

NC COASTAL RESOURCES ADVISORY COUNCIL
September 23, 2015
New Hanover County Government Complex
Wilmington, NC

- 9:00 CALL TO ORDER* (HR Training Room)** Debbie Smith
- Roll Call
 - Approval of April and July Meeting Minutes
 - Announcements:
 - Travel reimbursements and member contact information Angela Willis
 - Member reappointments Daniel Govoni
- 9:15 Sandbag Policy Discussion (see memo CRC-15-18)** Debbie Smith
- 9:55 Old/New Business**
- 10:00 Adjourn**



N.C. Division of Coastal Management
www.nccoastalmanagement.net
Next Meeting: November 17-18, 2015; Atlantic Beach

NC Coastal Resources Advisory Council
April 29, 2015
Dare County Government Complex
Meeting Summary

Attendance

Spencer Rogers (Vice Chair)	Frank Rush
Greg Rudolph (Vice Chair)	Ray Sturza
John Brodman	Dave Weaver
Jett Ferebee	Lee Wynns
Robert Outten	

Call to Order

Spencer Rogers called the meeting to order, and the Council approved the February minutes.

Sandbag Use in the Proposed State Port Inlet Areas of Environmental Concern

Heather Coats presented the background of the State Port Inlet AEC, starting with House Bill 819 and the Cape Fear Inlet AEC study that it required. Spencer Rogers asked the term “state ports” be better defined in the draft rule, and that a better way to define what qualifies as a SPI AEC be included as well. Rogers asked how staff would verify a claim that 20 feet of beach had eroded over the previous 30 days. Would the proposed rule allow sandbags to stay on the beach if they are covered with sand but not vegetated? Commissioner Harry Simmons expressed support for allowing the use of sandbags to protect sand dunes.

The Council decided to recommend that sandbags be allowed to remain in place if they are covered with sand, even if they are not vegetated. Frank Rush asked that the Council plan to revisit the issue of applying similar sandbag use standards in all Inlet Hazard AECs.

Sandbag Maintenance

Spencer Rogers questioned whether the time limit on sandbags should be eliminated from the rule, and had a general discussion on possible interpretations for the term “maintenance.” The Council talked about how often sandbags are removed because their time had expired or because they were no longer necessary. Staff said that many of the expired and unnecessary sandbag structures were located along the Outer Banks and were removed in conjunction with their 2011 nourishment project.

Frank Jennings recommended removing the vegetated requirement, and moving to a more consistent time period for all bags; removal is practically unattainable, and we are technically out of compliance with the rule. Commissioner Greg Lewis remarked that if the removal requirement is eliminated the bags will never come out, and this will reduce demand for, and incidence of, nourishment projects. Ray Sturza commented that he supports Spencer’s concept; removal is a fantasy that results in unnecessary and unsuccessful conflict.

CRAC Member Distribution

Staff showed Council members a map of where current members reside. The Council agreed that it would be better to have good, active members than to appoint members simply because they represent a specific region. Members do not want to be limited by having to fill defined locations or skills/interest groups. Members agreed that we have nonetheless ended up with a good geographic distribution.

Members said that Beth Midgett from Hatteras, and Todd Roessler from Raleigh might be good additions to the Council. Council tasked themselves to think about potential new members and to ask whether they would be willing to serve.

Old/New Business

Greg Rudolph asked the Council for input on some issues he was having in drafting the Commission's proposed Development Line rule. How can we ensure that communities establish straight lines? How should we deal with structures that are "grossly seaward" of a proposed development line? How do we guarantee that development lines are not established on state beaches? Spencer Rogers suggested that only a community that sponsors a beach nourishment project should be allowed to request a development line. Rogers added that developing this rule should have started with looking at existing development lines that are working better than CAMA.

Adjourn

With time expired the Council adjourned at 10:30 pm and joined the CRC meeting.

NC Coastal Resources Advisory Council
July 16, 2015
NOAA/NCNERR Administration Building, Beaufort, NC
Meeting Summary

Attendance

Debbie Smith (Chair)	Spencer Rogers (Vice Chair)
Jett Ferebee	Rudi Rudolph (Vice Chair)
Kristen Noble	John Brodman
Robert Outten	Dave Weaver
David Moye	J. Michael Moore
Frank Rush	Lee Wynns

Call to Order

The meeting was called to order at 9:35 am, with 12 members in attendance.

