ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
COASTAL AREA MANAGEMENT PROGRAM
ADMINISTRATIVE CODE

CHAPTER 335-8-2
PROVISIONS RELATED TO COASTAL ACTIVITIES

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335-8-2-.01 General Rules Applicable To All Uses Subject To The Alabama Coastal Area Management Plan (ACAMP).

(1) Uses that are determined by the Department to be in violation of applicable air or water quality standards or associated regulations shall not be permitted or certified to be in compliance with the ACAMP.

(2) In determining a use's ability to comply with this Administrative Code, the Department shall consider the extent to which the use adversely impacts the following coastal resources:

(a) Historical, architectural or archaeological sites designated pursuant to 16 U.S.C. §§470-47OW;

(b) Wildlife and fishery habitat especially the designated Critical Habitats of endangered species listed pursuant to 16 U.S.C. §§1531-1543;

(c) Public access to tidal and submerged lands, navigable waters and beaches or other public recreational resources.

(3) Any person shall notify the Department and the State Historical Officer of any historical, cultural or archaeological resources that are discovered in the course of conducting an authorized activity.

(4) Uses that are determined by the Department to be inconsistent with a designated special management area shall not be permitted or certified to be in compliance with the ACAMP.

(5) All projects must comply with all applicable provisions of this Administrative Code.
Author: John C. Carlton
Statutory Authority: Code of Ala. 1975, §§9-7-16, 22-22A-5, 22-22A-6, 22-22A-8.
History: New Rule: Filed May 26, 1994; Effective June 30, 1994.
Amended: Filed March 22, 1995; effective April 26, 1995.

335-8-2-.02 Dredging And/Or Filling.

(1) Dredging and/or filling of State waterbottoms or adjacent wetlands may be permitted or certified to be in compliance with the ACAMP provided that:

(a) the activity is related to an existing or approved water dependent use, or use of regional benefit or related to an approved beach nourishment, shoreline stabilization or marsh creation, restoration or enhancement project, elimination of dead-end canals or boatslips exhibiting poor water quality or other similar beneficial use;

(b) there will be no dredging or filling in close proximity to existing natural oyster reefs, as defined pursuant to Code of Ala. 1975, §9-12-21, except in association with the approved creation or enhancement of oyster reefs or artificial fish attracting structures;

(c) there will be no dredging or filling in close proximity to existing submersed grassbeds;

(d) dredging, filling or trenching methods and techniques are such that reasonable assurance is provided that applicable water quality standards will be met; and

(e) no alternative project site or design is feasible and the adverse impacts to coastal resources have been reduced to the greatest extent practicable.

(2) Dredging, filling, or trenching resulting in a temporary disturbance may be permitted or certified to be in compliance with the ACAMP provided that all areas are returned to preproject elevations and all wetland areas are revegetated and the requirements set forth in §335-8-2-.02(l)(b) thru (d) are met.

(3) Dredging or filling of non-adjacent wetlands may be permitted or certified to be in compliance with the ACAMP provided that:

(a) no alternative project sites or designs which avoid the dredging or filling are feasible and the adverse impacts have been reduced to the greatest extent possible; and

(b) the Department determines, on a site specific basis, that the non-adjacent wetlands to be dredged or filled have a limited functional value.

(4) For projects impacting wetlands, the applicant mitigates for wetland impacts in accordance with the provisions of 335-8-2-.03, unless the Department determines that, due to the scope and nature of the project, mitigation is unnecessary or the project is subject to the provisions of 335-8-1-.03(4).

(5) Any fill material placed on State water bottoms or in wetlands shall be free of toxic pollutants in toxic amounts and shall be devoid of sludge and/or solid waste.

(6) Dredge material shall not be placed in wetlands unless specifically permitted or authorized by the Department.

(7) The disposal of dredge material into open state waters may be permitted or certified to be in compliance with the ACAMP, provided that it complies with the relevant provisions of this Administrative Code.

(8) The salinity of return waters from dredge disposal sites shall be similar to that of the receiving waters and reasonable assurance provided that applicable water quality standards will be met.

