparently contemplated by North Carolina. It is recommended that the DNRCD elaborate on the proposal.

2. Federal Assistance to State and Local Governments

Page 189 of the Draft states,

"The State will coordinate with federal funding agencies to establish a set of criteria to be used by the applicant in certifying consistency (of applications for federally sponsored activities affecting the coastal zone). These criteria will establish what measures the applicant will use in judging the consistency of his project with the States' coastal management policies and objectives."

While this viewpoint is consistent with Section 930.90 of the 29 August 1977 proposed NOAA consistency regulations, the Department of Transportation's Assistant Secretary for Environment, Safety and Consumer Affairs published on 9 December 1977 that while it is agreed the Federal Coastal Zone Management Act

"...prohibits federal approval of a federal assistance program that is inconsistent with an approved state coastal program, there is no statutory basis for prohibiting federal approval simply because a state agency provides notice that a proposed federal assistance project requires state agency review. The consistency determination on a federal assistance program must be made by the federal agency, not the state."

It is recommended that the above comments be brought to the DNRCD's attention.

3. Federal Consistency

a. Page 182 of the Draft states, "Statements of policies contained now or in the future in the "State Guidelines" should be addressed specifically in the consistency determination made by federal agencies." While it is agreed that Federal activities are required to be consistent to the maximum extent practicable with State CZM programs, the Department of Transportation's Assistant Secretary for Environment, Safety and Consumer Affairs published on 9 December 1977, in review of Section 930.33 of the 29 August 1977 proposed NOAA consistency regulations, that the concerned Federal agency need view State management programs primarily as guidelines to be considered in conjunction with existing agency mandates. The existing wording in the NCCP overstates the responsibility of the Federal agencies' requirements to comply with State programs, and should be so modified.

b. Page 182 of the Draft states, "Local land use plans will provide a statement of local goals and the proposed pattern of growth which should be addressed in (Federal) consistency determination(s)." To insure some degree of standardization of local land use plans among themselves and with State plans, the Department of Transportation's Assistant Secretary for Environment, Safety and Consumer Affairs published on 9 December 1977, in review of Section 930.18(b) of the 29 August 1977 proposed NOAA consistency regulations, that the States should be required to establish review procedures which the substate agencies would be required to follow. Without such a provision, planning for State-wide projects by Federal agencies will be extremely difficult.

c. Page 188 of the Draft, "Notification." Environmental Impact Statements are incorrectly identified as "Environmental Impact Assessments." These two items are considerably different and should not be confused. It is recommended that the former term be substituted for "assessment" and "descriptions" in this section in order to avoid ambiguity.

4. Coast Guard involvement in the National Interest

a. Page 177 of the Draft discusses the "National Interest" and "National Defense." However, the Plan does not sufficiently clarify which activities it considers to be matters of national interest or of national defense. Thus, doubt remains as to whether or not these activities are to be considered identical or interchangeable under the NCCP or whether a particular distinction is to be drawn between them. For this reason, it is recommended that the latter section be expanded to clarify which Federal facilities and activities are considered to be involved in the national defense.

b. Within these sections no specific mention is made of the Coast Guard. The NCCP should reflect the fact that most Coast Guard activities are coastal dependent, and that the Coast Guard's role in national defense is an essential element of the national interest. The Coast Guard's functions and responsibilities, i.e.,

- (1) Port Safety and Security;
- (2) Law Enforcement;
- (3) Search and Rescue;
- (4) Marine Environmental Protection;
- (5) Military Readiness;
- (6) Aids to Navigation; and
- (7) Commercial Vessel Safety

should be identified as important priority uses of the coastal zone.

In addition, the NCCP should provide some assurance that the land surrounding a Coast Guard facility would remain compatible with current and future Coast Guard activities.

5. Federal Consistency Determination - Mediation

The NCCP fails to state specifically what steps might be taken to mediate a dispute between a Federal Agency and the State concerning the consistency of a particular Federal project. Page 191 of the Draft states that:

"If the project was considered contrary to the coastal management policies of the State, the federal agencies would probably request the opportunity to negotiate with the State. This would be accomplished through the Secretary's (of the DNRCD) and Governor's office."

Sections 923.54 and 930.110 of the proposed NOAA approval and consistency regulations outline possible mediation procedures, including mediation by the Secretary of Commerce. As the principle of mediation incorporates one of the key mandates of the FCZMA, namely that of Federal/State cooperation, it is recommended that this section be expanded and clarified in a manner consistent with the proposed regulations.

6. Coast Guard Holdings in the North Carolina Coastal Zone

A comparison of the Fifth Coast Guard District's holdings in North Carolina with the State's listing in Appendix E and Attachment (3) indicates numerous discrepancies.

a. Appendix E lists the Coast Guard as an agency of both the Department of the Treasury (which it was prior to 1967) and of the Department of Defense. Since 1967, the Coast Guard has been an agency within the Department of Transportation. It is requested that this section be corrected to reflect the current organizational relationships.

b. The following Coast Guard holdings in North Carolina are not listed in Appendix E. (L = lease; P = permit)

<u>COUNTY</u>	<u>HOLDING</u>	<u>ACREAGE</u>	<u>LOCATION</u> LAT °N LONG °W
Beaufort	Broadcreek Entrance DBN	L	35-28 76-58
Camden	Pasquotank Rr. ENT LT	5	36-09 75-59
Carteret	Atlantic Basin LT	L	34-53 76-20
Carteret	Beaufort Inlet CHRRLT	L	34-42 76-40
Carteret	Brant Is Shoal LT	5	35-08 76-18
Carteret	Cape Lookout Station	23.5	34-36 76-32
Carteret	Morehead City CHRF & RRLT	L	34-43 76-42
Chowan	Edenton Light	P	36-03 76-37
Craven	Neuse River Light 33	L	35-06 77-02
Dare	Bodie Is Family Housing	P	35-49 75-34
Dare	Buxton Woods Family Housing	P	35-16 75-31
Dare	Cape Hatteras Light	P	35-15 75-31
Dare	Cape Hatteras LORAN Station	11.3	35-14 75-32
Dare	Cape Hatteras Group Office	11.3	35-14 75-32

Dare	Croatan Sound Approach Lt #3	5	35-57	76-47
Dare	Long Shoal Light	5	35-34	75-44
Hyde	Bluff Shoal Light	5	35-13	76-04
Hyde	Gull Shoal Light	5	35-22	75-57
Hyde	Hatteras Inlet Station	P	35-46	75-31
Hyde	Ocracoke Family Housing	P	35-07	75-59
Hyde	Royal Shoal Light #5	5	35-10	76-04
Hyde	S.W. Point Royal Shoal Light	5	35-06	76-08
New Hanover	Wrightsville Beach Station	2.5	34-13	77-48
Onslow	Swansboro Station	6	34-39	77-06
Pamlico	Pamlico Point Light	5	35-19	76-27
Pasquotank	Elizabeth City Family Housing	32.8	36-15	76-10
Washington	Albemarle Sound Light #3	5	36-00	76-24

3. The following holdings listed in Appendix E as belonging to the Coast Guard in North Carolina have been disposed of, or were never held, by the Coast Guard:

<u>COUNTY</u>	<u>HOLDING</u>	<u>DISPOSITION</u>
Beaufort	Washington LAS	Sold 8 Sept 1969 to City of Washington
Brunswick	Baldhead Radio Beacon	Sold 2 Aug 1967 to Mr. F. F. Warren
Brunswick	Cape Fear Light Station	Sold 24 Oct 1963 to Mr. F. Sherrill
Cartéret	Target Areas	Never held by CG
Carteret	Atlantic Lab Station	Never held by CG
Carteret	Not Indicated	Never held by CG
Currituck	North River Lights	Sold 19 Nov 1957 to North Carolina
Currituck	Poyners Mill Labs	Sold 7 Dec 1964 to Currituck Shooting Club
Currituck	Wash Woods Lab-Station	Sold 7 Dec 1964 to Currituck Shooting Club
Currituck	Caffeys Inlet Labs	Sold 30 Jul 1965 to Pine Is., Inc.
Dare	Little Kinnakeet Lab-Station	Never held by CG

Dare	Chicamacmico Lab-Station	Never held by CG
Dare	Kill Devil Hills Lab	Sold 12 Aug 1970 to Virginia National Bank
Pasquotank	Elizabeth City Depot	Never held by CG

4. The following holdings of the Coast Guard are listed in Appendix E with incorrect acreage:

<u>COUNTY</u>	<u>HOLDING</u>	<u>CORRECT ACREAGE</u>
Carteret	Cape Lookout Light	0.9
Carteret	Group Fort Macon	27.0
Carteret	Cape Lookout Station	23.5
Dare	Oregon Inlet Station	10.0
Onslow	Swansboro Station	6.0
Pasquotank	Elizabeth City Air Base	789.4

LOCAL PERMIT OFFICER'S
TRAINING COURSE AGENDA

Wednesday

Morning session - Administration Building

- 8:00 - 30 minute question and answer session on previous day's materials.
- 8:30 - A brief explanation of each AEC definition, location, significance and use standard will be given. The agenda for the remaining portion of the program will be reviewed.
- 9:30 - Coffee break
- 9:45 - AEC categories: Coastal Wetlands, Estuarine Waters and Public Trust Waters will be described. The use standards and the permit officers' responsibilities relative to permitting projects in these AECs will be discussed.
- 12:00 - Lunch

Afternoon session - Marine Science Building

- 1:00 - Methods of enforcement and surveillance useful to the permit officer will be discussed.
 - 1:30 - Aerial photography and maps for enforcement in Coastal Wetlands, Estuarine Waters and Public Trust Waters.
 - 2:00 - Break
 - 2:15 - 5:00
- AEC Category: Estuarine Shorelines. Description, definition and application of use standards are the principal points of emphasis.

Thursday

Morning session - Administration Building

- 8:00 - Question and answer period on previous day's presentation
- 8:30 - AEC Category: Ocean Erodible Areas, Ocean Beaches, Frontal Dunes and Inlet Lands.
- 9:30 - FIELD TRIP

The field trip will examine Coastal Wetlands, Estuarine Waters, Public Trust Areas, Estuarine Shorelines and the Ocean Hazard AECs. Identification, interpretation of standards and examination of acceptable and unacceptable uses are discussion topics. We will stop for lunch near field site.

3:00 - 5:00 p.m.

We will return to the Marine Science Building and discuss some of the items examined in the field. A movie illustrating the past movements of inlets will be shown and an explanation of the use standards for Ocean Hazard Areas will be presented.

Friday

Morning session - Administration Building

8:00 - Questions and answers on previous day's subjects

8:30 - AEC Categories: Public Water Supplies, Public Well Fields, Complex Natural Areas, Areas that Sustain Remnant Species and Unique Geologic Formations.

10:30 - Field trip to view typical sites of the above mentioned AECs.

12:00 - Lunch

Afternoon session - Marine Science Building

1:00 - Questions and answers on whole course and follow up on subjects that need further detail.

Saturday

Morning session - Marine Science Building

8:30 - Problem session - The Permit Officer using the information gained through the course will complete an analysis of a simulated project.

11:00 - Conclusion of course

APPENDIX E

APPENDIX E

EXCLUDED FEDERAL LANDS

EXCLUDED FEDERAL LANDS

North Carolina's Coastal Management Plan has legally excluded from its defined twenty county coastal zone ... "all lands owned, leased or whose use is otherwise by law subject solely to the discretion of the Federal Government, as well as land held in trust by the Federal Government"... (1.5 CFR Section 930.20). Even though these Federal land holdings are excluded from our designated coastal zone, those Federal activities including development projects undertaken on excluded Federal lands which "directly affect" the coastal zone, and Federal license, permit and assistance activities on such lands which significantly impact coastal zone areas are subject to the Federal consistency requirements described in Chapter Six of this management plan. By excluding Federal Lands from North Carolina's coastal zone, this State does not relinquish or in any way impair its rights or authority over Federal lands that exist outside of the context of this coastal program.

The identification process that was utilized to define the spatial extent of these excluded properties consisted of the following methods:

- (A) All Federal agencies were requested by letter to forward their respective territorial distribution within the twenty county coastal area;
- (B) Local governments had to color code governmental holdings in their existing land use maps as part of their land use plans; and

(C) The U. S. General Services Administration was asked to send a photostat inventory of Federal lands in North Carolina.

During this identification process, the relevant Federal agencies were also requested to state the type of jurisdiction they exercised over the lands. There were three major types of federal ownership in lands identified throughout the coastal area. They were as follows:

- (1) Exclusive jurisdiction with individual ownership of the land vested to the U. S.;
- (2) Concurrent jurisdiction with partial or shared ownership with the state; and
- (3) Proprietary interest only.

For purpose of general illustration, all Federal properties greater than or equal to 10 acres in size were identified on the attached map of the management plan (see envelope on back cover). A list of all other Federal holdings (less than 10 acres) follows.

EXCLUDED FEDERAL LANDS

COUNTY	TOWN	AGENCY	APPROXIMATE ACREAGE	DESCRIPTION
Beaufort	Washington	Navy, Bureau of Facilities	2.0	Res. Electronic Facility
	Washington	Post Office, Treasury	0.6	Post Office & Court House
	Washington	Coast Guard, Defense	0.5	Washington IAS
	Belhaven	Ac Engineers (civil)	1.0	Belhaven Harbor Bk Water
	Smith Island	Treasury, Coast Guard	10.0	Baldhead Radio Beacon
	Cape Fear	" "	30.0	Cape Fear Light Station
	Caswell Beach	" "	57.2	Oak Island LB Station
		Defense, Army	11,116	Sunny Point Army Terminal
		U. S. Army Corps	1,473	Eagle Island Disposal Area
Camden	South Mills	Defense, Corps of Eng. (civil)	260.7	IW-Dismal Swamp Canal
Currituck	Beaufort	NOAA	10.6	Beaufort Biological Lab
		Defense, Navy	21.0	Amphibious Base
		BOB	12,526	Cedar Island Nat'l Wild- life Refuge
Beaufort	Beaufort	Post Office, Bureau of Fac.	0.8	Post Office, Front & Pollock Streets
	Morehead City	Post Office	0.3	Post Office; 706-708 Arendell Street
		Treasury, Coast Guard	6.4	Cape Lookout Light
		Agriculture, U. S. Forest Service	56,577	Croatian N. F.