State Port Inlet Management AEC

Staff explained that the CRC needs input from the CRAC regarding the sandbag provisions in the proposed State Port Inlet Management AEC. One of the proposed new provisions is that sandbags could be used to protect dunes within the AEC. Another is whether communities should be allowed to use a licensed surveyor to certify that dunes or structures could become imminently threatened within six months, instead of leaving it to the DCM Director's discretion. Using a surveyor would likely be a longer process than a staff decision, but could allow for sandbag structures to be installed before the situation becomes a true emergency. Council members questioned whether there should be greater restrictions on development in this proposed AEC since the deep dredging supposedly causes greater impacts than in shallower inlets. The Council requested a clarification in the rule that only local governments could apply for permits under the standards in this new rule; private property owners would continue to apply in accordance with existing sandbag rules.

Spencer Rogers suggested the Council discuss sandbag rules in general not only sandbag provisions for small areas. Several Council members explained that Beaufort Inlet and Cape Fear Inlet were engineered inlets and general sandbag rules will not fit all areas, thus the need for special provisions for sandbags when located in the State Port Inlets.

Spencer Rogers made a motion to remove the sandbag provisions from the State Port Inlet Management AEC and ask the CRC to undertake a comprehensive review of sandbag policy across the entire coast. David Moye agreed that the proposed standards in the new AEC do not get at the root of the sandbag problem, but the motion was not seconded and failed. Frank Rush made a motion to endorse the State Port Inlet AEC language; this was second by John Brodman. Council then discussed the need for minimum size specifications for individual sandbags. Staff suggested using the minimum size criteria from the existing rule. The motion passed with ten in favor and two opposed.

Spencer Rogers made a motion requesting a general sandbag study by the CRC. The motion was seconded by Dave Weaver and passed unanimously.

Recommendations for additions to the CRAC

Debbie Smith discussed three possible additions to the CRAC:

- Todd Roessler, Attorney, Raleigh resident.
- Johnny Martin, Coastal and Hydraulic Engineer, Raleigh resident.
- Beth Midgett, Vacation Rental Property Management, Hatteras resident.

Council decided to postpone recommending Todd Roessler to the CRC until a question concerning a potential conflict of interest could be resolved. Council voted unanimously to recommend Johnny Martin and Beth Midgett to the CRC for appointment.

Council voted unanimously requesting the CRC to write a letter of gratitude for Bill Morrison.

Adjourn

With no further business the Council adjourned at 10:22 am and joined the CRC meeting.



North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Pat McCorry
Governor

Donald R. van der Vaart
Secretary

CRC-15-18

September 8, 2015

MEMORANDUM

TO: Coastal Resources Commission

FROM: Mike Lopazanski

SUBJECT: Sandbag Rules and Policies

As you are aware, the Coastal Area Management Act and your rules prohibit most permanent erosion control structures along oceanfront beaches due to the likelihood of a gradual loss of the intertidal beach and the potential for increased erosion along adjacent and downdrift properties. Sandbags have been allowed as a temporary erosion control measure since 1985 and the CRC has struggled with balancing the needs of property owners to protect oceanfront structures with protecting the public's use of the state's ocean beaches ever since. Sandbags were intended to provide temporary protection to imminently threatened structures and were not envisioned as a permanent protective measure for chronic oceanfront erosion.

You will recall from our earlier review of the development and evolution of the CRC's sandbag rules, that the CRC has maintained an understanding that coastal property owners need a way to temporarily protect their homes from beach erosion and has generally been accommodating of property owners and local government as more permanent solutions, such as beach nourishment or inlet relocation have been pursued. This accommodation has often been perceived as a lack of enforcement of the temporary erosion control rules on the part of the Division and Commission.

From a policy standpoint, the Commission has tried to manage sand bags from a time limit perspective, keeping in mind that both by rule and law, they are a temporary erosion control measure requiring justifiable limits. The Commission has also attempted to address protection of the public's use of the state's ocean beaches by limiting the dimensions of temporary erosion control structures.

Since local governments have been pursuing beach nourishment as a viable solution to chronic erosion issues, the policy focus has shifted from time limits to a discussion of necessity and at what point do sandbags need to be removed. Your current rules require them to be removed in event of a beach nourishment project which has brought up the question of covering them during the project. As was discussed during the April, 2015 meeting, this is complicated by the necessity of easements being granted by private property owners as well as the involvement of public funds. Discussions of covering sand bags has also called into question the necessity and practicality of requiring them to be covered **and** vegetated in order to remain in place.