Author: John C. Carlton
Statutory Authority: Code of Ala. 1975, §§9-7-16, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed May 26, 1994; Effective June 30, 1994.
Amended: Filed September 27, 1994; effective November 1, 1994.
Amended: Filed March 22, 1995; effective April 26, 1995.

335-8-2-.03 Mitigation.

(1) Mitigation for wetland impacts resulting from an approved project shall involve the creation of wetlands or the restoration and enhancement of existing degraded wetlands.

(2) Prior to permitting or certification of a use for which mitigation is required, the applicant shall submit to the Department for review and approval a mitigation plan which shall include but not be limited to the following:

(a) a survey of the proposed mitigation site which shall include a delineation of existing vegetative cover, the location of all drainageways and water courses, and property location, size and description;

(b) an indication of site preparation techniques which shall include initial and final elevations, planting and fertilization schedules, plant spacing, and source and vegetative species to be planted;

(c) documentation that, by instrument of law, the mitigation site will be set aside and protected; and

(d) a monitoring, maintenance and reporting schedule which covers the first five years of mitigation.

Author: John C. Carlton
Statutory Authority: Code of Ala. 1975, §§9-7-16, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed May 26, 1994; Effective June 30, 1994.

335-8-2-.04 Marinas.

(1) Applicants desiring to construct and operate a new or expand an existing marina within the coastal area must provide:

(a) a comprehensive site plan showing location, size, and number of all upland and water-dependent facilities including boatslips, parking, storage facilities, maintenance and repair facilities, and pile-supported structures;

(b) an "Operation and Maintenance Plan" describing the manner in which the facility will be operated, to include the use of best management practices and a demonstration that:

1. applicable water quality standards will be maintained;

2. applicable measures relating to proper disposal of solid waste, litter, fish carcasses and offal, and other refuse are provided; and

3. adequate sewage pump out and disposal facilities will be provided for vessels and adequate restrooms for patrons will be provided;

(c) if applicable, a spill prevention control and countermeasure plan meeting the requirement of 40 CFR Part 112;

(d) if applicable, an application for a stormwater permit, or if such permit has already been obtained, a copy of the same; and

(e) a submerged lands lease or waiver from the Alabama Department of Conservation and Natural Resources.

(2) Marinas shall not be located within, or in close proximity to, submersed grassbeds or existing public oyster reefs.

(3) Open water marinas constructed in the coastal area shall not have breakwaters, groins, or jetties which significantly interfere with the normal ebb and flow of coastal waters.

(4) Proposals involving excavated marinas shall include appropriate analyses and demonstrations that the facility will not result in contravention of water quality standards in the adjoining waters.

(5) Entrance channels and boat basins shall be constructed to a depth no greater than that of the receiving water.
Author: John C. Carlton
Statutory Authority: Code of Ala. 1975, §§9-7-16, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed May 26, 1994; Effective June 30, 1994.

335-8-2-.05 Piers, Docks, Boathouses, And Other Pile Supported Structures.

(1) Piers, docks, boathouses, and other pile supported structures shall be constructed on pilings that permit a reasonable unobstructed ebb and flow of the tide.

(2) Platforms, decks, "T's", "L's", boathouses, and other similar minor structures associated with residential piers and docks should be located at the waterward end of the pier or dock and shall not be constructed over wetlands or submersed grassbeds nor shall they be habitable.

(3) Piers and docks shall be of sufficient length to reach navigational depths adequate for the proposed use of the pier or dock, to the extent that a hazard to navigation will not be created as determined by the U.S. Coast Guard.

(4) Piers, docks, boathouses, and other pile supported structures shall be designed and constructed such that impacts to wetlands and submersed grassbeds are minimized.

Author: John C. Carlton
Statutory Authority: Code of Ala. 1975, §§9-7-16, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed May 26, 1994; Effective June 30, 1994.
Amended: Filed March 22, 1995; effective April 26, 1995.

335-8-2-.06 Shoreline Stabilization And Erosion Mitigation.