COUNTY	TOWN	AGENCY	APPROXIMATE ACREAGE	DESCRIPTION
		Treasury, Coast Guard	11.0	Target Areas
	-	" " "	30.4	Base Fort Macon
	Atlantic	" " "	42.5	Atlantic Lab Station
	-	" " "	16.0	Cape Lookout LBS
	-	" " "	2.1	Not Indicated
	-	Defense, Corps of Eng. (civil)	5.0	Cape Lookout
Chowan	Edenton	Interior, Fish & Wildlife	64.6	Edenton Fish Hatchery
	Edenton	Navy	1299.0	Air Station Aux.
	Edenton	Post Office, Bur. of Fac.	0.5	Post Office-North Broad & Church Streets
Craven	New Bern	Post Office, Bur. of Fac.	0.7	Post Office Court & Custom House Middle Street
		Agriculture, U. S. Forest Service	60,933	Croatan N. F.
	New Bern	Defense, Army	8.0	New Bern National Cemetery
	-	Navy	9.3	Radio Range
Currituck	Currituck	Interior, Fish & Wildlife	5669.9	Mackay Isl. Wildlife Refuge
	Corolla	Defense, Navy	1484.0	Radio Station
	-	Treasury, Coast Guard	0.8	Currituck Beach Light
	Coinjock	Treasury, Coast Guard	6.7	Coinjock Light Station
	"	Corps of Engineers	5.6	Coinjock & Core Ck. Bridges

COUNTY	TOWN	AGENCY	APPROXIMATE ACREAGE	DESCRIPTION
	-	Treasury, Coast Guard	1.5	Currituck Sound Lts
	-	" " "	1.0	North River Lights
	-	" " "	2.3	Poyners Mill Labs
	-	" " "	5.7	Wash Woods Lab-Station
	-	" " "	3.0	Caffeys Inlet Labs
Dare	Buxton	Commerce, Weather Bureau	3.4	Observatory
	Kill Devil Hills	Interior, National Parks Ser.	324.0	Wright Brothers Nat. Mem.
	Manteo	" " "	18.5	Ft. Raleigh Nat. His. Site
	Manteo	Fish & Wildlife Services	5858.7	Pea Island Refuge
	Buxton	Defense, Navy	8.0	Facility Cape Hatteras
	Manteo	Treasury, Coast Guard	0.2	Bodie Island Light
	-	" " "	9.0	Oregon Inlet Lab-Station
	-	" " "	17.5	Little Kinnakeet Lab-Station
	Rodanthe	" " "	10.9	Chicamaccmico Lab-Station
	-	Air Force	190.0	Target Range
	Hatteras	Treasury, Coast Guard	1.3	Hatteras Lab-Station
	Kill Devil Hills	" " "	3.0	Kill Devil Hills Labs
	-	Defense, Army	9.6	Radar Facilities Nags Head
Hertford	Ahoskie	Post Office, Bur. of Fac.	0.4	Post Office-Main & Mitchell Streets

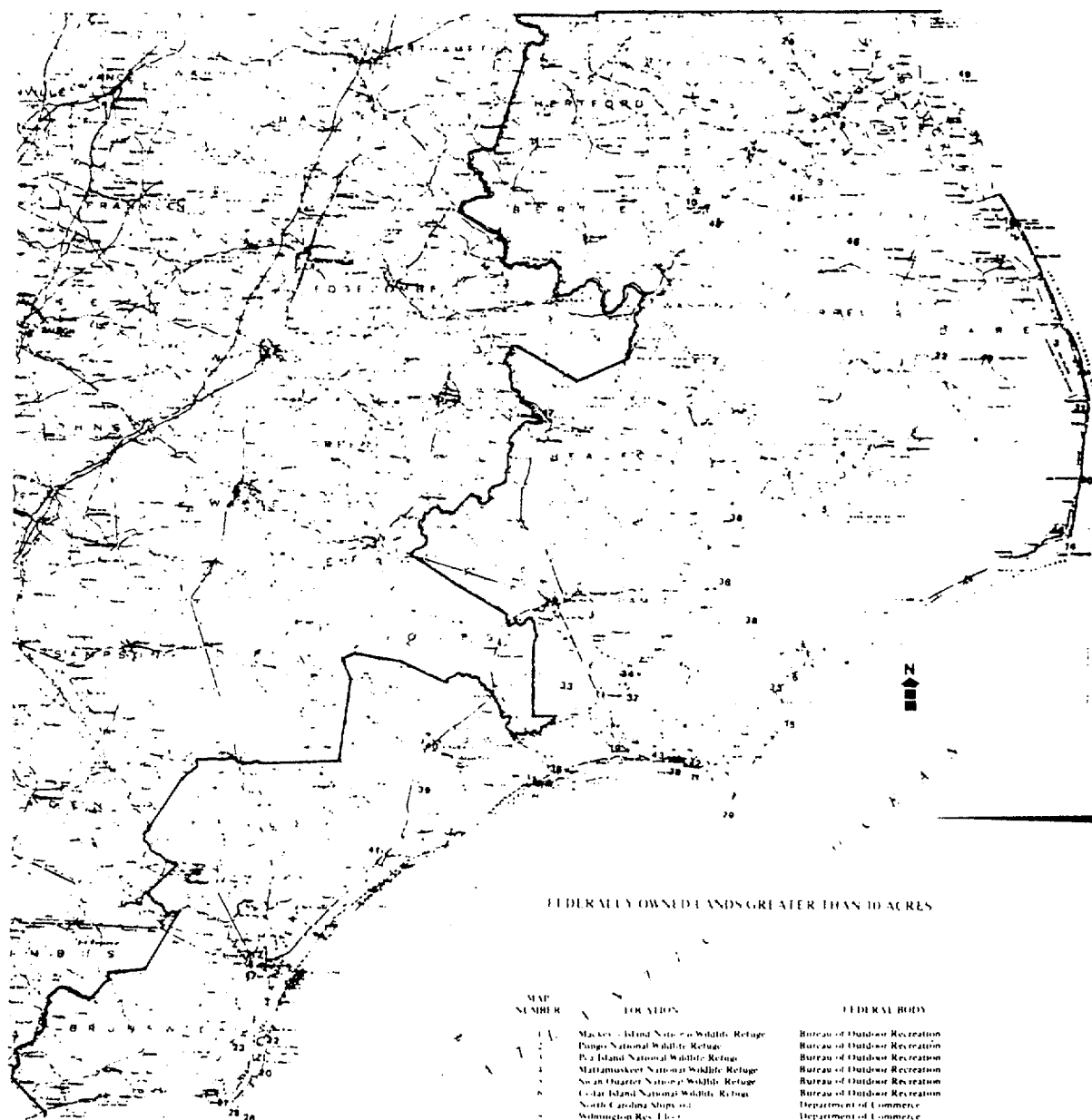
COUNTY	TOWN	AGENCY	APPROXIMATE ACREAGE	DESCRIPTION
Hyde	-	Interior, Fish & Wildlife	15500.8	Swan Quarter WL Refuge
	-	" " "	50177.3	Mattamuskeet Refuge
	-	Treasury, Coast Guard	5.5	Ocracoke Labs
	Ocracoke	" " "	2.0	Ocracoke Light
	-	U. S. Army Corps	6.2	Fairfield & Wilkerson Cr. Bridges
New Hanover	Engelhard	Defense, Air Force	1.0	Engelhard Gap
	Wilmington	Agriculture, AGR Research Serv.	7.2	PPC Field Station - Blumenthal Fld.
	Wilmington	Commerce, Maritime Admin.	169.2	No. Carolina Shipyard - Brunett Blvd.
	Wilmington	" " "	1710.0	Wilmington Res. Fleet
	Wrightsville Bch.	Interior, Office of Saline Water	10.0	Water Conservation Plant
	"	"	15.0	Test Site Facility
	Wilmington	Bureau of Facilities, Post Office	1.3	Post Office, 2nd & Chestnut Streets
	"	Treasury, Coast Guard	1.9	Moorings Wilmington, N. C.
	Carolina Beach	"	210.8	Loran Transmission Station
	-	Defense, Army	41.0	NG Fac. Blumenthal Field
	Wilmington	"	5.0	Wilmington Nat'l Cemetery
	"	"	4.0	USAR CTR Wilmington
	"	Gen. Serv. Ad. Region #4, Atlanta	0.9	Cu. Ct. Hse & Appr Store Water Street

COUNTY	TOWN	AGENCY	APPROXIMATE ACREAGE	DESCRIPTION
	"	USAF Hurricane Center	42.1	Blumenthal Airfield Hewlett Drv.
	Kure Beach	Defense, Air Force	245.0	Fort Fisher
	Wilmington	Defense, Corps of Eng. (civil)	2.8	Eng. Boat & Rep Yard
Onslow	Camp Lejeune	Defense, Navy	2671.0	Marine Corps Air Facility
	Jacksonville	"	144.0	Hospital
	Swansboro	Treasury, Coast Guard	0.6	Swansboro Labs
	Holly Ridge	Defense, Air Force	1.0	Holly Ridge Gap
Pamlico	Hobucken	Treasury, Coast Guard	8.0	Hobucken Las
	"	Defense, Corps of Eng. (civil)	3.1	ICW Goose Crk. to Bay R.
	"	Defense, Corps of Eng. (civil)	2.8	Hobucken Bridge
Pasquotank	Elizabeth City	Defense, Navy	6.0	Title VIII, Housing
	"	Post Office, Bureau of Fac.	1.0	Post Office & Court Mse Main & Martin Streets
	"	Treasury, Coast Gurad	754.6	Elizabeth City Air Station
	"	"	0.6	Elizabeth City Depot
	"	Defense, Army	2.0	NG Fac. Elizabeth City
Pender	Currie	Interior, National Park Service	42.2	Moore's Creek Nat. Mil. Pk.
Perquimans	-	U. S. Navy	1269.0	Harvey Point
Tyrrell	-	U. S. Navy	1.9	Palmetto Pt. Target Area

MULTI-COUNTY INSTALLATIONS

Army Corps Eng. (Civil)	3,538.3	ICW
National Park, Service	18,858.8	° Cape Hatteras National Seashore
Defense, Navy	2,086.8	Air Station
Defense, Navy	11,548.9	Marine Corp Air Station (Cherry Pt.)
Bureau of Outdoor Recreation	35,000	Croatan National Forest
Bureau of Outdoor Recreation	15,000	Pungo National Wildlife Refuge
Bureau of Outdoor Recreation	22,000	Dismal Swamp National Wildlife Refuge

FEDERAL LANDS MAP



FEDERALLY OWNED LANDS GREATER THAN 10 ACRES

MAP NUMBER	LOCATION	FEDERAL BODY
1	Stokes Island National Wildlife Refuge	Bureau of Outdoor Recreation
2	Pamlico National Wildlife Refuge	Bureau of Outdoor Recreation
3	Ply Island National Wildlife Refuge	Bureau of Outdoor Recreation
4	Mattamuskeet National Wildlife Refuge	Bureau of Outdoor Recreation
5	Swan Quarter National Wildlife Refuge	Bureau of Outdoor Recreation
6	Cedar Island National Wildlife Refuge	Bureau of Outdoor Recreation
7	South Carolina Air Force	Department of Commerce
8	Wilmington Res. Flot.	Department of Commerce
9	Elizabeth City Air Base	Department of Transportation
10	Edenton Fish Hatchery	U. S. Fish and Wildlife
11	The Atlantic Estuarine Fisheries Center	National Oceanic & Atmospheric Admin.
12	Water Conservation Project	Office of Saline Water Interior
13	Test Site Facility	Office of Saline Water Interior
14	Cape Hatteras National Seashore	National Parks Service
15	Cape Lookout National Seashore	National Parks Service
16	Moore Creek National Military Park	National Parks Service
17	Fort Raleigh National Historic Site	National Parks Service
18	Wright Brothers National Memorial	National Parks Service
19	Croatan Ground Air Transmitter Receiver	United States Air Force
20	Fort Fisher Air Force Station	United States Air Force
21	N.H. County Airport Hurricane Center	United States Air Force
22	Day Target Range	United States Air Force
23	Sunny Point Arms Training	United States Army
24	De Dismal Swamp Canal	United States Army
25	Baldhead Radio Beacon	United States Coast Guard
26	Cape Fear Light Station	United States Coast Guard
27	Oak Island L.B. Station	United States Coast Guard
28	Rose Fort Mason	United States Coast Guard
29	Cape Lookout L.B.	United States Coast Guard
30	Little Kinnakeet Light Station	United States Coast Guard
31	Chickamacocomo Light Station	United States Coast Guard
32	Croatan Transmission Station	United States Coast Guard
33	Croatan National Forest	United States Forest Service
34	Cherry Point Marine Air Corps Station	United States Navy
35	Atlantic Outlying Field	United States Navy
36	Bogue Outlying Field	United States Navy
37	Radio Range	United States Navy
38	Target Areas	United States Navy
39	Lump Key Marine Corps Base	United States Navy
40	United Service Organizations Club	United States Navy
41	Lump Key	United States Navy
42	1ST Landing Ramp, Radio Island	United States Navy
43	South Carolina State Port Authority, Lease	United States Navy
44	Naval Facility	United States Navy
45	Harvey Point	United States Navy
46	Stumpy Point Target Facility	United States Navy
47	Naval Reserve Training Center	United States Navy
48	Air Station Navy	United States Navy
49	Radio Station	United States Navy

APPENDIX F.

