

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT COASTAL AREA  
MANAGEMENT PROGRAM  
ADMINISTRATIVE CODE

CHAPTER 335-8-1  
GENERAL PROVISIONS AND REVIEW PROCESS

335-8-1-.02      Definitions.

For the purposes of this Division, the following words and phrases, unless a different meaning is plainly required by the context, shall have the following meanings:

(a) "adjacent wetlands" means those wetland areas bordering, contiguous, neighboring, or hydrologic ally contiguous to state waters and/or wetland ecosystems.

(b) "agency" means any unit, department, or office of federal, state or local government, including subdivisions thereof.

(c) "Alabama Coastal Area Management Program" or "ACAMP" (see definition of "management program").

(d) "alternative site" means a physical geographic location, either on the same parcel of property or another parcel of property in the same vicinity, which could result in a use having fewer adverse impacts on coastal resources.

(e) "Areas of Preservation and Restoration" means a special group of Geographic Areas of Particular Concern singled out because of their conservation, recreational, ecological, or aesthetic values.

(f) "beach" means a sandy shoreline area characterized by low relief, generally of gentle slope, and some vegetation. The beach extends from the waterline to a change in physiographic form such as a dune or bluff, a change in sediment type, such as clay from sand, and/or a change in vegetation type. Gulf beaches are those sand beaches of the mainland and islands in Alabama which are subjected to the direct wave action of the Gulf of Mexico. The upper limit of Gulf beaches is usually a transition from halophytic, succulent, prostrate plant forms such as Hydrocotyle bonariensis (pennywort), Cakile edentula (sea rocket), Iva imbricata (marsh or seashore elder), and Ipomoea stolonifera (seaside morning glory) to a zone occupied by grasses, shrubs, and the same prostrate forms mentioned above.

(g) "boathouse" means a structure, constructed over water, designed or intended to be used for the purpose of docking, storing and protecting one or more watercraft.

(h) "boatslip" means an excavated basin whose length is no greater than twice its width and which is used for the dockage of watercraft.

(i) "canal" means an excavated waterway for the purpose of navigation whose bottom elevation is below mean low water.

(j) "certificate of compliance" means a document sent to a state agency certifying that the Department has determined the proposed use is in compliance with the Coastal Area Management Program.

(k) "coastal area" means the waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder) lying seaward of the continuous 10 foot contour (as defined below) extending seaward to the outer limit of the United States territorial sea. The inland boundaries of the coastal area are described as follows: begin at the southernmost point of the Mississippi-Alabama state line where the land surface elevation reaches 10 feet above mean sea level and continue in a general easterly direction along the 10-foot contour to the proximity of Mobile Bay; continue in a northerly direction on the 10-foot contour along the western shore of Mobile Bay and the Mobile River delta to the north line of Mobile County; thence southeastward along the north line of Mobile County to the intersection with the Baldwin County line in the Mobile River; thence along the west and north lines of Baldwin County in the Mobile and Alabama Rivers to the intersection of the westernmost point of Baldwin County where the land surface altitude reaches 10 feet above mean sea level; thence along the 10-foot contour in a southwesterly and southern direction along the Alabama River, the Mobile River delta and the east shore of Mobile Bay to the proximity of Bon Secour; thence continue along the 10-foot contour in an easterly and northeasterly direction to the Alabama-Florida state line.

(l) "coastal resources" means valuable human, natural, cultural or historical assets within the coastal area, such as water quality, air quality, wetlands and submersed grassbeds, beaches and dunes, wildlife habitats, biological resources, and water resources.

(m) "coastal waters" means those waters, adjacent to the shoreline, which contain a measurable quantity or percentage of sea water, including but not limited to, sounds, bays, lagoons, bayous, ponds and estuaries.

(n) "consistency certification" means a document submitted by an applicant for a federal license, federal permit or activity described in an Outer Continental Shelf Lands Plan stating that a use proposed to be undertaken is consistent with the management program and complies with all relevant rules and regulations.