Sand bags have also recently been a focus of the proposed State Ports Inlet Management AEC use standards which have included an expanded use of sand bags to protect natural features (dunes) in addition to structures, expanding the definition of imminently threatened, and to allow the use of geo-textile tubes.

While erosion at inlet areas are still a major concern, recent beach nourishment projects and the lack of major hurricanes have alleviated some of the issues surrounding the use of sandbags on the oceanfront compared to five years ago. The Commission is in a position to address its overall policy on use of sandbags in a manner that considers when they should be used, what can be protected, and the circumstances under which they should be removed or left in place.

To facilitate discussion at the upcoming meeting, I have summarized your rules regarding temporary erosion control structures below and included the evolution of the rules you may recall from our February 2015 meeting. I have also attached the rules as well. I looking forward to this important policy discussion at our meeting in Wilmington.

Summary of Current Sandbag Rules

Use of Sandbags

Under your current rules, sandbags may be used to protect imminently threatened roads and right of ways as well as buildings along with their associated septic systems. A structure is considered imminently threatened if its foundation or septic system is less than 20 feet from the erosion scarp. Buildings and roads more than 20 feet from the erosion or in areas where there is no erosion scarp may also be consider imminently threatened when sites conditions such as a flat beach profile or accelerate erosion increase the risk of imminent damage to the structure. This determination is at the discretion of the DCM Director. Sandbags may not be used to protect structures such as pools, decks, gazebos, or any amenity that is not the principal structure.

Siting and Size of Sandbags

Your rules also govern the siting and size of sandbags structures as well as the dimensions of individual bags. Sandbags are required to be located landward of mean high water and be parallel to the shoreline. The sandbag structure cannot extend more than 20 feet past the building being protected and the dimensions of the sandbag structure are limited to 20 feet wide at the base and six feet in height. Soldier pilings and other anchoring devices are not allowed. The bags themselves are required to be tan in color and 7-15 long when measured flat.

Sand Bag Time Limits

Sand bags may remain in place for two years if they are protecting a structure that is less than 5,000 square feet floor area or up to five years for structures greater than 5,000 square feet and for bridges and roads. The time limit is extended to eight years if the sand bags are located in a community that is actively pursuing a beach nourishment or an inlet relocation or stabilization project (terminal groin). To be consider actively pursuing one of these projects, a community must have one of the following; an active CAMA permit; identified in an USACE Beach Nourishment Reconnaissance Study, General Reevaluation Report, Coastal Storm Damage Reduction Study or an ongoing feasibility study with a commitment of local or federal money; a favorable economic evaluation report for a federal project; or in the planning stages for a project designed by the USACE, or a locally contracted engineer with a commitment of local or state fund and identification of funding sources to complete the project. Time limits on sand bag permits are calculated from the date of the placement of the first bag(s).

Removal of Sand Bags

Sand bags must be removed within 30 days of notification by the Division if:

- Time has expired.

- The community is no longer considered to be pursuing a beach nourishment or inlet relocation/stabilization project (standard time limits applied).
- The sand bags are no longer necessary due to relocation or removal of the threatened structure.
- Completion of a beach nourishment or inlet relocation/stabilization project.

Removal of sand bags is not required if they are covered by dunes with stable and natural vegetation.

Evolution of Sandbag Rules

1984-1985

As the CRC began development of rules prohibiting the placement of permanent shoreline stabilization structures along the oceanfront, sandbags were allowed to be used as a temporary means of protecting imminently threatened structures. This policy was in accordance with the 1984 recommendations of the CRC Outer Banks Erosion Task Force that stated:

“Temporary measures to counteract erosion, such as beach nourishment, sandbag bulkheads and beach pushing, should be allowed, but only to the extent necessary to protect property for a short period of time until threatened structures may be relocated or until the effects of a short-term erosion event are reversed. In all cases, temporary stabilization measures should be compatible with public use and enjoyment of the beach.”

The purpose of allowing the sandbags was to provide for the temporary protection of a structure until the owner could make arrangements to move the structure or until the beach and dune system could naturally repair itself. As the CRC developed the rule, it was noted that “temporary” would normally require time limits on projects. At that time, Staff explained that due to enforcement problems, limits on structural types, including the ephemeral nature of materials used for sandbags, was a more practical method of ensuring removal of the structure from the beach.