APPENDIX F.

**CRITERIA FOR LOCAL IMPLEMENTATION AND
ENFORCEMENT PLANS**

MAJOR DEVELOPMENT PERMITTING PROGRAM

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NATURAL AND ECONOMIC RESOURCES - COASTAL RES. COMM. 7E .0100

CHAPTER 7 - COASTAL RESOURCES COMMISSION

SUBCHAPTER 7E - CRITERIA FOR LOCAL IMPLEMENTATION AND
ENFORCEMENT PLANS

SECTION .0100 - GENERAL AUTHORITY, POLICY, AND
PROVISIONS

.0101 PURPOSE

The Coastal Area Management Act authorizes (but does not require a city or county in the Coastal Area to act as a permit-letting agency for minor development permits in Areas of Environmental Concern. This regulation establishes the criteria for preparation of local implementation and enforcement plans by local governments. Before a local government can become a permit-letting agency, a plan consistent with these criteria must be submitted to the Coastal Resources Commission for approval. These criteria are provided to assist local government in

- (1) establishing procedures to be followed in developing local implementation and enforcement programs
- (2) establishing the scope and coverage of said programs
- (3) establishing minimum standards to be prescribed in said programs
- (4) establishing staffing requirements of permit-letting agencies
- (5) establishing permit-letting procedures
- (6) establishing priorities of regional and statewide concern
- (7) establishing that the program is consistent with the land use plan

History Note: Statutory Authority G.S. 113A-124(c); 113A-117;
Eff. March 1, 1976.

.0102 CHANGEOVER DATE

(a) After a date designated by the Secretary of the Department of Natural and Economic Resources as provided by General Statute 113A-125, any development in an area of environmental concern will require a permit from the Coastal Resources Commission or a local permit-letting agency.

(b) The Secretary's designation of a "changeover date" shall be effective from and after it has been filed with the Secretary of State.

History Note: Statutory Authority G.S. 113A-118(a); 113A-125(a);
113A-125(b);
Eff. March 1, 1976.

.0103 LOCAL PERMIT-LETTING AGENCIES

Each city and county within the Coastal Area may file a letter of intent to the Coastal Resources Commission to act as a permit-letting agency for minor development within areas of environmental concern. Such letter of intent must be filed with the Coastal Resources Commission prior to July 1, 1976. A local government unit that has filed such a letter of intent shall become a permit-letting agency once it adopts an implementation and enforcement program that has been reviewed by the Coastal Resources Commission and found to be consistent with these criteria. If two or more units of local government desire to undertake a joint permit-letting local management program, such intent shall be specified in the letter of intent. The Commission requires, however, that the plan eventually submitted shall state how this coordination will be accomplished.

History Note: Statutory Authority G.S. 113A-124(c); 113A-116;
113A-117;
Eff. March 1, 1976

.0104 DEFINITIONS

The following definitions and rules of construction apply in this subchapter:

- (1) Commission. The word "Commission" means the Coastal Resources Commission.
- (2) Department. The word "Department" means the Department of Natural and Economic Resources.
- (3) Secretary. The word "Secretary" means the Secretary of the Department of Natural and Economic Resources.
- (4) Local Management Program. The term "Local Management Program" means the local implementation and enforcement program of a coastal city or county that has expressed an intention (as described in .0103) to administer a permit program for minor development in areas of environmental concern located within such county or city.
- (5) Management Plan ("Plan"). The term "Management Plan" means the written description of the Management Program which must be submitted to the Coastal Resources Commission.
- (6) County. The term "County" means any one of the twenty (20) counties in the Coastal Area.
- (7) City. The term "City" means any of the incorporated cities within the twenty (20) Coastal Counties.
- (8) Major Development. The term "Major Development" means any development which requires permission, licensing, approval

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certification or authorization in any form from the Environmental Management Commission, the Health Services Commission, the State Departments of Natural and Economic Resources or Conservation and Development, the State Department of Administration, the North Carolina Mining Commission, the North Carolina Pesticides Board, or the North Carolina Sedimentation Control Commission; or which occupies a land or water area in excess of 20 acres; or which contemplates drilling for or excavating natural resources on land or under water; or which occupies on a single parcel a structure or structures in excess of a ground area of 60,000 square feet.

- (9) Minor Development. The term "Minor Development" means any development other than a major development.
- (10) Land Use Plan. The word "Land Use Plan" refers to the plan prepared by local government for submission to the Coastal Resources Commission pursuant to Part 2 of the Coastal Area Management Act.
- (11) Permit Officer. The term "Permit Officer" refers to the locally designated official who will administer and enforce the minor development permit program in Areas of Environmental Concern and all parts of the land use plan which the local government may wish to enforce over the entire planning area.

History Note: Statutory Authority G.S. 113A-124(c); 113A-116;
113A-117;
Eff. March 1, 1976.

SECTION .0200 - REQUIREMENTS OF THE LOCAL PROGRAM

.0201 CONTENT OF PLAN

(a) The plan for the local implementation and enforcement program shall include the following elements:

- (1) The geographic extent of jurisdiction of the local management program.
- (2) A description of the criteria to be used in choosing the permit officer.
- (3) Methods of permit processing and coordinating procedures.
- (4) Methods for identifying and taking into account projects and impacts of regional, state and national concern.
- (5) A copy of all existing or proposed local ordinances relating to zoning and land use in Areas of Environmental Concern or any other relevant subject in order that the Commission may determine.
 - (A) Whether there is sufficient authority to enforce the program described in the local management plan.
 - (B) Whether any local ordinances are inconsistent with the approved land use plan. No plan will be approved for any county or city if the Commission determines either that the local government unit lacks sufficient authority to enforce the program or that the local government unit has an ordinance or ordinances inconsistent with its land use plan.

(b) The plan may also include the following elements for the remainder of the zoning jurisdiction of the county or city:

- (1) A copy of all local ordinances relating to land use or any other subject relevant to land use.
- (2) Procedures for assuring consistency of governmental actions with the approved land use plan for the entire jurisdiction.

(c) The remaining rules within this section provide criteria which shall act as guidelines for cities and counties in drawing the local management plan describing their local management program.

History Note: Statutory Authority G.S. 117-124(c); 113A-117;
Eff. March 1, 1976.

.0202 ALLOCATION OF AUTHORITY BETWEEN CITY AND COUNTY GOVERNMENTS
AND THE COASTAL RESOURCES COMMISSION

(a) A county may establish permit-letting authority for any city or part thereof that lies within said county if such city does not submit a letter of intent to the Commission or states to the Commission its intent not to become a local permit-letting agency.

(b) A city management plan shall be limited to its corporate boundaries and to any extra-territorial zoning area over which it

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may have established control at the time it requests authority to act as a permit-letting agency or over which it later gains control.

(c) A county implementation and enforcement plan shall be limited to areas not covered by any city plans unless the county acts as the permit-letting agency for a city or cities. A county may begin such duties only after the county's implementation and enforcement plan has been amended to include such area.

(d) In any city in which neither the city nor the county elects to become the permit-letting agency, the Secretary will have that duty.

(e) Only the Coastal Resources Commission may issue a permit for a major development.

History Note: Statutory Authority G.S. 113A-117(b); 113A-124
(c) (5);
Eff. March 1, 1976.

.0203 PERMIT OFFICER

(a) The local plan shall designate an existing official or create a new position for an official who shall receive, review, and take all appropriate action as to applications for minor development permits.

(b) The plan shall specify the job requirements as mandated by these criteria.

(c) The permit officer shall be required to successfully complete a course of study within the first twelve months of employment consisting of no more than two weeks duration, that shall be developed by the Department of Natural and Economic Resources in cooperation with one or more of the State's institutions of higher educational will provide minimum knowledge required for the permit officer to competently execute the items referred to under .0203(b).

History Note: Statutory Authority G.S. 113A-119(c); 113A-121(b);
Eff. March 1, 1976.

.0204 MINOR DEVELOPMENT PERMIT APPLICATIONS

An application for a permit for minor development shall consist of filing with the Secretary and the Permit Officer (i) a completed application form using only the applicable form adopted and approved by the Coastal Resources Commission, (ii) a check or money order payable to the permit-letting agency in the amount of \$10.00. Monies so collected may only be used in the administration of the permit administration program.

History Note: Statutory Authority G.S. 113A-119(a);
Eff. March 1, 1976.

.0205 CONSIDERATION OF APPLICATION BY THE PERMIT OFFICER

(a) The method of consideration of minor development permit requests by the permit officer must be uniform in application and must be set out in writing and available for public inspection. The permit officer shall use only forms approved by the Commission in its handling of any minor development permit application.

(b) The local management plan shall specify the procedures which will be followed in the handling and consideration of all applications for a minor development permit including appropriate response to receipt of an application for a major development permit.

(c) The permit officer shall maintain a record of all applications, correspondence, public notices, responses from public notices and a copy of his final disposition for all permit applications whether issued or denied.

(d) The permit officer, in his handling of all minor development permit applications, must use a numbering system which will be developed by the Commission in consultation with local government.

(e) It is the policy of the Coastal Resources Commission to allow local government the greatest flexibility in coordinating minor development permits with all other local permits and approvals. The Commission requires, however, that the plan eventually submitted state how this coordination will be accomplished.

History Note: Statutory Authority G.S. 113A-124(c)(5);
Eff. March 1, 1976.

.0206 MANDATORY NOTICE

"Upon receipt of an application, the Secretary shall issue public notice of the proposed development (1) by mailing a copy of the application, or a brief description thereof together with a statement indicating where a detailed copy of the proposed application may be inspected, to any citizen or group which has filed a request to be notified of the proposed development, and to any interested State agency; (2) by posting or causing to be posted a copy of the application at the location of the proposed development; and (3) by publishing notice of the application at least once in one newspaper of general circulation in the county or counties wherein the development would be located at least seven days before final action on a permit under G.S. 113A-121 (minor development). The notice shall set out that any comments on the development should be submitted to the Secretary by a specified date, not to exceed 15 days from the date of the newspaper publication of the notice.

History Note: Statutory Authority G.S. 113A-119(b); 113A-124
(a)(5); 113A-124(c)(5);
Eff. March 1, 1976.

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.0207 EXPEDITED REVIEW OF APPLICATIONS FOR MINOR DEVELOPMENT

(a) The review and disposition of applications for the minor development permits must be accomplished within 30 (thirty) days. The thirty-day period shall begin upon date of receipt by the permit officer of a complete and sufficient application.

(b) Extension: Such thirty-day period for disposition of application for minor development permit may be extended by the permit officer if necessary to properly consider the proposed project. Such extension shall require written notice to the applicant of the extension and the extension shall not exceed one thirty-day period.

History Note: Statutory Authority G.S. 113A-121(c);
Eff. March 1, 1976.

.0208 DISPOSITION OF APPLICATION FOR MINOR DEVELOPMENT

(a) Denial of Permit - A permit shall be denied after a consideration by the permit officer which results in a finding that one or more of the conditions set out in General Statutes 113A-120(a)(i)-(viii) exists. Grounds for such denial shall be submitted in writing to the applicant, either in person or by registered mail.

(b) Grant of Permit - A permit shall be granted if none of the above findings in G.S. 113A-120(a)(i)-(viii) is made. Evidence of the grant shall be a permit signed by the permit officer.

(c) Conditioned Grant of Permit - A permit may be conditioned upon amendment of the proposal to take whatever measures may be set out by the permit officer as reasonably necessary to protect the public interest with respect to the items noted in G. S. 113A-120(a)(i)-(viii). The applicant must sign the conditioned grant as an indication of the amendment of the proposed project plans in a manner consistent with the conditions set out by the permit officer before the permit shall become effective.

(d) Passive Grant of Permit - Failure of the permit officer to grant or deny an application for minor development properly filed for his consideration in accordance with 7E .0204 above and applicable provisions of this permit-letting agency's management plan as approved by the Commission within 30 (thirty) days from receipt of application is tantamount to and shall have the full effect of an approval. The permit officer may extend this period for a single additional 30 days if necessary to properly consider the application. The permit officer if he finds the additional 30 day period necessary shall notify the applicant of this fact in writing stating the reasons therefor.

(e) Return of application - If an application is incomplete, insufficient, or requests a permit for development or construction that the permit officer lacks authority to grant, the permit officer shall return the application with appropriate written statement as

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to how the application may be made proper for consideration for grant of permit.

(f) The permit officer shall on a quarterly basis summarize for the Commission the receipt and disposition of all permit applications for their immediately preceding quarterly period. The local management plan submitted must indicate how this will be accomplished.

History Note: Statutory Authority G.S. 113A-119(a); 113A-120(a);
113A-121(c);
Eff. March 1, 1976.

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7E .0300

SECTION .0300 - LETTER OF INTENT

.0301 LETTER OF INTENT

(a) Each county or city desiring to become a local permit-letting agency for minor development permits must submit a letter of intent to the Coastal Resources Commission by July 1, 1976, or at any later date.

(b) The Secretary of the Department of Natural and Economic Resources shall act as permit-letting agency for minor development permits in any city or county that does not submit a letter of intent to the Coastal Resources Commission or that states its intent not to become a local permit-letting agency or where the local management program has not been approved by the Coastal Resources Commission.

History Note: Statutory Authority G.S. 113A-116;
Eff. March 1, 1976.

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7E .0400

SECTION .0400 - ADOPTION OF LOCAL PLAN AND REVIEW BY
THE COMMISSION

.0401 ADOPTION

Each local permit-letting agency submitting a letter of intent before July 1, 1976, must adopt a local management plan before July 1, 1977. A local permit-letting agency submitting a letter of intent later than two years after July 1, 1974, must adopt a local management plan within the time stated by the Commission upon receipt of a letter of intent.

History Note: Statutory Authority G.S. 113A-116; 113A-117(b);
Eff. March 1, 1976.