(o) "consistency determination" means a document sent to the Department by any federal agency stating that a use proposed to be undertaken by that federal agency is consistent with the management program and complies with all relevant rules and regulations.

(p) "construction control line" or "CCL" means

1. between plane coordinates (x = 396,624.613 feet; y = 83,299.904 feet) in the vicinity of BC-19 and (x = 445,081.633 feet; y = 90,661.100 feet) in the vicinity of BC-20, a line running parallel to the shoreline at a point 40 linear feet inland of the most inland point of the crestline; except in the BTL (business, tourist and lodging) and BCR (business, central resort) zones of the City of Gulf Shores as defined on July 16, 1984 by the zoning maps of the City of Gulf Shores, wherein the construction control line means a line running parallel to the crestline at a point five linear feet inland of the most inland point of the crestline;

2. the northern property line of an area known as West Surf Beach of Dauphin Island, Mobile County, Alabama, according to the 1953 subdivision of Dauphin Island, map book 7, pp. 1-21, otherwise known as the southern property line of Block WS Fractional Lot A, and Blocks 101, 103, 105, 107 and 109, as well as the northern property line of the western most part of the area known as West Surf Beach, according to the 1953 Subdivision of Dauphin Island, map book 8, p. 227, otherwise known as the southern property line of Blocks A through T, inclusive.

3. in Mobile County the straight line segments formed by connecting plane coordinates (x = 298,624.45 feet; y = 91,478.75 feet) to (x = 298,624.34 feet; y = 91,452.87 feet) to (x = 299,539.45 feet; y = 91,249.84 feet) in the vicinity of monument DI-16 to (x = 301,494.85 feet; y = 90,976.43 feet) in the vicinity of monument DI-17 to (x = 302,259.79 feet; y = 90,816.16 feet) in the vicinity of monument DI-18 to (x = 303,414.28 feet; y = 90,588.99 feet) in the vicinity of monument DI-19 to (x = 303,989.36 feet; y = 90,393.36 feet) in the vicinity of monument DI-20 to (x = 305,101.01 feet; y = 89,869.47 feet) in the vicinity of monument DI-21 to (x = 307,398.80 feet; y = 88,862.42 feet) in the vicinity of monument

DI-22 to (x = 307,945.91 feet; y = 88,885.98 feet) in the vicinity of monument DI-23 to (x = 308,855.90 feet; y = 89,139.20 feet) in the vicinity of monument DI-24 to (x = 309,122.13 feet; y = 89,137.43 feet) in the vicinity of monument DI-25 to (x = 309,863.39 feet; y = 88,948.32 feet) in the vicinity of monument DI-26 to (x = 311,275.88 feet; y = 88,837.93 feet) in the vicinity of monument DI-27 to (x = 313,495.41 feet; y = 89,113.09 feet) in the vicinity of monument DI-28 to (x = 315,123.09 feet; y = 89,633.15 feet) in the vicinity of monument DI-29 to (x = 316,487.91 feet; y = 89,930.34 feet) in the vicinity of monument DI-30 to (x = 316,939.88 feet; y = 89,969.09 feet) in the vicinity of monument DI-31 to (x = 317,386.03 feet; y = 89,909.02 feet) in the vicinity of monument DI-32 to (x = 317,947.61 feet; y = 89,915.33 feet) in the vicinity of monument DI-33.