The original 1985 rule included some of the current provisions such as the definition of imminently threatened, the 20’ seaward limit, adjacent property owner notification and no interference with use of the beach. The rule also included a provision requiring removal if the sandbag structure remained exposed for more than six months. The only other limit on the dimension of the structure was that it be no more than 15’ wide and that it be above the high tide line.

1987

In March of 1987, the CRC requested information on the effects of sandbag structure design and placement were having on the beach.

1990-1995

During the early 1990's, the Commission began hearing numerous complaints that sandbags were not being used as a temporary measure but as a permanent shoreline erosion measure. Many citizens complained that sandbags were blocking pedestrian access along the beach and in some cases sandbags were being fortified to become massive immovable structures. The temporary nature of sandbags was indirectly addressed in September 1991 when the CRC discussed the definition of threatened structures and considered requiring the relocation or demolition of a threatened structure 2-3 years from its designation.

A 1994 inventory of sandbags showed that approximately 15,000 linear feet of ocean shoreline were protected by sandbag structures with some of the structures being in place for as long as eight years. While most sandbag structures complied with the rules, some were installed without authorization and did not comply with the standards. Staff provided the CRC with an analysis of the problems associated with the sandbag rules including what types of structures can be protected by sandbags, when do sandbags interfere with the public use of the beach, monitoring burial, the limitation on width of the sandbag structure but not the height and most importantly, how long is temporary.

In 1995, the CRC amended the rules to address the size and physical location of sandbags, the types of structures that were eligible for protection, as well as the time they could remain in place if they were not covered by dunes with stable, natural vegetation. The rule was amended to allow a sandbag structure to remain in place up to two years if it was protecting a small structure (less than 5,000 square feet floor area) and up to five years for larger structures. The rule also allowed the sandbags to remain for five years if they were located in a community actively pursuing a beach nourishment project. Existing sandbags installed prior to May 1, 1995 were grandfathered and allowed the full time period prior to removal.

1996-1999

While most of the beachfront communities qualified for the five-year time period, some sandbags structures in unincorporated areas were subject to removal in 1997. However, due to Hurricanes Bertha and Fran in 1996, the CRC extended the deadline to May 1998 for those areas declared federal disasters. This deadline was again extended to September 1998 after Hurricane Bonnie.

In 1997, four sites in Dare and Currituck Counties were subject to having their sandbags removed. Several of the owners applied for variances from the CRC but their petitions were denied and all the sandbag structures were subsequently removed.

Over the next couple of years the CRC began to receive variance requests from property owners wanting their sandbag structures to remain in place. In Onslow County, six property owners were granted variances to allow their sandbags to remain in place until August 31, 2001.

2000

With the majority of sandbags subject to removal in 2000, the Division began preparing to notify property owners of the approaching deadline. Records indicated that 141 properties were to be subject to removal. The Division believed this number to be low since prior to 1995, the majority of sandbag permits were processed by local governments and their record keeping abilities varied greatly and in some cases, was nonexistent. A post Hurricane Floyd inventory revealed that 236 temporary sandbag structures had been permitted since the early 1980's.

In January 2000, Dare County submitted a Petition for Rule Making to the CRC requesting that properties protected by sandbags in communities pursuing beach nourishment be given an additional extension to 2006. The Division consulted with the CRC Science Panel and received a recommendation to grant an extension, but only to sandbag structures that currently conform to the size limits. Given the time it takes for communities to complete the necessary steps for a beach nourishment project, the CRC granted a coast-wide extension on sandbag permits in these areas to May 2008. The CRC also refined what it meant for a community to be actively pursuing beach nourishment. A community is considered to be actively pursuing beach nourishment if it has:

1. been issued a CAMA permit, where necessary, approving such project, or
2. been deemed worthy of further consideration by a U.S. Army Corps of Engineers' Beach Nourishment Reconnaissance Study, or an ongoing feasibility study by the U.S. Army Corps of Engineers and a commitment of local money, when necessary, or
3. received a favorable economic evaluation report on a federal project approved prior to 1986.

The CRC further added the stipulation that if beach nourishment is rejected by the sponsoring agency or community, or ceases to be actively planned for a section of shoreline, the time extension is void and existing sandbags are subject to all applicable time limits.