.0402 PUBLIC HEARING AND NOTICE REQUIRED PRIOR TO ADOPTION

(a) Prior to the adoption of a local management plan, each local permit-letting agency shall hold a public hearing on the proposed local management plan. It shall be open to comment from any interested persons, agencies or groups.

(b) Notice of such public hearing (i) shall go out at least 15 (fifteen) days before such hearing, (ii) shall state the time, place and subject matter of the hearing and shall indicate the nature of the proposed action, (iii) shall state that copies of the proposed local management plan are available for public inspection at the county courthouse, (iv) and shall appear at least once no less than 15 (fifteen) days prior to the hearing in at least one newspaper of general circulation in the affected area.

(c) Each permit-letting agency must compile and maintain a complete record of hearings and comments. The record of the public hearing, written comment, and any documentation filed with the local permit-letting agency as to the proposed local management plan must:

- (1) Consist of a written account from the minutes or transcribed from an electronic recording, and all written documents.
- (2) Remain open for fifteen days after the hearing.
- (3) Be available to the Commission upon request.

History Note: Statutory Authority G.S. 113A-117(b); 113A-124
(c)(5);
Eff. March 1, 1976.

.0403 COMMISSION REVIEW AND ACCEPTANCE OF THE LOCAL PLAN

(a) The local management plan adopted by any city or local permit-letting agency must be submitted to the Commission for review and acceptance. This review will:

- (1) Provide opportunity for interested persons to register objection or comment.

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- (2) Consider the extent and nature of local criticism and comment.
- (3) Evaluate the proposed local management plan in terms of the local land use plan, the State Guidelines for Local Planning, the Coastal Area Management Act, these rules and any standards of review applicable throughout the coastal area.
- (4) Require a commitment by the local governing body to accept the local management plan as a part of the city or county code or ordinances within a three-month period.

(b) Within 45 (forty-five) days after receipt of the proposed local management plan submitted to the Commission for review and approval the Commission will approve or conditionally approve the local management plan, or notify the city or county of specific changes required so that the local management plan may be approvable. The Commission will approve a local management plan which is substantially consistent with these criteria.

(c) Upon appropriate modification of a local management plan returned to the local permit-letting agency, the local management plan may be resubmitted to the Commission in the same manner as initially presented. However, the Commission may waive the formal requirements contained in 7E .0403(a) if it deems the required modification sufficiently insubstantial.

History Note: Statutory Authority G.S. 113A-117(c); 113A-124
(c)(5);
Eff. March 1, 1976.

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7E .0500

SECTION .0500 - QUASI-JUDICIAL HEARING: APPEAL OF
LOCAL DISPOSITION

.0501 PARTIES

Any person who is directly affected by the decision of the permit officer to grant or deny application for minor development may request a hearing before the Coastal Resources Commission. Such requests must be made within 20 days of receipt of notice of the decision.

The Secretary is a person directly affected for purposes of such appeal.

History Note: Statutory Authority G.S. 113A-121(d);
Eff. March 1, 1976.

.0502 PROCEDURE

(a) All hearings upon appeal of grant or denial of application for minor development permit by the permit officer shall be before the Coastal Resources Commission or its delegate. In any case where the Secretary is a person directly affected, only the Commission or a panel of the Commission shall hear the appeal. The hearing will be de novo.

(b) Upon notification by the Commission of an appeal of a decision on a minor development permit application, the permit officer shall submit a certified copy of the entire record to the Commission. The record shall include at a minimum the element indicated in 15 NCAC 7B .0205(c).

(c) The hearing shall be conducted in accordance with rules of procedure adopted by the Commission.

History Note: Statutory Authority G.S. 113A-122(a); 113A-124
(c)(5);
Eff. March 1, 1976.

.0503 APPEAL PENDING

Pending appeal before the Coastal Resources Commission of minor development permit grant or denial, no action shall be taken that would be unlawful in the absence of a permit issued under the Coastal Area Management Act.

History Note: Statutory Authority G.S. 113A-121(d);
Eff. March 1, 1976.

.0504 ADJUDICATED ISSUES

On appeal the Coastal Resources Commission is not limited in its adjudication to those issues raised by the appellant, but may after due notice to all parties request adjudication of any relevant legal

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or factual issue.

History Note: Statutory Authority G.S. 113A-121(d);
Eff. March 1, 1976.

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7E .0600

SECTION .0600 - ENFORCEMENT OF THE PROGRAM

.0601 INJUNCTIVE RELIEF

(a) The permit officer may, either before or after the institution of proceedings for the collection of any penalty imposed for violation of the local management program ordinance institute a civil action in the General Court of Justice in the name of the affected local government upon the relation of the permit officer for injunctive relief to restrain the violation and for such other and further relief in the premises as said court shall deem proper.

(b) "Neither institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from any penalty prescribed by the act or the local management program ordinance."

History Note: Statutory Authority G.S. 113A-126(b);
Eff. March 1, 1976.

.0602 KNOWING, WILLFUL VIOLATION IS A MISDEMEANOR

Knowing, willful violation of these rules or any rules or regulations adopted pursuant to the Coastal Area Management Act shall be a misdemeanor.

History Note: Statutory Authority G.S. 113A-126(c);
Eff. March 1, 1976.

.0603 PENALTY

Each violation is subject to a fine of not less than \$100.00 (one hundred dollars) nor more than \$1,000.00 (one thousand dollars) or not more than 60 (sixty) days' imprisonment or both.

History Note: Statutory Authority G.S. 113A-126(c);
Eff. March 1, 1976.

.0604 CONTINUED VIOLATION

Continued violation after written notice by the permit officer to the offending party shall allow the court to find that each day during which the violation continues or is repeated is a separate violation, each of which may be subject to the fines or penalties of G.S. 113A-126(c).

History Note: Statutory Authority G.S. 113A-126(c);
Eff. March 1, 1976.

.0605 NOTICE

The Secretary of the Department of Natural and Economic Resources and the Coastal Resources Commission shall be notified of any civil action undertaken by or against the designated local official under

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the Coastal Area Management Act.

History Note: Statutory Authority G.S. 113A-124(c)(5);
Eff. March 1, 1976.

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7E .0700

SECTION .0700 - AMENDMENT OF LOCAL IMPLEMENTATION AND
ENFORCEMENT PLAN

.0701 NOTICE AND PUBLIC HEARING REQUIREMENTS

Amendment of the local management plan shall follow the notice and public hearing requirements set forth in the Coastal Area Management Act and these regulations pertaining to the adoption of the original program.

History Note: Statutory Authority G.S. 113A-124(c)(5);
Eff. March 1, 1976.

.0702 COASTAL RESOURCES COMMISSION APPROVAL

An amendment of a local program shall be submitted to the Coastal Resources Commission for approval in the same manner in which the original management plan is submitted.

History Note: Statutory Authority G.S. 113-124(c)(5);
Eff. March 1, 1976.

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7E .0800

SECTION .0800 - FAILURE TO ENFORCE AND ADMINISTER PLAN

.0801 COMMISSION SANCTION FOR VIOLATIONS BY THE LOCAL PERMIT-
LETTING AGENCY

(a) When a local permit-letting agency fails to administer or enforce the local management plan submitted to the Commission and approved by it, the Commission shall:

- (1) Notify the local permit-letting agency in writing that it is in violation of the provisions of its local management plan and specifying the grounds for such charges of violation.
- (2) Inform the local permit-letting agency of specific deficiencies in administration and enforcement.
- (3) Inform the local permit-letting agency of its opportunity to request a hearing before the Commission at which time it may make any presentation or present any arguments relevant to the issue raised in the Commission letter to the local agency. The Commission may question any witness presented by the local permit-letting agency. The Commission may at its sole discretion hear from any other affected person at the hearing.

(b) When the conditions are not remedied or corrected within 90 (ninety) days after receipt of Commission notification of such violation, the Commission shall assume the duties of the local permit-letting agency until the local permit-letting agency indicates to the Commission in writing its willingness and/or ability to perform in conformance with its approved local management plan. Such willingness and ability in addition to changed circumstances as to ability shall be substantiated in writing to the Commission.

History Note: Statutory Authority G.S. 113A-117(d);
Eff. March 1, 1976.

.0802 WHEN AN ACTION EXCEEDS THE LOCAL AUTHORITY

(a) When the local permit-letting agency exceeds the scope and extent of its authority, which is limited to consideration of applications proposing minor development as defined in the Coastal Area Management Act, that action shall be null, void, and of no effect. The determinations of the Commission shall be binding on the local permit-letting agency as to questions of such jurisdiction.

(b) The local permit-letting agency lacks the authority to issue variances (G.S. 113A-120(c)) or to consider permits for the siting of any utility facility for the development, generation or transmission of energy when such facilities require permits under the Coastal Area Management Act.

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History Note: Statutory Authority G.S. 113A-118(e); 113A-120(c);
113A-124(c)(5);
Eff. March 1, 1976.

SUBCHAPTER 7K - MAJOR DEVELOPMENT PERMIT-LETTING PROGRAM

DEFINITIONS APPLICABLE TO SUBCHAPTER 7K

- (a) All definitions set out in G.S. 113A-100 through 128 apply herein.
- (b) The following definitions apply whenever these words are used in this subchapter.
 - (1) Department (DNRCD) - means the North Carolina Department of Natural Resources and Community Development.
 - (2) Secretary - means the Secretary of Natural Resources and Community Development.
 - (3) Structures - include but are not limited to bridges, piers, wharves and docks (supported on piles); timber breakwaters; mooring pillings; pile clusters (dolphins); navigational aids; net stakes; or concrete, steel, or wood boat ramps more than 20 feet long and 10 feet wide.
 - (4) 'Person' means any individuals, citizen, partnership, corporation, association, organization, business trust, estate, trust, public or municipal corporation, or agency of the State or local government unit, or any other legal entity however designated.
 - (5) 'Key facilities' include the site location and the location of major improvement and major access features of key facilities, and mean:
 - (a) public facilities, as determined by the Commission, on non-federal lands which tend to induce development and urbanization of more than local impact, including but not limited to:
 - (i) any major airport designed to serve as a terminal for regularly scheduled air passenger service or one of State concern;
 - (ii) major interchanges between the Interstate Highway System and frontage access streets or highways;
 - (iii) major frontage access streets and highways, both of State concern; and
 - (iv) major recreational lands and facilities;
 - (b) Major facilities on non-federal lands for the development, generation, and transmission of energy.
 - (6) Areas of Environmental Concern (AECs) geographic areas within the Coastal area which the Coastal Resources Commission chooses to designate for special environmental and land use regulations. The types of areas which may be designated as AECs are described in G.S. 113A-113. Areas which have already been designated are defined 15NCAC 71, State Guidelines for Areas of Environmental Concern.
 - (7) Commission or CRC means the Coastal Resources Commission.

SUBCHAPTER 7K - MAJOR DEVELOPMENT PERMIT-
LETTING PROGRAM

SECTION .0100 - APPLICATION PROCESS

.0101 PERMIT REQUIRED

- (a) After March 1, 1978, every person wishing to undertake any major development in an area of environmental concern shall obtain a permit from the Commission, unless such development is exempted by the Commission.
- (b) A major development is any development which requires permission licensing, approval, certification or authorization in any form from the Board of Water and Air Resources, the State Board of Health, the State Department of Natural and Economic Resources or Conservation and Development, the State Department of Administration, the North Carolina Mining Council, the North Carolina Pesticides Board, or the North Carolina Sedimentation Control Board; or which occupies a land or water area in excess of 20 acres; or which contemplates drilling for or excavating natural resources on land or under water; or which occupies on a single parcel a structure or structures in excess of a ground area of 60,000 square feet.

"Development" means any activity in a duly designated area of environmental concern (except as provided in 113A-103(b)(5)) involving, requiring, or consisting of the construction or enlargement of a structure; excavation; dredging, filling; dumping; removal of clay, silt, sand, gravel or minerals; bulkheading, driving of pilings; clearing or alteration of land as an adjunct of construction; alteration or removal of sand dunes; alteration of the shore, bank, or bottom of the Atlantic Ocean or any sound, bay, river, creek, stream, lake, or canal.

History Note: Statutory Authority G.S. 113A-118; 113A-103(5)(a)

.0102 PERMIT APPLICATIONS

(a) Any person seeking to obtain a permit for a major development is required to file with the Secretary or his designee a completed application. The Department will provide the application forms and instructions including example plats and interpretive assistance to all interested parties. Forms and instructions will be available from the Director of the Division of Marine Fisheries at the Division's Morehead City and Raleigh Offices, from Fisheries Inspectors, from any biologist of the Estuarine Studies Section of the Division, from permit coordinators at the Department Field Offices, and from local minor development permit officers. Application forms may be periodically revised in order to gain all information necessary for review of the proposed project by interested state agencies.

Before any application will be accepted for consideration, the following requirements must be met:

- (1) the application form used must be current;
- (2) all questions on the application form must be completed or the letters N/A must be placed in each section that does not apply;
- (3) an accurate work plan(s) as described in 15 NCAC 7K .0103 herein must be attached;
- (4) a copy of deed or other instrument under which the applicant claims title to the property must be attached.

In addition to the above, the Department may require other information deemed necessary to adequately review the project.

Any application not in compliance with the above requirements will be returned to the applicant along with a cover letter explaining the deficiencies in the application.

- (b) The applicant must submit with the application a check or money order payable to the Department for ten dollars (\$10.00).
- (c) Regardless of whether any advice or information was provided by other persons, including Department officials, the applicant is responsible for the accuracy and completeness of the information provided in filling out the application.

