



2023-2024 General Assembly

SENATE BILL 607: Regulatory Reform Act of 2024, Sec. 16: Authorize Establishment of a Measurement Line for Dune Building Projects Conducted Pursuant to Permitted Terminal Groin Construction

Committee:
Introduced by:
Analysis of: Sec. 16 of S.L. 2024-45

Date: August 27, 2024
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Staff Attorney

OVERVIEW: Section 16 of S.L. 2024-45 requires the Coastal Resources Commission (CRC) to, for the purpose of a dune building and beach planting project, authorize local governments that have received a permit to construct a terminal groin to establish a measurement line that represents the location of the first line of stable and natural vegetation that is covered by the dune building and beach planting project. The measurement line must be: (i) established in coordination with the Division of Coastal Management (DCM) of the Department of Environmental Quality (DEQ) using on-ground observation and survey or aerial imagery for all areas of oceanfront that undergo dune building and beach planting project; and (ii) applicable for a period of no less than two years from the completion of the dune building and beach planting project. The CRC must amend their rules for this purpose (but implement the policy, prior to an amended rule becoming effective, once the provision becomes law).

No later than August 1, 2024, DEQ must submit this change to the United States National Oceanic and Atmospheric Administration (NOAA) for approval. In addition, DEQ must report to the Environmental Review Commission on the status of their activities pursuant to this section quarterly, beginning September 1, 2024, until such time as the General Assembly repeals this reporting requirement.

The change to allow establishment of a measurement line for permitted terminal groin construction becomes effective on the later of the following dates:

- September 1, 2024.
- The first day of a month that is 60 days after the Secretary of Environmental Quality certifies to the Revisor of Statutes that NOAA has approved the changes.

This section expires when permanent rules adopted as required by the provision become effective.

BACKGROUND:

Under the rules adopted pursuant to the Coastal Area Management Act the setback for development is typically measured in a landward direction from the vegetation line, which is defined in part as:

"The vegetation line refers to the first line of stable and natural vegetation, which shall be used as the reference point for measuring oceanfront setbacks. This line represents the boundary between the normal dry-sand beach, which is subject to constant flux due to waves, tides, storms and wind, and the more stable upland areas. The vegetation line is generally located at or immediately oceanward of the seaward toe of the frontal dune or erosion escarpment."

The rules, however, authorize DCM to establish a "measurement line" in cases where a storm causes overwash or a loss of vegetation so that not enough vegetation exists to determine oceanfront setbacks.

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This line is located by using the most current pre-storm aerial photography to map the pre-storm vegetation line, and then moving it landward a distance equal to the average width of the beach recession caused by the storm. Measurement lines are generally temporary until the vegetation is re-established to the point where it can once again be used for determining oceanfront setbacks but can also be permanently designated by the CRC.

EFFECTIVE DATE: The change to allow establishment of a measurement line for permitted terminal groin construction becomes effective on the later of the following dates:

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