4. in Baldwin County the straight line segments formed by connecting plane coordinates (x = 339,869.380 feet; y = 82,413.826 feet) in the vicinity of monument BC-0 to (x = 343,833.777 feet; y = 82,946.329 feet) in the vicinity of monument BC-1 to (x = 344,439.935 feet; y = 83,027.749 feet) in the vicinity of monument BC-2 to (x = 345,229.900 feet; y = 83,267.806 feet) in the vicinity of monument BC-3 to (x = 346,070.573 feet; y = 83,318.732 feet) in the vicinity of monument BC-4 to (x = 347,947.400 feet; y = 83,542.163 feet) in the vicinity of monument BC-5 to (x = 353,678.481 feet; y = 84,097.590 feet) in the vicinity of monument BC-6 to (x = 358,262.949 feet; y = 84,424.908 feet) in the vicinity of monument BC-7 to (x = 361,952.301 feet; y = 84,532.314 feet) in the vicinity of monument BC-7A to (x = 367,652.468 feet; y = 84,352.329 feet) in the vicinity of monument BC-8 to (x = 370,294.079 feet; y = 84,232.401 feet) in the vicinity of monument BC-9 to (x = 370,337.309 feet; y = 84,095.345 feet) in the vicinity of monument BC-10 to (x = 372,723.136 feet; y = 84,013.940 feet) in the vicinity of monument BC-11 to (x = 374,515.213 feet; y = 84,209.778 feet) in the vicinity of monument BC-12 to (x = 381,454.710 feet; y = 83,545.945 feet) in the vicinity of monument BC-13 to (x = 382,099.449 feet; y = 83,460.299 feet) in the vicinity of monument BC-14 to (x = 384,804.496 feet; y = 83,494.181 feet) in the vicinity of monument BC-15 to (x = 388,949.030 feet; y = 83,361.769 feet) in the vicinity of monument BC-16 to (x = 394,023.606 feet; y = 83,282.288 feet) in the vicinity of monument BC-17 to (x = 394,115.430 feet; y = 83,209.569 feet) in the vicinity of monument BC-18 to (x = 396,624.613 feet; y = 83,299.904 feet) in the vicinity of monument BC-19; and

5. the straight line segments formed by connecting plane coordinates (x = 445,081.633 feet; y = 90,661.100 feet) in the vicinity of monument BC-20 to (x = 445,413.290 feet; y = 90,747.174 feet) in the vicinity of monument BC-21 to (x = 446,891.053; y = 90,727.783 feet) in the vicinity of monument BC-22 to (x = 447,623.180 feet; y = 90,791.160 feet) in the vicinity of monument BC-23 to (x = 448,325.619 feet; y = 90,757.219 feet) in the vicinity of monument BC-24 to (x = 449,391.117 feet; y = 90,946.878 feet) in the vicinity of monument BC-25 to (x = 449,929.915 feet; y = 91,035.782 feet) in the vicinity of monument BC-26 to (x = 451,612.654 feet; y = 91,469.061 feet) in the vicinity of monument BC-27 to (x = 452,665.982 feet; y = 91,901.813 feet) in the vicinity of monument BC-28 to (x = 454,188.522 feet; y = 92,349.654 feet) in the vicinity of monument BC-29 to (x = 455,478.358 feet; y = 92,701.191 feet) in the vicinity of monument BC-30 to (x = 456,856.032 feet; y = 92,874.036 feet) in the vicinity of monument BC-31 to (x = 461,865.947 feet; y = 94,391.131 feet) in the vicinity of monument BC-32 to (x = 463,992.195 feet; y = 94,935.555 feet) in the vicinity of monument BC-33 to (x = 466,038.578 feet; y = 95,534.410 feet) in the vicinity of monument BC-34 to (x = 466,816.191 feet; y = 95,695.196 feet) in the vicinity of monument BC-35 to (x = 467,195.619 feet; y = 95,898.951 feet) in the vicinity of monument BC-36 to (x = 469,282.178 feet; y = 96,648.946 feet) in the vicinity of monument BC-37 to (x = 475,472.539 feet; y = 98,380.947 feet) in the vicinity of monument BC-38 to (x = 476,304.695 feet; y = 98,579.846 feet) in the vicinity of monument BC-39 to (x = 476,948.092 feet; y = 98,722.141 feet) in the vicinity of monument BC-40 to (x = 479,249.115 feet; y = 99,050.021 feet) in the vicinity of monument BC-41 to (x = 479,434.293 feet; y = 99,057.019 feet) in the vicinity of monument BC-42 to (x = 479,907.870 feet; y = 99,097.293 feet) in the vicinity of monument BC-43 to (x = 480,904.364 feet; y = 99,236.552 feet) in the vicinity of monument BC-44 to (x = 488,825.140 feet; y = 100,844.567 feet) in the vicinity of monument BC-45 to (x = 489,712.334 feet; y = 101,001.701 feet) in the vicinity of monument BC-45A to (x = 491,026.916 feet; y = 101,322.132 feet) in the vicinity of monument BC-46 to (x = 492,439.303 feet; y = 101,623.576 feet) in the vicinity of monument BC-47 to (x = 494,213.397 feet; y = 101,981.671 feet) in the vicinity of monument BC-48.

