

**Implementation and Standards Committee**  
**July 26, 2007**  
**Holiday Inn Brownstone**  
**Raleigh, NC**

**Bob Emory, Chair**

**Coastal Stormwater Rules Update**

Tom Reeder, DWQ, gave a presentation on the proposed amendments to the EMC's coastal stormwater rules. Following an extensive review of their current regulations and stakeholder outreach, the EMC decided to extend Phase 2 requirements to all twenty CAMA counties. The proposed regulations would be more stringent than existing regulations, for example, the allowable impervious area for development within ½ mile and draining to SA waters would be lowered from 25% to 12%, and the setback distance would be increased from 30 feet to 50 feet. The EMC is also considering lowering the threshold for coverage from one acre of disturbance to 10,000 square feet, and excluding wetlands from impervious surface calculations. Ray Sturza noted that citizens may complain if they are taxed for wetlands on their property, but not allowed to count wetlands in their impervious area calculations. Tom said that DWQ is aware of that concern. He also stated that DWQ is still in need of inspection and enforcement staff to ensure that engineered stormwater controls are properly installed and maintained. Tom stated that the proposed amendments would be going to public hearing in September and that four hearings would be held in the coastal area. He anticipates that the new rules would take effect in August of 2008.

**Estuarine Shoreline Stabilization Draft Rule Language (I&S-07-14)**

Bonnie Bendell presented changes to the draft rule language after holding meetings in the four district offices and with the Division of Water Quality (DWQ). Bonnie stated that staff believed the previously presented concept of moving new bulkheads 5 feet landward on non-wetland shorelines was unfeasible due to the many exceptions that would be required as well as the DWQ having serious concerns of the proposal and its effect on the Tar/Pamlico and Neuse River Basin buffer rules. Ms. Bendell proposed four new options for new bulkhead placement (.1105(a)(1)).

Ms. Bendell also presented other changes to the draft rule language which include terminology changes from "riprap" to "riprap revetment" and a previously discussed height change in groins. The final proposed change to the draft rule language included removing the requirement that marsh enhancement breakwaters have to be constructed in conjunction with marsh vegetation. Such a change would provide another alternative to the vertical structures. Bonnie stated that breakwaters without marsh grass behind it would at least help to dissipate some forms of wave energy.

After much discussion, Spencer Rogers made a motion to accept Option A for New Bulkhead Placement on non-wetland shorelines as a "working draft", change the term riprap in all the General Permits to "stone/riprap" or "stone or riprap", and to not include the breakwater change staff had proposed, but to draft such a proposal up to be reviewed as a new General Permit. Spencer's motion also included having a discussion with the Environmental Management Commission (EMC)

on the concept of moving bulkheads landward of normal high water or normal water level. The motion passed unanimously.

#### **Amendments to 7H.0312 Sediment Criteria (I&S-07-17)**

Jeff Warren presented draft rule language for the sediment criteria rules that became effective on February 1 of this year. The minor revisions were justified by a need to clarify data acquisition techniques for issues that were discovered related to two specific projects that will need beach fill permits in the near term. After a brief presentation of these amendments, Warren also requested that the language “or excavation depth” be added in two places following the term “dredge depth” and “dredged depth” in the third to last sentence in Part (e). Melvin Shepherd made a motion to accept the language as presented. The motion was seconded by Joan Weld and carried (8-1). Spencer Rogers suggested the addition of a provision of using visual estimates for carbonate content for samples taken prior to the effective date of the rule. Warren stated that DCM would support such a clause as long as it was an option that DCM need not accept. Rogers agreed and also stated that an appropriate correction factor needed to be used to convert visual estimates to weight percent data. Joan Weld seconded the motion, and it carried unanimously.

#### **Marsh Vegetation Mowing/Cutting Draft Rule Language (I&S-07-15)**

Terry Moore presented a brief update on the status of staff’s efforts in moving forward with rule making to regulate the mowing, cutting, and burning of coastal wetlands. Terry stated that staff has received verbal comments from many agencies and that they are all supportive of our efforts. However, staff is waiting on formal agency comments from two key agencies, the North Carolina Wildlife Resources Commission and the US Fish and Wildlife Service. Terry said that staff’s goal is to have all those comments in by the September meeting and to bring draft rule language before the Committee at that time.

#### **DCM Procedures For Drawing Riparian Corridors (I&S-07-16)**

Ted Tyndall gave a presentation on DCM procedures for determining riparian corridors. Ted stated that the process is explicit in the rule 07H.0208 and that even with staff issuing between 1,100 and 1,500 permits for piers, docks, boat lifts, and boat houses there have been few situations that could not be satisfactorily resolved without litigation. Ted paraphrased the rule and said the riparian corridor is established by drawing a line 90 degrees from the channel or deep water back to the point where it intersects with high ground. Ted presented examples for determining riparian corridors along irregular shaped shorelines and emphasized that the riparian corridors typically do not follow property line extensions out into the water. During the presentation, there was some discussion regarding the siting criteria and permitting requirements for residential community docks and marinas. Melvin Shepherd made a cautionary statement to staff that these riparian issues would only get more complicated as our shorelines get more congested and that if and when staff needed help through additional rule making or modification, to notify the I&S Committee. Finally there was brief discussion regarding ownership of submerged lands. Ted concluded that Dr. Joseph Kalo with the NC Coastal Law, Planning and Policy Center would make a presentation to the Commission in September and would speak more specifically to public trust issues and riparian rights at that time.