(1) Bulkheads, the placement of rip-rap, and other structural shoreline armament shall not be permitted or certified to be in compliance with the ACAMP unless it is demonstrated to the satisfaction of the Department that:

(a) no fill material will be placed in wetlands or submersed grassbeds unless specifically authorized pursuant to 335-8-2-.02;

(b) the structure will be placed at or above mean high tide and landward of any wetlands;

(c) the structure will be designed so as to allow the normal hydrologic regime to be maintained in wetland areas; and

(d) there are no feasible non-structural alternatives available including, but not limited to, preservation and restoration of dunes, beaches, wetlands, submersed grassbeds, and shoreline restoration and nourishment and retreat or abandonment.

(2) Jetties, groins, breakwaters and like structures may be permitted or certified to be in compliance with the ACAMP provided it is demonstrated to the satisfaction of the Department that:

(a) they are necessary to protect an existing navigational channel or a use of regional benefit;

(b) there are no other feasible non-structural alternatives; and

(c) there are no significant impacts to adjacent shorelines.

Author: John C. Carlton
Statutory Authority: Code of Ala. 1975, §§9-7-16, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed May 26, 1994; Effective June 30, 1994.
Amended: Filed March 22, 1995; effective April 26, 1995.

335-8-2-.07 Canals, Ditches, And Boatslips.

(1) Canals constructed for the purposes of providing navigable access to an existing or approved water dependent facility or Use of Regional Benefit may be permitted or certified to be in compliance with the ACAMP.

(2) Construction of new canals or expansions of existing canals through wetlands or uplands with the purpose or effect of creating new waterfront property, shall not be permitted or certified to be in compliance with the ACAMP.

(3) Stormwater drainage ditches may be permitted or certified to be in compliance with the ACAMP provided that the applicant demonstrates to the satisfaction of the Department that they are hydrologically designed and constructed such that a positive stormwater flow results, standing water is minimized.

(4) Excavated boatslips may be permitted or certified to be in compliance with the ACAMP only in areas where it is demonstrated that the construction of a pier and dock will obstruct navigation.
Author: John C. Carlton
Statutory Authority: Code of Ala. 1975, §§9-7-16, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed May 26, 1994; Effective June 30, 1994.

335-8-2-.08 Construction And Other Activities On Gulf Front Beaches And Dunes.

(1) No person shall remove primary dune or beach sands and/or vegetation or otherwise alter the primary dune system, construct any new structure, or make any substantial improvement to any existing structure, on, beneath or above the surface of any land located between mean high tide and the construction control line.

(2) No person shall construct any new structure on, beneath or above the surface of any state owned lands located in the following areas:

(a) between mean high tide and a line originating at plane coordinate (x = 339,562.58 feet; y = 83,758.99 feet) and extending South 77° 59' 16" West in Baldwin County;

(b) between mean high tide and Alabama Highway 180 between plane abscissas (x = 339,562.58 feet) and (x = 343,833.777 feet);

(c) in Sections 2 and 3 of Township 4 South, Range 33 West (Tallahassee Meridian) in Baldwin County. No person shall construct any new structure on, beneath or above any lands located between the westernmost end of Dauphin Island and a north-south plane represented by the abscissa (x = 281,573.2 feet) in Mobile County.

(3)(a) No person shall construct any new structure or make any substantial improvement to an existing structure, on, beneath or above the surface of any parcel of land owned by a person if any portion of such parcel is intersected by the construction control line without first having obtained a permit therefor from the Department except as may be provided for by 335-8-1-.05.

(b) A permit for construction of a new structure may be issued if the Department is satisfied that the proposed structure is not on, beneath or above the surface of any lands located between mean high tide and the construction control line.

(c) An application for a permit to construct a single family dwelling or duplex pursuant to this rule shall contain:

1. a legal description of the property on which the structure is proposed, as well as the street address;

2. an area map showing the location of the property and proposed structure in relation to roads and other recognized landmarks;

3. a survey of the property and site plan prepared by a duly licensed land surveyor of the State of Alabama showing the location of the construction control line, as determined from the state plane coordinates, the distance from the nearest construction control line monument to the lot, and the location and dimensions of all proposed structures;

4. a certified copy of the deed, lease or other instrument under which the applicant claims title, possession or permission from the owner of the property to carry out the project;

5. an identification of the water supply source and wastewater disposal system;

6. such other information as the Department may reasonably require to assure compliance with the Department's rules and regulations.