2005

The majority of sandbag structures were located in areas included in beach nourishment projects or studies, however, some structures needed to be removed by their owners prior to the May of 2008 deadline. In North Topsail Beach, an area within the Coastal Barriers Resource Act (CoBRA) Zone containing a significant number of sandbag structures was dropped by the US Army Corps of Engineers from further study. North Topsail Beach applied for permits to conduct a privately funded nourishment project to cover this area as was the case on the east end of Ocean Isle Beach and in the vicinity of The Point in Emerald Isle.

At this time, staff reported to the CRC that 251 sandbag structures had been permitted since 1996, 146 of these since 2001. Prior to 1995, local governments permitted

sandbag structures and there was some question as to the accuracy of record keeping. For this reason, staff estimated that there were approximately 320 sandbag structures on the coast.

2006

Staff reported that enforcement of the six-foot height limitation on structures had become an issue. Owners were allowed to maintain the six-foot height of the structure as the bags become damaged or sink into the sand. During erosion episodes, the submerged bags once again became exposed, greatly increasing the overall height of the structure. Enforcement was also further being complicated by the fact that the bags can become covered or exposed before any enforcement action can be taken. The CRC directed the DCM staff, to measure the height of the sandbag wall from the base of the structure to the top rather than from the existing beach to the top, in order to ensure sandbag structures do not exceed six feet in height, unless otherwise permitted.

2007

With the May 2008 deadline approaching, the Division once again prepared to notify property owners of the requirement for removal. However, the situation along the ocean beaches was somewhat different than in 2000. The extensive beach nourishment that occurred along the coast during the intervening years presented a new set of challenges to ensuring compliance with the Commission's rules. Many sand bags structures were not removed prior to nourishment activities so the bags became covered with sand. Technically, these sand bag structures were out of compliance since the rule requires them to be covered and vegetated. It had also become typical to find sand bag structures where the bags are inter-laced across properties as adjoining properties become imminently threatened. Since the removal date is dictated by when the first bags are placed, long sand bag structures often have varying expiration dates across properties. Varying expiration dates could also be found when sand bags protecting large structures (5 years) are tied in with those protecting a small structure (2 years). Given the intricacies of ensuring compliance with the current rule, staff sought guidance from the Commission on how to address the upcoming deadline, the nuances of enforcement and compliance with the current rule and how aggressively to pursue removal of buried bags or bags that become exposed.

In addition to the current time limits and removal deadlines, the Commission discussed the possible utilization of degradable materials rather than polypropylene as a means of ensuring the eventual removal of sandbags from the oceanfront. DCM research revealed issues associated with the use of biodegradable textiles for sandbags, primarily concern over the length of time biodegradable bags can withstand the combination of elements present in the coastal environment. The complex nature of coastal beaches makes it difficult to predict how long a biodegradable sandbag would last, as a variety of assailants including; microorganisms, temperature, moisture, humidity, seawater composition and wave energy act upon beaches. In addition, pathogenic viruses, bacteria, and fungi are present in stormwater runoff. The combination of these reactants leads to the increased degradability of natural fibers used in sandbag installations.

The CRC ultimately decided that the current rule would be enforced and all uncovered sandbags would have to be removed in May 2008. Sandbag permits could still be applied for throughout this process and there was interest modifying the sandbag rules.

November 2007

DCM sent letters to 371 property owners with active sandbag structure permits in preparation for the May 1, 2008 deadline for the removal of certain sandbag structures.

March - 2008

DCM begins to inventory sandbag structures, to determine which ones will need to be removed. Sandbags structures subject to removal are prioritize based on how long they have been in place, condition of the bags, and whether they are an impediment to the public's use of the beach. This prioritization is used to notify property owners that their sandbags must be removed.

The CRC receives a Petition for Rulemaking from the Landmark Hotel Group requesting amendments to the sandbag rules that would allow specific provisions for their use in protecting commercial structures and to allow indefinite maintenance of the structures. The CRC denied the petition.

May 2008

The CRC receives a Petition for Rulemaking from the law firm Kennedy Covington Lodbell & Hickman L.L.P. representing property owners from Figure Eight Island, Nags Head and Ocean Isle Beach. The petition requested amendments to the sandbag rules to remove the time limits on sandbags and change the "actively pursuing beach nourishment" provision to a long-term erosion response plan that is modeled after the proposed static line exception. The petition also created a new sandbag management strategy for the inlet hazard areas where the maintenance of sandbags would be tied to an inlet relocation plan or an inlet-monitoring plan. The Division was supportive of the request to create a new strategy inside inlet hazard areas due to limited effectiveness of beach fill project and while the petition was denied, the CRC directed staff to incorporate some provisions of the petition that would improve the current rule language.