History Note: Statutory Authority G.S. 113A-119; 113A-124(b)

.0103 PREPARATION OF WORK PLATS, GENERAL

Project plans or work plats must include a top or planview, a cross-sectional view, and a location map. Work plats must be submitted on 8 $\frac{1}{2}$ " x 11" plain white paper, must have a $\frac{1}{4}$ " margin on all four sides, and must contain a title block and page number. All plats must have the standard North arrow. When two drawings are shown on the same sheet, they should be drawn so that their meridians are parallel. North should be at the top of the plat. The drawing must be in black pencil or black ink. The prints must be neat and sufficiently clear to permit photographic reproduction. Originals are preferred as copies are often found to be unacceptable. The applicant should use as few sheets as necessary to show clearly what is proposed. Work plats must be accurately drawn to scale. A scale of 1" = 200' or less is normally required in order that project detail can be easily understood.

History Note: Statutory Authority G. S. 113A-119 .

.0104 PREPARATION OF WORK PLATS, SPECIFIC

(a) Topview or Planview Plats. Such drawings must show existing and proposed features such as shorelines, creeks, marshlands, docks, piers, bulkheads, excavated areas, fill areas, type and location of sewage treatment facilities and effluent outlets. Both existing and final (or finished) land elevations and existing water depths must be indicated using mean low water as base or zero. These can be shown either as contours or spot elevation. Care should be used in indicating which features are existing and which are proposed. Property boundaries, as they appear on the deed, and the names of adjacent property owners must be shown on the detailed plat. The work plat must show the area to be excavated and exact locality for disposal of the excavated material. Both these areas must be clearly indicated by hash marks or other means on all copies and suitably designated by words. When fill material is to be placed behind a bulkhead or dike, the plan must be sufficiently detailed to show the exact location of such bulkheads or dikes, and the adequacy of the bulkhead or dike to confine the material. Ebb and flood tide directions or upstream/downstream flow directions of river or stream as appropriate must be indicated on the plan. Also, where pertinent, fresh water outflows, such as natural drainage routes, springs, ponds, etc., must be included. Indicate approximate mean low and mean high water lines and the presence of marsh in the area of proposed work. In areas where the difference in daily low and high tides is less than 6" (six inches), only an average water level must be indicated.

(b) Cross Section Drawing. A cross-sectional diagram showing depth and elevation of proposed work relative to existing ground level - mean low and mean high water line must be included in the plan. The mean low water must be the reference for water depths and land elevations (i. e., mean low water should be depicted as "Elevation 0.0. MLW").

(c) Location map. A map of small scale showing the location of the proposed work is also required. The location map may be on a separate sheet, or may be drawn as an inset map on a corner of the sheet showing the details of the project. The inset is preferred. A section may be taken from a navigational chart, or a North Carolina county road map with an arrow drawn to the project location. The location map must provide adequate information such as secondary road numbers to enable investigatory personnel to locate the project site.

(d) Title of Drawing. Each drawing must have a simple title block to identify the project or work, and shall include name of applicant and date the plat was prepared. The date of any revisions must be clearly noted. The applicant must also include the name of the person who drew the plat and the scale of the plat.

History Note: Statutory Authority G.S. 113A-119

.0105 PROCESSING THE APPLICATION

(a) Application processing will begin when an application that is apparently complete is accepted by the Department. An incomplete or deficient application will be returned to the applicant according to 15NCAC 7K .0102 above, and will not be considered accepted until it is resubmitted and determined by the Department to be complete and sufficient.

(b) Processing and approval or denial of a permit application will be completed within 90 days of the filing of a complete and sufficient application. If the application is found to be incomplete or inaccurate after processing has begun or if additional information from the applicant is necessary to adequately assess the project, the processing will be terminated pending receipt of the necessary changes or necessary information from the applicant. During the pendency of any termination of processing, the 90 day period will not run. The Commission may extend the 90 day period by not more than an additional 90 days if such an extension is necessary to properly consider the application. The applicant shall be notified by mail of such an extension.

History Note: Statutory Authority G.S. 113A-119, 113A-122(c)

.0106 LETTER TO APPLICANT UPON ACCEPTANCE OF AN APPLICATION -

(a) When an application is accepted as complete and sufficient, a letter shall be sent within a reasonable time to the applicant setting forth the date on which acceptance was made and the 90 day time limit began to run.

(b) This letter will also advise the applicant of the legal requirement that a quasi-judicial hearing concerning the application be held, and of the date on which that hearing will be held. The letter will state that the applicant will be notified before the date of the hearing as to whether the Department will recommend denial or approval of the application and of any conditions necessary for approval, so that the applicant may consider the recommendation in deciding whether to appear at the public hearing. The applicant will be advised that the Commission is not bound by the Department's recommendations, and that if any changes are made in the final decision or the conditions necessary for approval or denial, the applicant shall have the right to call for a new hearing.

History Note: Statutory Authority G.S. 113A-118(c); 113A-122(a)

.0107 PUBLIC NOTICE OF THE PROPOSED DEVELOPMENT

(a) Within a reasonable time after receiving an application for a major development, the Secretary or his designee shall issue public notice of the proposed development (i) by mailing a copy of the application, or a brief description thereof together with a statement indicating where a detailed copy of the proposed development may be inspected, to any citizen or group which has filed a request to be notified of the proposed development, and to any interested State agency; (ii) by posting or causing to be posted a copy of the application at the location of the proposed development; and (iii) by publishing notice of the application at least once in one newspaper of general circulation in the county or counties wherein the development would be located at least seven days before final action on a permit under G.S. 113A-121 or before the beginning of the hearing on a permit under G.S. 113A-122. The notice shall set out that any comments on the development should be submitted to the Secretary by a specified date, not to exceed 15 days from the date of the newspaper publication of the notice.

(b) Any citizen or group will upon request, be promptly sent a copy of the application upon payment of a reasonable fee to cover costs of copying, handling, and posting.

History Note: Statutory Authority G.S. 113A-119(b)

.0108 AGENCY REVIEW AND COMMENTS

The Commission will circulate applications to the several State review agencies having expertise in those matters enumerated in 15NCAC .0302. Each agency may make an independent analysis of the application and submit recommendations and comments to the Department. Such recommendations and comments will be considered by the Commission in taking action on a permit application.

History Note: Statutory Authority G.S. 113A-124(c)(5); 113A-124(a)(1)

.0109 PERMIT CONDITIONS

Each of the several State review agencies may submit specific recommendations regarding the manner in which the requested work should be carried out and suggest reasonable limitations on the work in order to protect the public interest with respect to the factors enumerated in 15NCAC .0302. Such limitations may be recommended by the Department to be imposed on the project in the form of "Permit Conditions". Upon the failure of the applicant to appeal permit conditions, the applicant will be deemed to have amended his permit to conform to the conditions imposed by the Department. Failure to comply with permit conditions constitutes a violation of an order of the Commission under G.S. 113A-126.

History Note: Statutory Authority G.S. 113A-120(b); 113A-124 (a)(1);
113A-124(c)(5)

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(a) Within a reasonable time after receiving an application for a major development, the Secretary or his designee shall issue public notice of the proposed development (i) by mailing a copy of the application, or a brief description thereof together with a statement indicating where a detailed copy of the proposed development may be inspected, to any citizen or group which has filed a request to be notified of the proposed development, and to any interested State agency; (ii) by posting or causing to be posted a copy of the application at the location of the proposed development; and (iii) by publishing notice of the application at least once in one newspaper of general circulation in the county or counties wherein the development would be located at least seven days before final action on minor development permit application under the expedited procedures set forth in G.S. 113A-121, or before the beginning of the hearing on major development permit hearing under the quasi-judicial procedures set forth in G.S. 113A-122. The notice shall set out that any comments on the proposed development should be submitted to the Secretary by a specified date, not to exceed 15 days from the date of the newspaper publication of the notice.

(b) Any citizen or group will, upon request, be promptly sent a copy of the application upon payment of a reasonable fee to cover costs of copying, handling, and posting.

History Note: Statutory Authority G.S. 113A-119(b)

.0108 AGENCY REVIEW AND COMMENTS

The Commission will circulate applications to the several State review agencies having expertise in the criteria enumerated in 15NCAC 7K .0302. Each agency may make an independent analysis of the application and submit recommendations and comments to the Department. Such recommendations and comments will be considered by the Commission in taking action on a permit application.

History Note: Statutory Authority G.S. 113A-124(c)(5); 113A-124(a)(1)

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History Note: Statutory Authority G.S. 113A-120(b); 113A-124(a)(1); 113A-124(c)(5)

.0110 NOTICE TO APPLICANT OF THE DEPARTMENT'S RECOMMENDED DECISION

(a) Based upon field investigations and agency comments relevant to the criteria set forth in 15NCAC 7k.0302, the Department will reach a position concerning approval, denial, or approval with conditions of each application. This position will be recommended to the Commission, but is in no way final or binding upon the Commission. This decision will be based on applicable criteria set forth in the CAMA (G.S. 113-120) and in these regulations 15NCAC 7k .0302), and on the applicable standards for development set forth in 15NCAC, Subchapter 7I.

(b) As soon as the Department position is reached, the applicant will be notified of the decision and reminded of the right to appear at the hearing at which the application is scheduled to be heard. If the Department recommendation is denial, the applicant will be informed in the letter of the reasons for the denial. The applicant will have 10 days to notify the Commission whether he will appear at hearing. The letter will also notify applicant that by so indicating the intent not to appear at the hearing, he has waived both the right to a hearing and the right to submit proposed findings of fact and conclusions of law concerning the application within 30 days after the hearing. If the applicant has chosen not to appear at the hearing and if the Commission does not accept the Department's recommended decision, then the applicant shall be notified and again given the opportunity to appear at a public hearing. If necessary in such cases, the Commission shall extend the 90 day period to allow rehearing and reconsideration of the application.

History Note: Statutory Authority G.S. 113A-124(a)(1); 113A-124(a)(5); 113A-122(a)

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(a) Based upon field investigations and agency comments relevant to the criteria set forth in 15NCAC .0302 , the Department will reach a position concerning approval, denial, or approval with conditions of each application. This position will be recommended to the Commission, but is in no way final or binding upon the Commission. This decision will be based on applicable criteria set forth in the CAMA (G.S. 113-120) and in these regulations(15NCAC .0302), and on the applicable standards for development set forth in 15NCAC Subchapter 7I.

(b) As soon as the Department position is reached, the applicant will be notified of the decision and reminded of the right to appear at the hearing at which the application is scheduled to be heard. If the Department recommendation is denial, the applicant will be informed in the letter of the reasons for the denial. The applicant will have 10 days to notify the Commission whether he will appear at hearing. If the applicant chooses not to appear at the hearing and if the Commission does not accept the Department's recommended decision, then the applicant shall be notified and again given the opportunity to appear at a public hearing. If necessary in such cases, the Commission shall extend the 90 day period to allow rehearing and reconsideration of the application.

History Note: Statutory Authority G.S. 113A-124(a)(1); 113A-124(a)(5);113A-122(a)

SECTION .0200 - HEARING PROCEDURE

.0201 AUTHORIZED HEARING AGENT

The Commission may delegate the power to conduct a hearing on its behalf to any member of the Commission, or to any qualified employee of the Department. Any person to whom a delegation of power is made shall prepare for the Commission a record of the hearing and the evidence and his recommendations for decision or action.

History Note: Statutory Authority G.S. 113A-124(c)(4)

.0202 WHO IS ENTITLED TO A HEARING?

(a) Any applicant for a major development permit or any state agency that commented upon or requires a permit for the same project is entitled to appear at a quasi-judicial hearing before the Commission or its duly authorized agent. The hearing must be called for within the time limit indicated in the notification of the Department's recommended decision described in 15NCAC

(b) Any person directly affected by a minor development permit decision is entitled to call for a hearing before the Commission or its duly authorized agent under the process described in 15NCAC 7K .0203. The request for the hearing must be made within 20 days of the final local action concerning the application.

(c) Any person may petition for a variance as described in 15NCAC 7K .0204. The Commission may conduct a hearing within 45 days from the receipt of the petition.

History Note: Statutory Authority G.S. 113A-122(a); 113A-120(c); 113A-124(3); 113A-124(4)

.0203 APPEALS FROM MINOR DEVELOPMENT PERMIT DECISIONS

(a) Any person who is directly affected by the decision of the Secretary or the designated local official (as the case may be) to grant or deny an application for a minor development permit may request within 20 days of such action, a hearing before the Commission. In the case of a grant or denial of a permit by the local official, the Secretary shall be considered to be a person affected by the decision. Pending final disposition of any such appeal, no action shall be taken which would be unlawful in the absence of an issued minor development permit.

(b) A request for appeal of a minor development permit disposition shall include verification by the local designated official that the applicant has received a final decision from the local government, including any available intermediate appeal to a local board. Upon determining that the application is ready for appeal, the Commission shall notify the applicant by mail of the date on which the appeal will be heard. The hearing shall not be scheduled less than 30 days from the time this notification is mailed.

(c) Persons directly affected by the decision of the Secretary or the designated local official shall include only the following persons:

- (1) The applicant or any holder of a legal interest in the property to be developed;
 - (2) Owners of real property adjacent to the property to be developed;
 - (3) The Secretary of DNRCD;
 - (4) A local government which does not administer the permit program for its jurisdiction, providing that the permit decision for which appeal is sought concerns development within that local governments planning jurisdiction;
 - (5) In cases where the development is within or touches upon an area subject to the public trust, any person who can demonstrate a history of substantial use of the public resource in the area directly affected by the development.
- (d) The burden of proof at any hearing concerning appeal of a minor development permit decision shall be upon the Secretary.
- (e) Any hearing held under this section will be conducted according to the procedures set forth in 15NCAC 7k 0205.

History Note: Statutory Authority G.S. 113A-122; 113A-121(d)
113A-124(c)(5); 150A-2(6).