(d) An application for a permit to construct a motel, hotel, condominium, or planned multi-unit development shall contain:

1. all information required by 335-8-2-.08(3)(c);

2. an "Environmental Impact and Natural Hazards Study" which will include, at a minimum, the following:

(i) wave height study addressing the flood hazard and erosion potential at the project site using eroded beach profiles for pre and post developed conditions;

(ii) location and delineation of velocity zone; and

(iii) analysis of the project's potential to significantly increase the likelihood that damage will occur from floods, hurricanes, or storms.

3. a "Beach and Dune Enhancement Plan" which includes, at a minimum, the following:

(i) fence placed along the CCL prior to and during construction activities to prevent material and equipment seaward of the line;

(ii) dune walkovers designed to accommodate the anticipated pedestrian traffic from the completed project;

(iii) the placement of sand fences;

(iv) planting of suitable natural vegetation in areas devoid of vegetation; and

(v) a maintenance program for the sand fences and plantings.

(4) Bulkheads, retaining walls, or similar structures shall not be permissible on Gulf beaches or primary dunes unless it can be demonstrated that:

(a) the bulkhead or retaining wall is landward of the CCL and it is necessary to protect and ensure the structural integrity of an existing or previously permitted structure; and

(b) there are no other feasible non-structural alternatives, including retreat.

(5) No person shall operate a motorized vehicle on the beach or primary dune system, except as may be provided by the provisions of this Administrative Code.

(6) Beach cleaning equipment and safety and law enforcement vehicles operating on flat beach sand may be permissible, provided it is demonstrated to the satisfaction of the Department that:

(a) the equipment will not be operated within the primary dune system;

(b) a route of ingress and egress has been designated and approved by the Department or its Contractor;

(c) beach and dune vegetation will not be impacted or destroyed; and

(d) the equipment will be operated only in areas specified by the Department or its contractor.

(7) Septic tanks and other on-site sewage disposal systems shall not be permitted on a lot intersected by the construction control line, unless no wastewater disposal system is available for the site and the system has been approved by the Department of Public Health.

(8) The Department has determined that the following activities conducted seaward of the construction control line are not subject to the ACAMP: the placement of items associated with daily recreational use that are of a temporary and removable nature, including but not limited to, chairs, umbrellas, volleyball and similar equipment, provided the posts are not permanently installed in the ground, and provided these items are removed from the beach prior to major storm events.
Author: John C. Carlton
Statutory Authority: Code of Ala. 1975, §§9-7-16, 22-22A-5, 22-22A-6, 22-22A-8.
History: August 14, 1979. **Amended:** October 10, 1984, October 9, 1985, October 7, 1988. **New Rule:** Filed May 26, 1994; Effective June 30, 1994. **Amended:** Filed March 22, 1995; effective April 26, 1995.

335-8-2-.09 Groundwater Extraction.

(1) Installation of a new well, or alteration of an existing well, for the purposes of extracting groundwater at a rate of 50 gallons per minute or greater requires a permit from the Department. This provision is applicable to a well whose surface location is in the coastal area and one whose surface location is not in the coastal area but whose 50 year capture zone extends into the coastal area.

(a) An application for a permit to construct and operate a well which is subject to these provisions shall include:

1. a detailed plan for drilling, sampling, and testing the well;

2. results of analyses which provide the predicted 50 year capture zone of the proposed well at maximum designed pumping capacity;

3. the identification of existing wells, which are capable of pumping 50 gallons per minute or more, and their respective 50 year capture zones, which are located within one mile of the proposed well's 50 year capture zone; and

4. reasonable assurance by the applicant that the proposed activity will not impact groundwater.

(b) The applicant may proceed to install and test the well unless the Department objects in writing within 30 days after receipt of a complete application; however, the lack of an objection by the Department should not be construed as obligating the Department to issue a permit to operate.

(2) Wells shall be drilled and sampled using specialized techniques designed to determine if saltwater zones overlie the target production zone, and shall be logged by a qualified geologist in sufficient detail to establish permeable and impermeable zones and their associated quality.