6. all references to monument numbers in Paragraphs 1-5 above are noted for convenience only. All official submissions to the Department regarding the "construction control line" must be based upon official state plane coordinates as determined by a registered surveyor.

(q) "crestline" means a line running more or less parallel with the shoreline interconnecting the peaks of the primary dune system.

(r) "cultural resource" means any district, building, site, object, or other material in American history, architecture, archaeology, or culture which is of national, state, or local significance.

(s) "Department" means the Alabama Department of Environmental Management, established by the Alabama Environmental Management Act, Code of Ala. 1975, §§22-22A-1 to 22-22A-13, et seq.

(t) "Department approval" means the approval of any local permitting program or the issuance of any Department permit.

(u) "Department review" means the procedure by which the Department reviews uses subject to management for the purpose of determining whether or not to do any of the following: issue or deny a certificate of compliance; concur with or object to any person or agency's consistency certification; agree or disagree with an agency's consistency determination; issue a consistency approval or objection; issue or deny a Department permit; or approve or disapprove a local permitting program.

(v) "discharge" means the addition, introduction, leakage, spilling or emitting of any sewer, industrial wastes, pollutant or other wastes into waters of the state.

(w) "ditch" means an excavation designed for the purpose of stormwater drainage whose bottom elevation is at or above zero National Geodetic Vertical Datum.

(x) "dredging" means excavation of any materials from lands underlying coastal waters or wetlands.

(y) "dune" (see definition of primary dune system).

(z) "dune walkover" means a raised walkway constructed for the purpose of protecting the beach and dune system between mean high tide and the construction control line from damage that may result from anticipated pedestrian traffic to the beach and which is no more than six feet in width, constructed without roof or walls, elevated at least one foot above the dune, and extends seaward of the seaward vegetation line.

(aa) "endangered species" means any species, including subspecies and varieties, that are in danger of extinction throughout all or a significant portion of their range in Alabama. Endangered species are those whose prospects for

survival are in immediate jeopardy and which must have help or extinction or extirpation from Alabama will probably follow. These species are defined by Code of Federal Regulations 50 CFR 17.11 and 17.12, January 1, 1989, as amended and Alabama Act No. 82-424.

(bb) "energy facility" means any equipment or facility which will be used in the exploration for, or the development, production, conversion, storage, transfer, processing, or transportation of, any energy resource.

(cc) "estuary" means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage.

(dd) "estuarine sanctuary" or "estuarine research reserve" means a research area which may include any part or all of an estuary, adjoining transitional areas and adjacent uplands, constituting to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine, over a period of time, the ecological relationships within the area.

(ee) "existing structure" means a structure the construction of which was initiated prior to October 9, 1985, and for which all required state, local and federal authorizations were obtained prior to October 9, 1985.

(ff) "federal consistency" means the provisions as described in 15 CFR Part 930.

(gg) "federal development project" means federal activity involving the planning, construction, modification or removal of public works, facilities, or other structures, and the acquisition, utilization or disposal of land or water resources.

(hh) "federal permit or license" means any authorization, certification, approval, or other form of permission, and any renewal thereof, which any federal agency is empowered to issue to an applicant. The term also includes the following types of renewals and major amendments which affect the coastal area:

1. Renewals and major amendments of federal license and permit activities not previously reviewed by the Department;
2. Renewals and major amendments of federal license and permit activities previously reviewed by the Department which are filed after and are subject to management

program amendments not in existence at the time of original Department review; and

3. Renewals and major amendments of federal license and permit activities previously reviewed by the Department which will cause coastal area effects substantially different than those originally reviewed by the Department.