.0203 APPEALS FROM MINOR DEVELOPMENT PERMIT DECISIONS

(a) Any person who is directly affected by the decision of the Secretary or the designated local official (as the case may be) to grant or deny an application for a minor development permit may request within 20 days of such action, a hearing before the Commission. In the case of a grant or denial of a permit by the local official, the Secretary shall be considered to be a person affected by the decision. Pending final disposition of any such appeal, no action shall be taken which would be unlawful in the absence of a minor development permit issued.

(b) A request for appeal of a minor development permit disposition shall include verification by the local designated official that the applicant has received a final decision from the local government, including any available intermediate appeal to a local board. Upon determining that the application is ready for appeal, the Commission shall notify the applicant by mail of the date on which the appeal will be heard. The hearing shall not be scheduled less than 30 days from the time this notification is mailed.

(c) Persons directly affected by the decision of the Secretary or the designated local official shall include only the following persons:

- (1) The applicant or any holder of a legal interest in the property to be developed.
 - (2) Owners of real property adjacent to the property to be developed
 - (3) The Secretary of DNRCD
 - (4) A local government which does not administer the permit program for its jurisdiction, providing that the permit decision for which appeal is sought concerns development within that local governments planning jurisdiction.
 - (5) In cases where the development is within or touches upon an area subject to the public trust, any person who can demonstrate a history of substantial use of the resource in the area directly affected by the development.
- (d) The burden of proof at any hearing concerning appeal of a minor development permit decision shall be upon the Secretary.
- (e) Any hearing held under this section will be conducted according to the procedures set forth in

History Note: Statutory Authority G.S. 113A-122; 113A-121(d) 113A-124(c)(5);
150A-2(6)

.0204 PETITIONS FOR VARIANCES

(a) Any person may petition the Commission for a variance granting permission to use his land in a manner otherwise prohibited by rules, regulations, standards or limitations prescribed by the Commission concerning development in areas of environmental concern. When it finds that (i) practical difficulties or unnecessary hardships would result from strict application of the guidelines, rules, regulations, standards, or other restrictions applicable to the property, (ii) such difficulties or hardships result from conditions which are peculiar to the property involved, (iii) such conditions could not reasonably have been anticipated when the applicable guidelines, rules, regulations, standards, or restrictions were adopted or amended, the Commission may vary or modify the application of the restrictions to the property so that the spirit, purpose, and intent of the restrictions are preserved, public safety and welfare secured, and substantial justice preserved. In varying such regulations, the Commission may impose reasonable and appropriate conditions and safeguards upon any permit it issues. The Commission may conduct a hearing within 45 days from the receipt of the petition and shall notify such persons and agencies that may have an interest in the subject matter of time and place of the hearing. The hearing will be conducted according to the procedures set forth in 15NCAC7K .0205.

History Note: Statutory Authority G.S. 113A-120 (c); 113A-124 (c)(3),
113A-124 (c)(4)

0205 PROCEDURES APPLICABLE TO HEARING

(a) The following provisions shall be applicable in connection with hearings held by the Commission:

- (1) Any hearing held pursuant to this section shall be held upon not less than 30 days' written notice given by the Commission to any person who is a party to the proceedings with respect to which such hearing is to be held, unless a shorter notice is agreed upon by all such parties.
- (2) All hearings under this section shall be open to the public. Any person to whom a delegation of power is made to conduct a hearing shall report the hearing with its evidence and record to the Commission for decision.
- (3) A full and complete record for all proceedings at any hearing under this section shall be taken by a reporter appointed by the Commission or by other method approved by the Attorney General. Any party to a proceeding shall be entitled to a copy of such record upon the payment of the reasonable cost thereof as determined by the Commission.
- (4) The Commission and its duly authorized agents shall follow generally the procedures applicable in civil actions in the superior court insofar as practicable, including rules and procedures with regard to the taking and use of depositions, the making and use of stipulations, and the entering into of agreed settlements and consent orders.
- (5) The Commission and its duly authorized agents may administer oaths and may issue subpoenas for the attendance of witnesses and the production of books, papers, and other documents belonging to the said person.
- (6) Subpoenas issued by the Commission in connection with any hearing under this section shall be directed to any officer authorized by law to serve process, and the further procedures and rules of law applicable with respect thereto shall be prescribed in connection with subpoenas to the same extent as if issued by a court of record. In case of a refusal to obey a subpoena issued by the Commission, application may be made to the superior court of the appropriate county for enforcement thereof.
- (7) The burden of proof at any hearing under this section on appeal pursuant to G.S. 113A-121 (d) shall be upon the Secretary. The burden of proof at any hearing under this section on a permit application for a major development shall be upon the applicant. The provisions of this paragraph shall apply only to the hearings specified in this paragraph.
- (8) No decision or order of the Commission shall be made in any proceeding unless the same is supported by competent, material, and substantial evidence upon consideration of the whole record.
- (9) Following any hearing, the Commission shall afford the parties thereto an opportunity to submit within 30 days, or within such additional time as prescribed by the Commission, proposed findings of fact and conclusions of law and any brief in connection therewith.
- (10) After hearing the evidence, the Commission shall grant or deny the permit in accordance with the provisions of G.S. 113A-120. All such orders and decisions of the Commission shall set forth separately the Commission's findings of fact and conclusions of law and shall, wherever necessary, cite the appropriate provision of law or other source of authority on which any action or decision of the Commission is based.

- (11) (a) Any person may seek to become a party by submitting a petition to intervene to the Commission or its designated agent pursuant to N. C. Rules of Civil Procedure, Rule 24, or by petitioning for discretionary intervention prior to the termination of the hearing.
- (b) A petition to intervene of right as provided in N. C. Rules of Civil Procedure, Rule 24, will be granted if the criteria of Rule 24 are met and the petition is timely.
- (c) A petition to intervene permissively as provided in N. C. Rules of Civil Procedure, Rule 24, will be granted if the criteria of Rule 24 are met, the petition is timely, and the Commission determines that:
- (1) there is sufficient legal or factual similarity between the petitioner's asserted rights, privileges, or duties and those of the parties to the hearing; and
 - (2) permitting intervention by the petitioner as a party would aid the purpose of the hearing.
- If discretionary intervention is allowed any limitations to petitioner's participation shall be stated in writing.
- (d) Notwithstanding subsection (a) - (d) above, the Commission may deny any petition to intervene if there is a compelling reason to do so such as prejudice to rights of parties, substantial added expense, or serious inconvenience.
- (e) The petition to intervene must be in writing and filed ten days prior to the hearing.
- (f) The petition must include the following information:
- (1) the grounds for intervention;
 - (2) the claim or defense for which intervention is sought;
 - (3) a brief summary of the arguments or evidence petitioner seeks to present;
 - (4) a certification that the petition has been served on all parties of record to the hearing;
 - (5) petitioner's name and address;
 - (6) petitioner's business or occupation, and
 - (7) identification of the hearing in which petitioner is seeking to intervene.
- (g) Once the petition is filed, the Chairman of the Commission will either grant, grant with limitations, or deny the petition within a reasonable time.
- (h) If the Commission allows intervention, he will promptly notify all parties and petitioners. In cases of discretionary intervention, the notification shall include any limitations imposed on the petitioner.
- (i) If the Commission denies intervention, he will promptly notify the petitioner of the denial in writing stating the reasons for the decision.

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- (h) If the Commission allows intervention, all parties and petitioners will be notified promptly. In cases of discretionary intervention, the notification shall include any limitations imposed on the petitioner.
- (i) If the Commission denies intervention, the petitioner will be notified promptly of the denial in writing stating the reasons for the decision.

(12) The Commission shall have the authority to adopt a seal which shall be the seal of said Commission and which shall be judicially noticed by the courts of the State. Any document, proceeding, order, decree special order, rule, regulation, rule of procedure or any other official act or records of the Commission or its minutes may be certified by the Executive Director under his hand and the seal of the Commission and when so certified shall be received in evidence in all actions or proceedings in the courts of the State without further proof of the identity of the same if such records are competent, relevant and material in any such action to proceedings. The Commission shall have the right to take judicial notice of all studies, reports, statistical data or any other official reports or records of the federal government or of any sister state and all such records, reports and data may be placed in evidence by the Commission or by any other person or interested party where material, relevant and competent.

(b) The entire file of the Department concerning the permit application in question shall become part of the official record of the hearing. Any contents of the file specifically referred to by any party to the proceeding may be marked as exhibits

(c) A full and complete record of all proceedings at any hearing shall be taken by a reporter appointed by the Department. Any party to a proceeding shall be entitled to a copy of such record upon the payment of the reasonable cost thereof as determined by the Department.

History Note: Statutory Authority G.S. 113A-122(b); 113A-124(c)(4)

.0206 SCHEDULING AND VENUE OF THE HEARINGS

(a) The Coastal Area Management Act gives every applicant for a major development permit and every affected party who wishes to appeal a minor development permit decision the right to a quasi-judicial hearing before the Commission or its duly authorized agent. The Commission must be prepared to handle such hearings in a most efficient manner in order to assure that every person who so desires may fully exercise the right to a hearing. Consequently, it is determined to be in the interest of justice and for the convenience of witnesses for the Commission to hold hearing sessions on a regular schedule and at central, predetermined locations in the north, central and southern regions of the coastal area. All persons in each region who have filed a proper and timely request for a hearing will be scheduled to appear at a session in the region in which they reside. Therefore, several matters may be heard at each regional hearing session. All proper parties to the hearing will be notified of the time and place of the hearing as required by 15NCAC .0205 .

(b) Any party to a hearing may request that the hearing be held in a county in the state where the applicant maintains his residence. The request shall set forth reasons why it would be in the interest of justice and for the convenience of witnesses to hold the hearing in the county of the applicant's residence. The Commission shall notify all parties of the request and allow sufficient time for such parties to comment. The Commission shall then decide if such a change in venue is in the interest of justice and for the convenience of witnesses. The parties will be notified of the Commission's decision.

(c) A request for a change in venue shall be considered sufficient reason for an extension by the Commission of the 90 day limit for processing a permit application.

(d) A party shall not be deemed to have waived any objection to venue merely by proceeding in the hearing.

History Note: Statutory Authority G.S. 113A-122(a); 150A-24; 113A-124(c)(5);
113A-122(c)

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(b) Any party to a hearing may request that the hearing be held in a county in the state where the applicant maintains his residence. The request shall set forth reasons why it would be in the interest of justice and for the convenience of witnesses to hold the hearing in the county of the applicant's residence. The Commission shall notify all parties of the request and allow sufficient time for such parties to comment. The Commission shall then decide if such a change in venue is in the interest of justice and for the convenience of witnesses. The parties will be notified of the Commission's decision.

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(d) A party shall not be deemed to have waived any objection to venue merely by proceeding in the hearing.

History Note: Statutory Authority G.S. 113A-122(a); 150A-24;
113A-124(c)(5); 113A-122(c)

.0207 PRE-HEARING CONFERENCES

(a) The Commission or its duly authorized agent may hold an informal conference prior to the hearing and require attendance of all parties.

(b) Notice of the conference shall be given in the notice of hearing or at a subsequent time if the Commission later determines a conference to be necessary.

(c) The purpose of the conference will be to discuss the following:

- (1) the possibility of simplification of issues;
- (2) stipulation of facts or findings;
- (3) identification of areas where evidence will be needed;
- (4) indication of depositions or subpoenas needed;
- (5) the need for consolidation of cases or joint hearings;
- (6) any other matters which will reduce costs or save time or otherwise aid expeditious disposition of the hearing.

History Note: Statutory Authority G. S. 113A-122(b)(4); 113A-124(c)(5)

.0208 PRESENTATION OF EVIDENCE

(a) Except as otherwise provided, the rules of evidence applicable in the North Carolina General Court of Justice shall apply to all hearings insofar as practicable but shall be liberally construed so as to allow any logically relevant testimony and exhibits into evidence; but in the event that evidence is not reasonably available under the rules set out in this regulation to show relevant facts, they may be shown by the most reliable and substantial evidence available.

(b) In the event that there is an objection to the introduction of any testimony or evidence, the hearing officer may require the parties to state the grounds for objection. The hearing officer may reserve ruling on any objection, allow the evidence to be introduced, and show the ruling on the objection in an attachment to the findings of fact and conclusions of law.

(c) The hearing officer may question a witness at any time for purposes of seeking clarification of testimony being given. In addition the hearing officer may question witnesses at the conclusion of cross-examination on any matters relevant to the hearing and in particular on matters that are relevant to a possible modification of the permit.

(d) Irrelevant, immaterial, and unduly repetitious evidence shall be excluded.

(e) Official notice may be taken of all facts of which judicial notice may be taken, including:

- (1) matters of common knowledge;
- (2) facts capable of accurate and ready determination;
- (3) scientific principles if they are generally accepted within the scientific community.

Official notice may also be taken of other facts within the specialized knowledge of the hearing officer.

(f) The hearing officer will promptly make known the noticed fact and its source to all parties to the hearing. Upon written request any party shall be granted an opportunity to dispute the noticed fact through the submission of evidence and argument. The hearing officer may use its experience, technical competence, and specialized knowledge in the evaluation of evidence presented to it. The hearing officer will rule on the disputed fact and issue a statement which will be made a part of the record.

(g) It shall not be necessary for a party or his attorney to object at the hearing to evidence in order to preserve the right to object to its consideration by the hearing officer or the Commission in reaching its decision, or by the court on judicial review.

(h) Documentary evidence may be received in the form of a copy or excerpt or may be incorporated by reference if the materials so incorporated are available for examination by the parties. Upon timely request to the hearing officer a party shall be given an opportunity to compare the copy with the original if available.