Variance Requests:

By the May 2008 CRC meeting, the Division had received 29 sandbag variances requests.

Comprehensive Beach Management Task Force Subcommittee Report:

Recommendations from the subcommittee include conditioning certain CAMA permits to preclude the use of sandbags under the single-family exception and consideration of alternative sandbag structure design.

July 2008

The CRC approves amendments to the sandbag rules [15A NCAC 7H .0308(a)(2)] to allow sandbags to remain in place for eight years if the community is actively seeking an inlet relocation project; require sandbags to be removed when the structure is no longer threatened, when the structure is removed or relocated, or upon completion of an inlet relocation or beach nourishment project; and to allow structures to be protected more than one time in an inlet area. Additional language was also added to the criteria by which a community would be considered pursuing a beach nourishment or inlet relocation project.

September 2008

DCM sends 20 letters to property owners requesting removal of sandbag structures that have exceeded their time limits. In addition, the GIS map depicting sandbag locations is made available on the Division's web site.

October 2008

As a result of Hurricane Hanna and an unnamed storm, Senator Basnight's office submitted a letter to the CRC stating, "If a storm exposes sandbags that had been covered and vegetated, I believe the affected property owner should be allowed to return his or her property to its pre-storm condition." In response to the storms, the CRC, under the authority of the Secretary's Emergency General Permit that was issued September 29, 2008, allowed sandbags which were previously covered and vegetated that became exposed and were in compliance prior to either Hurricane Hanna or the unnamed storm, to be re-covered with sand under Emergency General Permit 15A NCAC 7H .2500.

January 2009

Administrative Law Judge dismissed a motion to stay enforcement by 18 recipients of sandbag removal letters. The homeowners sought permission to repair their sandbag structures while they pursue variance relief, and also sought to keep DCM from going forward with enforcement. After the ruling, the Division sent Notices of Violation to homeowners who received the first round of sandbag removal letters in September 2008.

August 2009

Session Law 2009-479 (House Bill 709) establishes a moratorium on certain actions of the Coastal Resources Commission (primarily enforcing time limits) preventing the removal of a temporary erosion control structure that is located in a community that is actively pursuing a beach nourishment project or an inlet relocation project. The moratorium did not prohibit the Commission from:

- Granting permit modifications to allow the replacement, within the originally permitted dimensions, of temporary erosion control structures that have been damaged or destroyed.

- Requiring the removal of temporary erosion control structures installed in violation of its rules.
- Requiring that a temporary erosion control structure be brought back into compliance with permit conditions.
- Requiring the removal of a temporary erosion control structure that no longer protects an imminently threatened road and associated right-of-way or an imminently threatened building and associated septic system.

While the imposition of the moratorium stopped enforcement action on sandbag structures due to time limits, it did not prevent the removal of sandbags that were out of compliance with other provisions of rules, such as structure dimensions and lack of necessity. Due to the large number of sandbag structures with expiring permits, the Division developed a protocol for prioritizing structures for removal in a rational and orderly manner. Structures were prioritized based on whether or not they were covered, vegetated, or impeded public access, as well as their age and physical condition.

Of the 19 structures with sandbags initially prioritized by the Division for removal (one of the 20 was a duplicate) prior to the moratorium:

- Five had been demolished.
- Two were relocated.
- Nine were condemned.
- One was abandoned and condemned.
- Two remained occupied.

2011 – Sandbag Stakeholder Committee

Division engage stakeholders which included representatives of the Commission, Advisory Council, local government, and property owner representatives in an effort to discuss how sandbag structures were being managed, nuances of the temporary erosion control structure rules and to facilitate possible changes in the implementation of the Commission's sandbag policy. The Committee focused on specific issues including the requirement for removal of sandbags prior to nourishment projects, the covered and vegetated requirements and the possible use of other criteria in the permitting and removal of sandbags such as beach elevation and shoreline recession.