(ii) "fill" means any solids, dredged material, sludge, or other material the placement of which has the effect or purpose of raising the elevation of wetlands or lands underlying coastal waters. Fill does not normally include the vertical placement of pilings or pile supported structures unless the Department determines such placement has or would have the effect of fill, e.g. the pilings are so closely spaced that sedimentation rates would be significantly increased; the pilings themselves effectively replace the bottom of the water body or wetland; the pilings would significantly impact the flow or circulation of coastal waters; the pilings would otherwise result in a significant impact to the functional value of a wetland.

(jj) "footprint" means the ground area covered by a structure when viewed from the top or plan view.

(kk) "functional value" means a wetland's ability or potential to provide one or more of the following:

1. Stormwater retention and storage
2. Nutrient export and primary productivity
3. Purification and filtration of water
4. Shoreline protection and erosion control
5. Wildlife or fisheries habitat
6. Groundwater recharge

(ll) Reserved

(mm) "habitable structure" means any structure which, by virtue of its design, size or appurtenances, is suitable for occupation as a residence on a temporary or permanent basis, or any similar structure used for commercial purposes.

(nn) "hydrologic ally contiguous" means continuously or recurrently connected to state waters by other surface water or drainage as evidenced by water marks on land or vegetation, channels, or water eroded paths, including areas separated from state surface waters by a berm, causeway, or



similar feature and which have a surface elevation at or below the normal high water line of the adjacent water body.

(oo) "interagency coordination" means consultation, both formal and informal, between the Department and any federal, state or local agency proposing to issue a license or permit for any use in the coastal area.

(pp) "interagency review process" means review of a proposed project between the agency staff and the Department staff to identify information gaps and other relevant aspects of the project.

(qq) "local agency" means any duly authorized county or municipal government or agency of a county or municipal government, or any of their agencies.

(rr) "local code" means any regulations, rules, plans, maps, ordinances, codes, or other related documents as well as any subsequent changes thereto which regard uses subject to management and which are the basis for a local agency permitting program.

(ss) "management program" includes, but is not limited to, a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the State in accordance with the provisions of Chapter 7 of Title 9, Code of Ala. 1975, as amended, setting forth objectives, policies and standards to guide public and private users of lands and waters in the coastal area.

(tt) "marina" means any commercial facility which is capable of offering permanent or transient docking or mooring space for 10 or more boats and is capable of providing one or more of the following services: dry boat storage, boat fueling facilities, haulout facilities, repair services, nautical supplies; or any facility which is capable of providing mooring space for 20 or more boats ancillary to developments such as apartments, condominiums, hotels, or other planned unit developments.

(uu) "minor structure" means that subset of structures including, but not limited to, a deck, porch, platform, ramp, non-asphaltic parking area, sunshelter, gazebo, or other like object which is not habitable, including sand fences or dune walkovers constructed for the purpose of dune protection.

(vv) "new structure" means any structure which is not an existing structure.

(ww) "non-regulated use" means a use which is subject to the management program and which does not require a state permit or which is not required by federal law to be consistent with

the management program and may have a significant impact on coastal resources. Non-regulated uses may include, but are not limited to, construction on beaches and dunes, developments greater than 5 acres in size, extraction of groundwater, and other uses determined by the department.

(xx) "outer continental shelf (OCS) plan" means any plan for exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. Section 1331 et seq.), or the regulations under that Act, which is submitted to the Secretary of the Interior following management program approval by OCRM and which describes in detail federal license or permit activities.

(yy) "person" means any and all persons, natural or artificial, including but not limited to, any individual, partnership, association, society, joint stock company, firm, company, corporation, institution, trust, estate, or other legal entity or business organization or any state or local governmental entity and any successor of the foregoing.