History Note: Statutory Authority G.S. 113A-121(b)(4); 113A-121(b)(11);
113A-124(c)(5)

.0209 CONDUCT OF THE HEARING

(a) The events of the hearing will follow generally the following chronology unless otherwise directed by the Commission:

- (1) Pre-hearing conference, if appropriate;
- (2) Pre-hearing motions of parties.
- (3) Opening statement by Hearing Officer convening the hearing.
- (4) Opening statements by parties;
- (5) Swearing in of witnesses;
- (6) Direct examination of witnesses of the party having the burden of proof and cross-examination of these witnesses by the adverse parties;
- (7) Direct examination of witnesses of the party not having the burden of proof and cross-examination of these witnesses by the adverse parties;
- (8) Presentation of the testimony of any interested persons allowed by the Commission to present evidence and cross-examination on this testimony.
- (9) Closing statements;

(b) A party who has been served with a notice of hearing may file a written answer 10 days before the date set for the hearing. Extensions of time may be granted in appropriate cases upon request of the answering party.

(c) The parties to the hearing shall be given an opportunity to present arguments on issues of law and policy and an opportunity to present evidence on issues of fact.

(d) A party may cross-examine any witness including the author of a document prepared by, on behalf of, or for use of the Department and offered in evidence. This right also includes cross-examination of any witness whose testimony is taken by deposition upon oral examination. A party may submit rebuttal evidence.

(e) If a party fails to appear at the hearing after proper service of notice, the hearing officer may proceed with the hearing and make its decision in the absence of the party or may grant a continuance, adjournment, or other disposition as he deems appropriate. If the hearing is conducted or a decision reached in the absence of a party, the absent party may petition the Commission or the hearing officer, to reopen the case. Such a petition shall be granted only when petitioner can show that the reasons for his failure to appear were excusable and that fairness requires reopening the case. The decision by the hearing officer shall be in writing, shall be served on the petitioner, and shall be made a part of the record.

History Note: Statutory Authority G.S. 113A-121(b)(4); 150-25; 113A-124(c)(5)

**.0210 PROCEDURES FOR APPLICATION HEARINGS AT WHICH NO PARTIES
APPEAR**

(a) If no party has sent the Commission timely notice of intent to appear at the scheduled hearing, the hearing for the application will be conducted according to the following procedures.

- (1) The name of the applicant and the location of the project shall be announced
- (2) Any written comments shall be announced, the source of the comments shall be identified and incorporated by reference into the record.
- (3) The Department's recommended decision on the application shall be announced.

History Note: Statutory Authority G.S. 150A-25; G.S. 113A-124(c)(5)

.0211 POST HEARING PROCEDURES

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(a) Within a reasonable time after the hearing, the hearing officer shall prepare for the Commission a full and complete record of all the proceedings and proposed findings of fact and conclusions of law pertinent to the matters with which the hearing was concerned. These findings and conclusions shall be based on competent, material, and substantial evidence upon consideration of the whole record. The whole record shall include evidence given at the hearing and any properly submitted written comments. Such written comments shall be read aloud and entered into the record at the hearing. Copies of written comments shall be made available upon request of any proper parties.

(b) Any parties to the hearing will be allowed 30 days from the termination of the hearing or such additional time as the Commission might prescribe, to submit proposed findings of fact and conclusions of law and any brief in connection therewith. No final decision on the matter shall be made until the 30 day period has terminated. The 30 day time limit of this subsection may be waived or modified by agreement of the parties and the consent of the hearing officer or commission, as the case may be.

History Note: Statutory Authority G.S.113A-122(b)(3); 113A-122(b)(8); 113A-122(b)(9)

SECTION .0300 - FINAL APPROVAL AND ENFORCEMENT

.0301 FINAL DECISION

(a) The Commission shall make final grant or denial of the permit at regularly scheduled meetings in accordance with the provisions set forth in 15NCAC 7K .0302. The decision of the Commission shall be in writing and shall set forth separately the Commission's findings of fact and conclusions of law based upon consideration of the record as a whole and supported by substantial admissible evidence. It shall, wherever necessary, cite the appropriate provision of law or other source of authority on which the decision is based.

(b) The decision must be made by concurrence of a majority of those present at the presentation of the hearing officer's proposals. The applicant may address the Commission concerning the issue of whether or not the permit should be issued based on the evidence in the hearing record; however, new evidence shall not be presented at this time.

(c) The Commission shall not make a final decision concerning an application, appeal, or variance before termination of the 30 day period that shall be afforded for parties to make proposed findings of fact and conclusions of law and any associated brief as set forth in 15NCAC 7K. 0302. If all parties consent, the 30 day period may be shortened or waived and the Commission may make its final decision as soon as the consented to period has terminated.

(d) The final decision with respect to an application or appeal shall be made within 90 days from acceptance of the application, unless the Commission determines that an extension, not to exceed 90 days, is necessary to properly consider the application or appeal. The applicant or appellant shall be notified by mail of any such extension.

(e) The applicant and any other parties to the hearing will be notified in writing by certified mail of the Commission's final decision. The final decision with respect to a petition for a variance shall be transmitted to the petitioner within 60 days from the termination of the hearing concerning the variance.

(f) The Commission shall affirm, modify, or overrule the recommended findings and conclusions of the hearing officer or Department. In the event that the Commission's final decision is different from the Department's recommended decision on the matter and the applicant chose not to appear at the hearing, then the proper parties may call for a rehearing on the matter within ten days of the time that notification of the Commission's final decision is received. If the Commission determines that a rehearing is necessary, the matter shall be scheduled for hearing according to the procedures outlined in 15 NCAC 7K .0205.

History Note: Statutory Authority G.S. 113A-118(c); 113A-122(b)(a); 113A-122(b)(10); 113A-122(c); 113A-124(c)(5)

.0302 CRITERIA FOR GRANT OR DENIAL OF PERMIT APPLICATIONS

(a) After consideration of evidence and arguments submitted at the hearing or otherwise properly submitted, and after consideration of other agency's comments, the Commission shall deny the application for permit if it makes any of the following findings:

- (1) In the case of coastal wetland, that the development would contravene an order that has been or could be issued pursuant to G.S. 113-230.
 - (2) In the case of estuarine waters, that a permit for the development would be denied pursuant to G.S. 113-229(e).
 - (3) In the case of a renewable resource area, that the development will result in loss or significant reduction of continued long-range productivity that would jeopardize one or more of the water, food or fiber requirements of more than local concern identified in paragraphs a to c of subsection (b)(3) of G.S. 113A-113.
 - (4) In the case of a fragile or historic area, or other area containing environmental or natural resources of more than local significance, that the development will result in major or irreversible damage to one or more of the historic, cultural, scientific, environmental or scenic values or natural systems identified in paragraphs a to h of subsection (b)(4) of G.S. 113A-113.
 - (5) In the case of areas covered by G.S. 113A-113(4) -(G.S. 113A-113(b)(5),), that the development will jeopardize the public rights or interests specified in said subdivision.
 - (6) In the case of natural hazard areas, that the development would occur in one or more of the areas identified in paragraphs a to e of subsection (b) (6) of G.S. 113A-113 in such a manner as to unreasonably endanger life or property.
 - (7) In the case of areas which are or may be impacted by key facilities, that the development is inconsistent with the State guidelines or the local land-use plans, or would contravene any of the provisions of subdivisions (1) to (6) of this subsection.
 - (8) In any case, that the development is inconsistent with the State guidelines as set forth in 15 NCAC 71, or with the local land use plan.
- (b) In the absence of such findings, a permit shall be granted. The permit may be conditioned upon the applicant's amending his proposal to take whatever measures are reasonably necessary to protect the public interest with respect to the factors enumerated in subsection (a) of this regulation.

History Note: Statutory Authority G.S. 113A-120

.0303 PERMIT EXPIRATION

The permit will terminate on December 31, three (3) years subsequent to the year of issuance. The expiration date will be clearly typed on the face of the permit form. Working beyond the expiration date will be considered working without a permit and a violation of G.S. 113A-118.

History Note: Statutory Authority G.S. 113A-124(c)(5)

.0304 PERMIT RENEWAL

The Commission or its duly authorized agent may renew a permit for periods not to exceed one year upon receipt of a signed and dated request from the applicant containing the following:

- (1) A statement of the intention of the applicant to complete the work within a reasonable time.
- (2) A statement of the reasons why the project was not completed before the expiration of the original permit.
- (3) A statement that there has been no change of plans since the issuance of the original permit.

The Commission may circulate the renewal request to the commenting State agencies along with a copy of the original permit application. Commenting agencies will be given three weeks in which to comment on the renewal request. Upon the expiration of the commenting period the Commission will notify the applicant promptly of its action on the renewal request. A renewal request may be denied upon making findings as required in 15 NCAC 7K. 0302. Changes in circumstances and investigatory criteria will be considered by the Commission in making a decision on a renewal request.

History Note: Statutory Authority G.S. 113A-124(c)(5)

.0305 PERMIT MODIFICATION

(a) An applicant may modify his permitted project only after approval by the Commission or its duly authorized agent. In order to modify a permitted project the applicant must make a written request to the Commission showing in detail the proposed modifications. Minor modifications may be shown on the existing approved application and plat. Modification requests which, in the opinion of the Commission, are major will require a new application. Modification requests are subject to the same processing procedure applicable to original permit applications. A permit need not be circulated to all agencies commenting on the original application if the Commission determines that the modification is so minor that circulation would serve no purpose.

(b) Modifications to a permitted project which are imposed or made at the request of the U.S. Army Corps of Engineers or other Federal agencies must be approved by the Department under the above permit modification procedures.

History Note: Statutory Authority G.S. 113A-124(c)(5)

.0306 PERMIT ISSUANCE AND TRANSFER

(a) If the Commission approves the application, a permit, i.e. the original and two copies, will be issued and forwarded by first class mail to the name and address appearing on the application form or, on request by the applicant, the permit will be mailed to his agent.

(b) Permits will be issued in the name of the applicant and may not be assigned to another without written permission from the Chairman of Commission. Request for transfer must be in writing and a copy of the new owner's deed must accompany such request. If the transfer is acceptable, a new permit will be prepared.

History Note: Statutory Authority G.S. 113A-124(c)(5)

.0305 PERMIT MODIFICATION

(a) An applicant may modify his permitted project only after approval by the Commission or its duly authorized agent. In order to modify a permitted project the applicant must make a written request to the Commission showing in detail the proposed modifications. Minor modifications may be shown on the existing approved application and plat. Modification requests which, in the opinion of the Commission, are major will require a new application. Modification requests are subject to the same processing procedure applicable to original permit applications. A permit need not be circulated to all agencies commenting on the original application if the Commission determines that the modification is so minor that circulation would serve no purpose.

(b) Modifications to a permitted project which are imposed or made at the request of the U.S. Army Corps of Engineers or other Federal agencies must be approved by the Department under the above permit modification procedures.

History Note: Statutory Authority G.S. 113A-124(c)(5)

.0306 PERMIT ISSUANCE AND TRANSFER

(a) If the Commission approves the application, a permit, i. e. the original and two copies, will be issued and forwarded by first class mail to the name and address appearing in section one of the application form or, on request by the applicant, the permit will be mailed to his agent.

(b) Permits will be issued in the name of the applicant and may not be assigned to another without written permission from the Department. Request for transfer must be in writing and a copy of the new owner's deed must accompany such request. If the transfer is acceptable, a new permit will be prepared.

History Note: Statutory Authority G.S. 113A-124(c)(5)

.0307 PROJECT MAINTENANCE

No project previously requiring a permit from the Commission may be maintained after the expiration of the permit without approval from the Commission or its duly authorized agent. The Commission may include provisions in a permit which allow the applicant to maintain the project after its completion. Persons wishing to maintain projects for which the permit has expired and whose permit contains no maintenance provisions must apply for permit renewals.

History Note: Statutory Authority G.S. 113A-103(5)(c); 113A-120(b)

.0308 MAINTENANCE REQUEST

Person desiring to initiate maintenance work on a project pursuant to the maintenance provisions of an existing permit must file a request at least two weeks prior to the initiation of maintenance work with:

Department of Natural and Economic Resources
Office of Coastal Management
Box 27687
Raleigh, North Carolina 27611

Such requests must include:

- (1) the name and address of the permittee,
- (2) the number of the original permit,
- (3) a statement of the changes proposed,
- (4) a copy of the original permit plat with cross-hatching indicating the area to be maintained, the area to be used for spoil, and the estimated amount of material to be removed, and
- (5) the date of map revision and the applicant's signature shown anew on the original plat.

History Note: Statutory Authority G.S. 113A-103(5)(c); 113A-124(c)(5)

.0309 CONDITIONS FOR MAINTENANCE

(a) All work undertaken pursuant to the maintenance provisions of a permit must comply with the following conditions:

- (1) The maintenance work shall be limited to activities which are within the exemptions set forth by the Commission.
- (2) The maintenance work is subject to all the conditions included in the original permit.
- (3) The maintenance work is subject to any conditions determined by the Department to be necessary to protect the public interest with respect to the factors enumerated in 15 NCAC 7K. 0302.

(b) The Department may suspend or revoke the right to maintain a project in whole or in part upon a finding:

- (1) that the project area has been put to a different use from that indicated in the original permit application, or
- (2) that there has been a change of conditions in the area, newly found facts or newly reached opinions which would justify denial of a permit.
- (3) that there has been a violation of any of the terms or conditions of the original permit.

History Note: Statutory Authority G.S. 113A-103(5)(c); 113A-120(b);
113A-124(c)(5)

.0310 GRANT OR DENIAL OF MAINTENANCE REQUEST

(a) Upon receipt of a complete maintenance request the Commission or its duly authorized agent will determine if there are grounds for revocation or suspension of the applicant's right to maintain. If there are grounds for revocation or suspension the applicant will be notified of the suspension or revocation by registered letter setting forth the findings on which the revocation or suspension is based.

(b) If the Commission or its duly authorized agent determines that the right to maintain should not be revoked which will authorize the applicant to perform maintenance work is authorized.

(c) If the maintenance request discloses changes in the dimensions of the original project, the Commission will notify the applicant that a permit modification or renewal will be required pursuant to the procedure set out in 15 NCAC .0102.

