rec. @ meeting
10/30/13 - D. Reggiveen

10.24: continued

1. for local distribution or connecting lines not reviewed by the Energy Facilities Siting Council, the issuing authority determines that alternative routes with fewer adverse effects are not physically or legally feasible;
2. adverse effects during construction are minimized using the best available measures, which may include such equipment as Bailey-bridges and helicopters;
3. the surface vegetation and contours of the area are substantially restored;
4. When a trench is made in a salt marsh, all spoil is removed from the salt marsh upon excavation. Clean sand or other appropriate material shall be used to restore the level of the trench to that of the surrounding undisturbed salt marsh. The surface vegetation shall be restored substantially to its original condition by immediately transplanting appropriate marsh plant nursery stock once construction is completed. Baffles of concrete, clay or other non-porous material shall be placed in the trench, if necessary, to prevent groundwater excursion. During the first growing season, periodic maintenance of the marsh restoration area shall be required and shall include at least the replacement of non-surviving transplants and the removal of all deposits of debris and organic litter. During construction, equipment such as Bailey-bridges and helicopters shall be used to minimize, using best available measures, the adverse effects of construction on the salt marsh. All vehicles shall be used only on swamp mats or in such a way as to prevent tire marks, trenches, or ruts;
5. no utility shall traverse a salt marsh unless the applicant has shown that any thermal influence on the salt marsh of such line subsequent to the project being completed will not alter the natural freezing and thawing patterns of the top 24 inches of the salt marsh surface. Thermal sand, concrete or other suitable material may be used to backfill the trench to a point no less than 24 inches below grade. Above this level, clean sand shall be used to restore the level of the trench to that of the surrounding undisturbed salt marsh;
6. no permanent access roads shall be permitted except in designated port areas; and
7. all sewer lines shall be constructed so as to be watertight so as to prevent inflow and leakage.

(c) Notwithstanding the provisions of 310 CMR 10.25 through 10.35, the issuing authority may issue an Order of Conditions and impose such conditions as will contribute to the interests identified in M.G.L. c. 131, § 40 permitting the following limited project (although no such project may be permitted which will have any adverse effect on specified habitat sites of rare vertebrate or invertebrate species, as indentified by procedures established under 310 CMR 10.37):

10.24: continued

1. Maintenance and improvement of existing public roadways, but limited to widening less than a single lane, adding shoulders, correcting substandard intersections, and improving drainage systems.

2. The maintenance, repair and improvement (but not substantial enlargement) of structures, including buildings, piers, towers, headwalls, bridges and culverts which existed on November 1, 1987.

3. The routine maintenance and repair of road drainage structures including culverts and catch basins, drainage easements, ditches, watercourses and artificial water conveyances to insure flow capacities which existed on November 1, 1987.

4. The closure of landfills when undertaken to comply with the requirements of 310 CMR 19.000; provided, however, that:

a. a project design alternative analysis shall be prepared in accordance with 310 CMR 19.150; and

b. such projects shall be designed, constructed, implemented, operated, and maintained to avoid or, where avoidance is not practicable, to minimize impacts to resource areas, and to meet the following standards to the maximum extent practicable:

i. hydrological changes to resource areas shall be minimized;

ii. best management practices shall be used to minimize adverse impacts during construction, including prevention of erosion and siltation of adjacent water bodies and wetlands in accordance with standard U.S.D.A. Soil Conservation Service methods;

iii. mitigating measures shall be implemented that contribute to the protection of the interests identified in M.G.L. c. 131, § 40;

iv. no access road, assessment or monitoring device, or other structure or activity shall restrict flows so as to cause an increase in flood stage or velocity;

v. temporary structures and work areas in resource areas, such as access roads and assessment and monitoring devices, shall be removed within 30 days of the Department's written determination that the closure of the facility has been completed in accordance with the closure permit. Temporary alterations to resource areas shall be substantially restored to preexisting hydrology and topography. At least 75% of the surface of any area of disturbed vegetation shall be reestablished with indigenous wetland plant species within two growing seasons and prior to said vegetative reestablishment any exposed soil in the area of disturbed vegetation shall be temporarily stabilized to prevent erosion in accordance with standard U.S.D.A. Soil Conservation Service methods. Temporary structures, work areas, and alterations to resource areas are those that no longer are necessary to fulfill the requirements of 310 CMR 19.000;

vi. except for direct impacts to resource areas caused by the final cap and cover on the landfill, no changes in the existing topography or the existing soil and surface water levels shall be permitted, except for those resulting from temporary access roads;

vii. work in resource areas shall occur only when the ground is sufficiently frozen, dry, or otherwise stable to support the equipment used; and

viii. such projects shall not include the construction of new landfills or the expansion or modification of existing landfills.