(zz) "primary dune system" means a ridge or series of ridges of unconsolidated and usually mobile sands lying landward of the upper limit of Gulf beaches which serves as the principal defense against storm wave attack. Vegetatively, this primary protective dune can be characterized by Neola aciculate (sea oats), Spartan patens (saltmeadow cordgrass), Panicum amarulum (dune panicgrass), Distichlis spicata (saltgrass), Solidago pauciflorescens (seaside goldenrod), Hydrocotyle bonariensis (pennywort), and Ipomoea stolonifera (seaside morning glory).

(aaa) "regulated use" means a use which is subject to the management program and which requires a state permit or which is required by federal law to be consistent with the management program.

(bbb) "significant impact" means the result of any activity carried out by a person which is known to have more than a negligible adverse effect on the coastal area.

(ccc) "sludge" means any solid, semi-solid, or viscous material or other residue resulting from treatment of wastewater or produced as a result of wastewater management.

(ddd) "solid waste" means all putrescible and nonputrescible discarded materials, except household sewage and livestock and poultry wastes, including but not limited to, garbage, rubbish, ashes, street and highway cleanings, dead animals including offal, abandoned automobiles and such industrial wastes and medical wastes as are not controlled by other

agencies, including medical wastes as defined by ADEM Administrative Code R. 335-13-1-.03.

(eee) "special management areas" means those specific areas within coastal Alabama that may require special management and regulatory emphasis due to their unique or special values, characteristics or significance.

(fff) "state permit" means any license or permit issued by a duly authorized agency of the State of Alabama for a use which is subject to the management program.

(ggg) "state waters" means all waters of any river, stream, watercourse, pond, lake, coastal, ground or surface water, wholly or partially within the state, natural or artificial. This does not include waters which are entirely confined and retained completely upon the property of a single individual, partnership or corporation unless such waters are used in interstate commerce.

(hhh) "structure" includes but is not limited to a motel, condominium, house, building, bulkhead, deck, pool, parking lot, gazebo or other object the whole or parts of which are arranged by human action including any substantial improvement to an existing structure. This does not include water, oil, gas, electricity, or sewage pipelines or conduits located beneath the surface of lands.

(iii) "submersed grassbeds" means areas within the coastal area which support rooted vegetation that are not normally emerged even at low tide but remain covered within coastal waters.

(jjj) "substantial improvement" means

1. Any extension, enlargement, additions or expansion to any structure which increases the height or footprint of the structure and is subject to local building ordinances; or
2. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the fair market value of the structure, either:
  - (i) before the repair, reconstruction or improvement is started; or
  - (ii) if the structure has been damaged and is being restored, before the damage occurred.

(kkk) "toxic pollutants" means those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion,

inhalation or assimilation into any organisms, either directly from the environment or indirectly through food chains, will, on the basis of the information available to the Department, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations, in such organisms or their offspring.

(lll) "use" means any human or corporate activity or result therefrom.

(mmm) "Use of Regional Benefit" means a use which is other than local in nature and produces benefits to citizens of more than one unit of local government or which is in the National interest. The Department recognizes the following uses and others of a similar nature to be of regional benefit:

1. Regional or statewide public recreational facilities;
2. Major transportation facilities such as state and federal highways, commercial ports, Federal Navigation projects and airports;
3. Major energy facilities;
4. Regional water and wastewater treatment facilities;
5. Facilities relating to the national security.

(nnn) "wetlands" means those areas delineated pursuant to the technical criteria described in the Federal Wetland Delineation Manual that is currently being used by the Corps of Engineers and/or any updated manual that may be used in the future. Wetlands do not include those areas which exist solely due to man-induced conditions such as roadside ditches or man-made impoundments excepting those areas created as mitigation sites.

(ooo) "water dependent use" means those uses which must, under normal operating conditions, be located on or in or immediately adjacent to coastal waters in order to be physically and economically practicable.

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**Statutory Authority:** Code of Ala. 1975, §§9-7-16, 22-22A-5, 22-22A-6, 22-22A-8.

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