(a) After the well is constructed, it shall be pump tested to establish aquifer characteristics of transmissivity and storage coefficient using an observation well which is located an appropriate distance from the pumping well and screened in the production zone of the pumping well.

1. The distance from the observation well to the production well shall be equal to or greater than the value derived by the following equation:

$$1.5m\ (P_H/P_V)0.5$$

Where

M = aquifer thickness in feet

P_H = aquifer horizontal conductivity in gallons per day per sq. ft.

P_V = aquifer vertical conductivity in gallons per day per sq. ft.

2. The pump test shall be of sufficient duration to establish aquifer characteristics and groundwater quality. The duration shall be sufficient for the water level to stabilize at design capacity of the well, but in no case shall the duration be less than 12 hours. An evaluation of the pump test data and water quality analysis shall be submitted to the Department for review.

(3) Water samples taken for analysis shall be obtained in accordance with the ADEM Field Operations Standard Operating Procedures or other methods approved by the Department. Parameter coverage shall be specified by the Department.

(4) If the Department determines that saltwater intrusion should be evaluated, a monitoring well may be required to be placed at the 50 year capture zone perimeter in the direction of the most likely source of vertical or horizontal saltwater intrusion into the production aquifer.

(5) Based upon all available information, if it is demonstrated to the satisfaction of the Department that the normal operation of the well will not adversely impact the existing quality of groundwater, a permit to operate the well may be issued.

(6) The Department may deny a permit if the operation of a new or altered well would adversely impact existing drinking water wells.
Author: John C. Carlton
Statutory Authority: Code of Ala. 1975, §§9-7-16, 22-22A-5, 22-22A-6, 22-22A-8.
History: New Rule: Filed May 26, 1994; Effective June 30, 1994.
Amended: Filed March 22, 1995; effective April 26, 1995.

335-8-2-.10 Siting, Construction And Operation Of Energy Facilities.

(1) All new energy facilities located wholly or partially within the coastal area and which require a federal license or permit or a state agency permit must also receive coastal consistency from the Department prior to any land clearing or construction. In addition to the information provided to the federal and state permitting agencies, the following supplemental information shall be provided to the Department:

(a) a survey of the property, encompassing the entire project, prepared by a duly licensed land surveyor of the State of Alabama which shows all property boundaries, existing topographic features, all existing water courses, any and all areas which have been delineated as wetlands, and the proposed location(s) of all improvements and facilities;

(b) identification of all environmental permits which may be required for construction; discharges to water; air emissions; hazardous waste generation; transportation; storage and disposal; solid waste disposal; groundwater extraction; etc; and

(c) an indication of the potential impacts to the following coastal resources, as applicable:

Water Quality

Groundwater Resources

Air Quality

Wildlife Habitat

Wetlands and Submersed GrassBeds

Cultural Resources

Beaches and Dunes

(2) The siting, construction and operation of energy facilities shall be conducted in a manner which minimizes significant impacts to coastal resources.

(3) Discharge of untreated produced waters resulting from energy exploration or production activities to the coastal waters of Alabama shall not be permissible.

(4) Discharge of untreated drill muds and/or cuttings to coastal waters shall be permissible only in the Gulf of Mexico, and provided that:

(a) the discharge complies fully with the requirements of ADEM Admin. Code R. 335-8-2-.12 even though the discharge may not be continuous;

(b) discharges shall not occur within two nautical miles of the shores of gulf beaches; and

(c) discharges shall not occur within 3000 meters of another active permitted mud or cuttings discharge.

(5) Routing of pipelines, cables, and other such energy facility related appurtenances which are buried under or placed upon state waterbottoms shall comply with the provisions of 335-8-2-.02.

(6) To the maximum extent possible, pipelines, cables and other such energy facility related appurtenances which are buried under or placed upon state waterbottoms shall be routed through existing pipeline corridors to make landfall.
Author: John C. Carlton
Statutory Authority: Code of Ala. 1975, §§9-7-16, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed May 26, 1994; Effective June 30, 1994.
Amended: Filed March 22, 1995; effective April 26, 1995.