5. Airport vegetation removal projects; provided, however, that:

a. such projects must be undertaken in order to comply with Federal Aviation Administration (FAA) Regulation Part 77 (14 CFR Part 77), FAA Advisory Circular 150/5300-13 (Navigational Aids and Approach Light Systems), and FAA Order 6480.4 (Air Traffic Control Tower Siting Criteria), all as amended, or to comply with the airport approach regulations set forth in M.G.L. c. 90, §§ 40A through 40I;

10.30: continued

WHEN A COASTAL BANK IS DETERMINED TO BE SIGNIFICANT TO STORM DAMAGE PREVENTION OR FLOOD CONTROL BECAUSE IT SUPPLIES SEDIMENT TO COASTAL BEACHES, COASTAL DUNES OR BARRIER BEACHES, 310 CMR 10.30(3) through (5) SHALL APPLY:

(3) No new bulkhead, revetment, seawall, groin or other coastal engineering structure shall be permitted on such a coastal bank except that such a coastal engineering structure shall be permitted when required to prevent storm damage to buildings constructed prior to the effective date of 310 CMR 10.21 through 10.37 or constructed pursuant to a Notice of Intent filed prior to the effective date of 310 CMR 10.21 through 10.37 (August 10, 1978), including reconstructions of such buildings subsequent to the effective date of 310 CMR 10.21 through 10.37, provided that the following requirements are met:

(a) a coastal engineering structure or a modification thereto shall be designed and constructed so as to minimize, using best available measures, adverse effects on adjacent or nearby coastal beaches due to changes in wave action, and

(b) the applicant demonstrates that no method of protecting the building other than the proposed coastal engineering structure is feasible.

(c) protective planting designed to reduce erosion may be permitted.

(4) Any project on a coastal bank or within 100 feet landward of the top of a coastal bank, other than a structure permitted by 310 CMR 10.30(3), shall not have an adverse effect due to wave action on the movement of sediment from the coastal bank to coastal beaches or land subject to tidal action.

(5) The Order of Conditions and the Certificate of Compliance for any new building within 100 feet landward of the top of a coastal bank permitted by the issuing authority under M.G.L. c. 131, § 40 shall contain the specific condition: 310 CMR 10.30(3), promulgated under M.G.L. c. 131, § 40, requires that no coastal engineering structure, such as a bulkhead, revetment, or seawall shall be permitted on an eroding bank at any time in the future to protect the project allowed by this Order of Conditions.

WHEN A COASTAL BANK IS DETERMINED TO BE SIGNIFICANT TO STORM DAMAGE PREVENTION OR FLOOD CONTROL BECAUSE IT IS A VERTICAL BUFFER TO STORM WATERS, 310 CMR 10.30(6) through (8) SHALL APPLY:

(6) Any project on such a coastal bank or within 100 feet landward of the top of such coastal bank shall have no adverse effects on the stability of the coastal bank.

(7) Bulkheads, revetments, seawalls, groins or other coastal engineering structures may be permitted on such a coastal bank except when such bank is significant to storm damage prevention or flood control because it supplies sediment to coastal beaches, coastal dunes, and barrier beaches.

(8) Notwithstanding the provisions of 310 CMR 10.30(3) through (7), no project may be permitted which will have any adverse effect on specified habitat sites of rare vertebrate or invertebrate species, as identified by procedures established under 310 CMR 10.37.

10.31: Rocky Intertidal Shores

(1) Preamble. Rocky intertidal shores are likely to be significant to storm damage prevention, flood control, protection of marine fisheries and wildlife habitat and where there are shellfish, protection of land containing shellfish.*

Rocky shore environments are habitats for macroalgae and marine invertebrates and provide protection to and food for, larger marine organisms such as crabs, lobsters, and such fish species as winter flounder, as well as a number of birds. Most marine plants and animals found in rocky shore environments are uniquely adapted to survive there and cannot survive elsewhere. Harbor seals also use rocky intertidal shores, such as rock outcroppings or isolated shores of small islands, as haul out areas.