Refinement of the issues led to discussions of FEMA and how insurance payouts related to the National Flood Insurance Program (NFIP) as well as building standards (piling depths) may be contributing to the problem. There was general agreement that while the focus has been on the sandbag structures protecting houses, it is houses on the public beach that continues to be the core issue. Since the NFIP does not pay the insurance claim until there is a loss, there is no incentive for the property owner to remove the structure prior to that event. Adding to the problem is the fact many of the structures are held by out of state owners or are owned by LLCs. In most cases it is the local government's responsibility to pursue removal of structures once they are condemned and there is considerable difficulty in locating owners, or the structures are simply abandoned. There has been little financial help for local governments as the state is under no obligation to assist the local government with removal of the structures from the public beach.

While many of the issues were more thoroughly considered during the stakeholder meetings, no specific recommendations were offered. See attached Sandbag Stakeholder Committee Summary Report (CRC-11-09).

August 2011

Recognizing that the state has had a great deal more experience with the timeframes involved in securing a beach fill project and the degree of effort and commitment involved on the part of the beach communities in securing the funding and easements, the CRC amended the sandbag rules to:

- Extend the eight-year timeframe to the oceanfront in communities actively pursuing a beach nourishment project.
- Remove the one time per property restriction for oceanfront structures (under the same conditions already applied in the Inlet Hazard Areas).
- Expanded the activities a community could be actively pursuing that would warrant an extended permit time limit to include an inlet stabilization project in accordance with G.S. 113A-115.1 (CAMA amendment associated with terminal groin legislation).
- Retained the two- and five-year timeframes for structures located outside of areas seeking nourishment projects.

- (a)(2) Temporary Erosion Control Structures:
 - (A) Permittable temporary erosion control structures shall be limited to sandbags placed landward of mean high water and parallel to the shore.
 - (B) Temporary erosion control structures as defined in Part (2)(A) of this Subparagraph shall be used to protect only imminently threatened roads and associated right of ways, and buildings and their associated septic systems. A structure is considered imminently threatened if its foundation, septic system, or right-of-way in the case of roads, is less than 20 feet away from the erosion scarp. Buildings and roads located more than 20 feet from the erosion scarp or in areas where there is no obvious erosion scarp may also be found to be imminently threatened when site conditions, such as a flat beach profile or accelerated erosion, increase the risk of imminent damage to the structure.
 - (C) Temporary erosion control structures shall be used to protect only the principal structure and its associated septic system, but not appurtenances such as pools, gazebos, decks or any amenity that is allowed as an exception to the erosion setback requirement.
 - (D) Temporary erosion control structures may be placed seaward of a septic system when there is no alternative to relocate it on the same or adjoining lot so that it is landward of or in line with the structure being protected.
 - (E) Temporary erosion control structures shall not extend more than 20 feet past the sides of the structure to be protected. The landward side of such temporary erosion control structures shall not be located more than 20 feet seaward of the structure to be protected or the right-of-way in the case of roads. If a building or road is found to be imminently threatened and at an increased risk of imminent damage due to site conditions such as a flat beach profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet seaward of the structure being protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal Management or their designee in accordance with Part (2)(A) of this Subparagraph.
 - (F) Temporary erosion control structures may remain in place for up to two years after the date of approval if they are protecting a building with a total floor area of 5000 sq. ft. or less and its associated septic system, or, for up to five years for a building with a total floor area of more than 5000 sq. ft. and its associated septic system. Temporary erosion control structures may remain in place for up to five years if they are protecting a bridge or a road. The property owner shall be responsible for removal of the temporary structure within 30 days of the end of the allowable time period.
 - (G) Temporary sandbag erosion control structures may remain in place for up to eight years from the date of approval if they are located in a community that is actively pursuing a beach nourishment project, or if they are located in an Inlet Hazard Area adjacent to an inlet for which a community is actively pursuing an inlet relocation or stabilization project in accordance with G.S. 113A-115.1 For purposes of this Rule, a community is considered to be actively pursuing a beach nourishment, inlet relocation or stabilization project if it has:
 - (i) an active CAMA permit, where necessary, approving such project; or
 - (ii) been identified by a U.S. Army Corps of Engineers' Beach Nourishment Reconnaissance Study, General Reevaluation Report, Coastal Storm Damage Reduction Study or an ongoing feasibility study by the U.S. Army Corps of Engineers and a commitment of local or federal money, when necessary; or
 - (iii) received a favorable economic evaluation report on a federal project; or
 - (iv) is in the planning stages of a project designed by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements and initiated by a local government or community with a commitment of local or state funds to construct the project and the identification of the financial resources or funding bases necessary to fund the beach nourishment, inlet relocation or stabilization project.