335-8-2-.11 Commercial And Residential Development.

(1) All new commercial and residential developments located wholly or partially within the coastal area which are or will be greater than five (5) acres in size and have areas which are or could be delineated as wetlands or are adjacent to coastal waters or are intercepted by the coastal control line shall apply for a permit pursuant to § 335-8-1-.11 unless the project requires a federal license or permit pursuant to § 335-8-1-.09. In either case, applications shall contain:

(a) a survey of the property, encompassing the entire project, prepared by a duly licensed land surveyor of the State of Alabama which shows all property boundaries, existing topographic features, all existing water courses, any and all areas which have been delineated as wetlands, the proposed location of all paved and unpaved roads and other improvements, and proposed platting of individual sub-parcels and lots;

(b) identification of the source or supplier of potable water to the development;

(c) type of wastewater collection and treatment system(s);

(d) an application for a stormwater permit, or if such permit has already been obtained, a copy of the same; and

(e) such other information as may be required by the Department.

(2) Developments resulting in the platting or subdividing of lots or subparcels on which construction or other reasonable use would not be consistent with the ACAMP shall not be permitted or certified to be in compliance with the ACAMP.
Author: John C. Carlton
Statutory Authority: Code of Ala. 1975, §§9-7-16, 22-22A-5, 22-22A-6, 22-22A-8.
History: New Rule: Filed May 26, 1994; Effective June 30, 1994.
Amended: Filed March 22, 1995; effective April 26, 1995.

335-8-2-.12 Discharges To Coastal Waters.

(1) Permit applicants for new continuous or frequent discharges to coastal waters which are greater than 1 million gallons per day, or otherwise classified as a major discharge by the Department or EPA Regional Administrator, shall:

(a) characterize the sediments and benthic macroinvertebrate community present along the circumferences of two concentric circles, one with a radius of 400 feet and the other with a radius of 800 feet, both having their origin at the proposed discharge point;

(b) such characterization shall be completed prior to the initiation of a discharge and shall be repeated if the discharger fails accelerated toxicity testing and is required to initiate a Toxicity Reduction Evaluation (TRE) pursuant to the applicable NPDES permit.

1. Upon notification by the Department the discharger shall repeat the characterization of the sediments and benthic community employing the same sampling locations used in the initial characterization.

2. The Department shall be provided an analysis of the toxicity test and characterization results, to include plans for any necessary corrective action.

(2) Existing permitted NPDES dischargers to coastal waters with a continuous or frequent discharge of greater than 1 million gallons per day, or otherwise classified as a major discharge by the Department, shall, upon request for a permit renewal perform a sediment and benthic community characterization as described in paragraph (a) above prior to applying for permit renewal. If a sediment and benthic characterization has been performed in the past then the renewal characterization shall use the same sampling locations as the original characterization and be conducted during the same season. An analysis of the results shall be provided to the Department with the application for renewal. Such characterization shall be repeated if the discharger fails accelerated toxicity testing and is required to initiate a Toxicity Reduction Evaluation (TRE) pursuant to the applicable NPDES permit.

(3) If the Department determines that the discharge is resulting in significant adverse impact to the benthic community or sediment quality in an area beyond the boundaries of the original characterization or 400 feet if an original characterization was not performed, the discharger shall be required to submit plans to identify corrective actions which will be taken.

(4) The Department may suspend or otherwise modify the monitoring requirements of this rule if:

(a) the Department determines, through review of discharger information and/or its own monitoring efforts, that the discharge is having no significant impact to coastal resources beyond 400 feet of the discharge point; or

(b) the Department determines, through review of discharger information and/or its own monitoring efforts, that the discharge monitoring is inadequate to detect significant impacts to coastal resources beyond 400 feet of the discharge point; or

(c) the Department determines, based on available biological and chemical data that, due to the nature of the discharge, no significant impacts to coastal resources will occur beyond 400 feet of the discharge point; or

(d) deemed necessary by the Department to ensure the protection of coastal resources.

Author: John C. Carlton
Statutory Authority: Code of Ala. 1975, §§9-7-16, 22-22A-5, 22-22A-6, 22-22A-8.
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