(d) Appeal of Department action under this section shall be in accordance with 15 NCAC .0205.

History Note: Statutory Authority G.S. 113A-103(5)(c); 113A-120 (b); 113A-124 (c)(5)

.0311 VIOLATION OF A PERMIT

(a) Upon violation of any provision of G.S. 113A-100 through 128, any regulation, rule, or order within these or any other administrative procedures properly adopted by the Commission, the Secretary may, either before or after the institution of proceedings for the collection of any penalty imposed by this Article for such violation, institute a civil action in the General Court of Justice in the name of the State upon the relation of the Secretary for injunctive relief to restrain the violation and for such other or further relief in the premises as said court shall deem proper. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from any penalty prescribed by this Article for any violation of same.

(b) Any person who shall be adjudged to have knowingly or willfully violated any provisions of G.S. 113A 100 through 128, or any regulation, rule or order within these or any other administrative procedures properly adopted by the Commission, shall be guilty of a misdemeanor, and for each violation shall be liable for a penalty of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000) or shall be imprisoned for not more than 60 days, or both. In addition, if any person continues to violate or further violates any such provision, regulation, rule or order after written notice from the Secretary or (in the case of a permit for a minor development issued by a local government) written notice from the designated local official, the court may determine that each day during which the violation continues or is repeated constitutes a separate violation subject to the foregoing penalties.

(c) (1) A Civil penalty of not more than one thousand dollars (\$1,000) may be assessed by the Commission against any person who:

- (a) Is required but fails to apply for or to secure a permit required by G.S. 113A-122, or who violates or fails to act in accordance with the terms, conditions, or requirements of such permit.
- (b) Fails to file, submit, or make available, as the case may be, any documents, data or reports required by the Commission pursuant to this Article.
- (c) Refuses access to the Commission or its duly designated representative, who has sufficiently identified himself by displaying official credentials, to any premises, not including any occupied dwelling house or curtilage, for the purpose of conducting any investigations provided for in this Article.
- (d) Violates any duly adopted regulation of the Commission implementing the provisions of this Article. Provided, however, that this paragraph shall not apply to regulations relating to minor developments.

(2) If any action or failure to act for which a penalty may be assessed under this subsection is willful, the Commission may assess a penalty not to exceed one thousand dollars (\$1,000) for each separate violation, after the first assessment, provided, however, no penalty shall be imposed under this subsection pending court review of the first assessment, if appealed pursuant to subdivision (3).

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ACTIVITIES IN AECs WHICH DO NOT REQUIRE A PERMIT

ACTIVITIES NOT CONSIDERED DEVELOPMENT

A. The following activities and the normal and incidental operations associated with them shall not be deemed to be development and therefore shall not require a major development or minor development permit.

- (1) Work by a highway or road agency for the maintenance of an existing road, if the work is carried out on land within the boundaries of the existing right-of-way;
- (2) Work by any railroad company or by any utility and other persons engaged in the distribution and transmission of petroleum products, water, telephone or telegraph messages, or electricity for the purpose of inspecting, repairing, maintaining, or upgrading any existing substations, sewers, mains, pipes, cables, utility tunnels, lines, towers, poles, tracks, and the like on any of its existing railroad or utility property or rights-of-way, or the extension of any of the above distribution-related facilities to serve development approved pursuant to G.S. 113A-121 or 113A-122;
- (3) Work by any utility and other persons for the purpose of construction of facilities for the development, generation, and transmission of energy to the extent that such activities are regulated by other law or by present or future rules of the State Utilities Commission regulating the siting of such facilities (including environmental aspects of such siting), and work on facilities used directly in connection with the above facilities;
- (4) The use of any land for the purpose of planting, growing, or harvesting plants, crops, trees, or other agricultural or forestry products, including normal private road construction, raising livestock or poultry, or for other agricultural purposes except where excavation or filling affecting estuarine waters (as defined in G.S. 113-229) or navigable waters is involved;
- (5) Emergency maintenance or repairs;
- (6) The construction of any accessory building customarily incident to an existing structure if the work does not involve filling, excavation, or the alteration of any sand dune or beach.
- (7) Completion of any development, not otherwise in violation of law, for which a valid building or zoning permit was issued prior to ratification of this Article and which development was initiated prior to the ratification of this Article.
- (8) Completion of installation of any utility or roads or related facilities not otherwise in violation of law, within a subdivision that was duly approved and recorded prior to the ratification of this Article and which installation was initiated prior to the ratification of this Article.
- (9) Construction or installation of any development, not otherwise in violation of law, for which an application for a building or zoning permit was pending prior to the ratification of this Article and for which a loan commitment (evidenced by a notarized document signed by both parties) had been made prior to the ratification of this Article; provided, said building or zoning application is granted by July 1, 1974.

CLASSES OF MINOR MAINTENANCE AND IMPROVEMENTS WHICH
SHALL BE EXEMPTED FROM THE CAMA MAJOR
DEVELOPMENT PERMIT REQUIREMENT

The following classes of minor maintenance and improvements are exempted from the major development permit requirements.

Department officials will be available to make field inspections to assist the applicant in determining whether a development falls within these exemptions. Any person who proceeds with a development without the consent of a department official under the mistaken assumption that the development is exempted, will be in violation of the CAMA if there is a subsequent determination that a permit was required for the development. A project which falls within the following classes of minor maintenance and improvements is exempted from the CAMA permit only, and is still legally required to obtain all other applicable permits.

A. EXEMPTION OF SMALL DITCHES USED FOR AGRICULTURAL AND FORESTRY PURPOSES

- (1) All ditches with maximum dimensions equal to or less than six feet (6') by four feet (4')
- (2) All ditches with maximum dimensions greater than six feet (6') by four feet (4') must apply for a letter of authorization from the Commission. If the Commission determines that the ditch will affect estuarine waters or navigable waters, a major development permit will be required.
- (3) Depth and width dimensions shall be measured at the ground level.

EXEMPTION OF PROJECTS REQUIRING DREDGE AND FILL AND STATE EASEMENT

The following classes of minor maintenance and improvement are exempted from the major development permit requirement:

- (1) In Place Maintenance of Previously-Permitted Projects
These projects are ones for which at least one dredge and fill permit and/or state easement has already been issued and which, though enlarged somewhat in some cases, are still undertaken primarily for maintenance purposes. Projects falling into this category will be exempted from the CAMA major-development permit if:
 - (a) Project dimensions remain the same as or do not substantially deviate from those dimensions authorized under the previously permitted project (not greater than 20%), and
 - (b) the project is for similar purposes as those of the previously-permitted project, and
 - (c) a change of conditions in the area, newly found facts or newly reached opinions, do not indicate that such action would cause negative impacts to the environment and/or adjacent property owners.
- (2) Maintenance of Projects Previously Not Requiring a Permit
These projects are ones which when originally instituted required no dredge and fill and/or state easements; however, but which require such permits for their continued maintenance/or improvement.

Projects falling into this category will be exempted from the CAMA major-development permit if:

- (a) The project in question is intended for private, individual use; and
 - (b) the project does not indicate a substantial potential for increase or change in use of the area; and
 - (c) the project is directly tied to an existing project.
- (3) Additions/Modifications to Previously Permitted Projects
These projects are ones already in place and permitted which will be added on to or modified in some fashion.
Projects falling into this category will be exempted from the CAMA major-development permit if:

- (a) For Bulkheads:
 - 1. Placement as indicated by the alignment shown in the application does not extend beyond 10' offshore and
 - 2. All backfill comes from an upland source; and
 - 3. No marsh area is excavated or filled; and
 - 4. Work is undertaken because of the necessity to prevent significant loss of private residential property due to erosion.
- (b) For Piers, Docks and Boathouses
 - 1. The modification or addition is not within 150' of the edge of a federally-maintained channel, or
 - 2. The structure, as modified, is 200' or less in total length offshore; or
 - 3. The structure, as modified, does not extend past the 4' (four feet) mean low water contour line (4' depth at mean low water) of the waterbody and
 - 4. The project as modified, will not exceed 6' width; and
 - 5. The modification or addition does not include an enclosed structure; and
 - 6. The project will continue to be used for private, residential purposes
- (c) For Boatramps:
 - 1. The project, as modified, would not exceed 10 feet (10') in width and 20 feet (20') offshore; and
 - 2. The project will continue to be used for private, residential purposes.

The criteria in the categories listed above are aimed primarily at exempting from the CAMA permit those projects that are simple modifications intended for private use. These are considered to be a reasonable expression of a waterfront property owners right of access.

C EXEMPTION OF CERTAIN DEVELOPMENT TO MAINTAIN OR IMPROVE SHORELINE STABILITY

(1) Bulkheading projects initiated by a property owner to prevent property loss due to erosion will be exempted from the CAMA major-development permit if the following conditions are met:

- (a) Placement as indicated by the alignment shown in the application does not exceed 10' offshore; and
- (b) the maximum shoreline length does not exceed 200'; and
- (c) backfill comes from an upland source; and
- (d) no marsh is excavated or filled; and
- (e) work is undertaken because of the necessity to prevent significant loss of private, residential property due to erosion.

D EXEMPTIONS FOR PROJECTS REQUIRING AIR QUALITY PERMIT

1 Modification to Existing Sources or Control Devices

Generally, projects in this category are modifications to facilities or control devices which are necessary for upgrading existing capacities or meeting minimum air quality standards. Existing abatement devices may be modified or new equipment installed; however, the purpose of such modification is not tied to expanding capabilities.

Projects falling into this category will be exempted from the CAMA major-development permit if:

- (a) The modification is necessary for upgrading existing capabilities or to meet minimum air quality standards; or
- (b) the modification involves installation of additional abatement devices necessary to meet minimum air quality standards; and
- (c) such modification does not involve significant loud-disturbing activities or necessitate surface or subsurface disposal of water.

E EXEMPTIONS FOR PROJECTS REQUIRING THE NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM

Projects requiring the NPDES permit are those which will discharge wastewater from an outlet, point source, or disposal system into the surface waters of the state.

(1) Modification of Existing Facilities

Projects in this category generally are those facilities which undergo some sort of modification either to meet current effluent limitations or to improve existing capacities.

Projects falling into this category will be exempted from the CAMA major-development permit if:

- (a) Modifications are for the purpose of upgrading facilities to meet current effluent limitation standards; or
- (b) Modifications are for the purpose of improving existing capacities or providing back up units for existing capacities; and
- (c) the modification is for treating waste load types similar to those in

the previously permitted activity; and
the final discharge flow which may be associated with such modification remain the same as the discharge flow permitted before modification; and

No additional acreage is necessary for land disposal of dewatered wastes or does not require subsurface pollutant injection; and
no significant land-disturbing activity is involved.

.0107 PUBLIC NOTICE OF THE PROPOSED DEVELOPMENT

(a) Within a reasonable time after receiving an application for a major development, the Secretary or his designee shall issue public notice of the proposed development (1) by mailing a copy of the application, or a brief description thereof together with a statement indicating where a detailed copy of the proposed development may be inspected, to any citizen or group which has filed a request to be notified of the proposed development, and to any interested State agency; (ii) by posting or causing to be posted a copy of the application at the location of the proposed development; and (iii) by publishing notice of the application at least once in one newspaper of general circulation in the county or counties wherein the development would be located at least seven days before final action on minor development permit application under the expedited procedures set forth in G.S. 113A-121, or before the beginning of the hearing on major development permit hearing under the quasi-judicial procedures set forth in G. S. 113A-122. The notice shall set out that any comments on the proposed development should be submitted to the Secretary by a specified date, not to exceed 15 days from the date

CLASSES OF MINOR MAINTENANCE AND IMPROVEMENTS WHICH
SHALL BE EXEMPTED FROM THE CAMA
MINOR DEVELOPMENT PERMIT REQUIREMENT

A. APPLICATION OF GENERAL STANDARDS

In order to be exempt from the CAMA minor development permit requirement, a development activity must meet the general criteria in (b) of this Section and also qualify either as an accessory use under (c) of this Section or as a repair or replacement under (d) of this Section.

B. GENERAL CRITERIA FOR EXEMPTION FROM THE MINOR DEVELOPMENT PERMIT REQUIREMENT

Development activities in AECs must meet all of the following criteria in order to be eligible for the exemptions from the minor development permit requirements described in Sections (c) and (d):

- (1) The development must not disturb a land area of greater than 200 square feet on a slope of greater than ten percent (10%);
- (2) The development must not involve removal, damage, or destruction of threatened or endangered animal or plant species;
- (3) The development must not alter naturally or artificially created surface drainage channels;
- (4) The development must not alter the land form or vegetation of a frontal dune, or
- (5) The development must not be within twenty (20) feet of any permanent surface waters.

C. ACCESSORY USES EXCLUDED

Accessory uses directly related to the existing dominant use that require no plumbing, electrical, or other service connections and do not exceed 200 square feet shall be exempt from the CAMA minor development permit requirement.

D. REPAIR OR REPLACEMENT

Any structure or part thereof may be repaired or replaced in a similar manner, size, and location as the existing structure without requiring a minor development permit, unless such repair or replacement would be in violation of current AEC standards.

E. EMERGENCY MAINTENANCE OR REPAIRS

Emergency maintenance and repairs are specifically exempted from the definition of development by G.S. 113A-103(5)(b)(v). Therefore, emergency maintenance and repairs may be made without having to meet the criteria set forth in (b), (c), and (d) of the Section.

Anyone required to take emergency measures within an AEC shall contact the permit officer for consultation and advice as soon as possible after the emergency ceases to exist.

F. NOMINATION CATEGORIES EXCLUDED FROM MINOR DEVELOPMENT EXEMPTION

The minor development permit exemptions in this part are not applicable to the "Areas that Sustain Remnant Species," "Complex Natural Areas," and "Unique Geologic Formations" categories of Areas of Environmental Concern unless specifically incorporated in the Coastal Resources Commission's statement of designation.