



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

COASTAL RESOURCES MANAGEMENT COUNCIL
Oliver H. Stedman Government Center
4808 Tower Hill Road, Suite 3
Wakefield, R.I. 02879-1900

(401) 783-3370
FAX: (401) 783-3767

March 21, 2011

John King, Division Chief
Coastal Programs Division, N/ORM3
Office of Ocean and Coastal Resource Management
NOAA Ocean Service
1305 East West Highway
Silver Spring, MD 20910

Dear Mr. King:

Pursuant to 15 CFR 923.84, enclosed is a Rhode Island Coastal Resources Management Council Routine Program Change (RPC).

It is submitted in the form of a package, which consists of:

- An explanation of each RPC;
The public notice version of the change (which was published in accordance with the
- Rhode Island General Laws);
- The Council's response to comments received, if any, vis-à-vis this RPC.

Additionally, attached is the public notice that, concurrent with this request, is being published in the Providence Journal, a newspaper with statewide circulation, that notifies the public that the Council is seeking federal concurrence with the Council's determination that these changes are routine.

If you have any questions, please do not hesitate to contact me at (401) 783-3370.

Sincerely,

Jeffrey M. Willis, Deputy Director
Coastal Resources Management Council

cc: Grover J. Fugate, Executive Director
Allison Castellan, OCRM

State of Rhode Island
COASTAL RESOURCES MANAGEMENT COUNCIL
Oliver Stedman Government Center
4808 Tower Hill Road
Wakefield, RI 02879

PUBLIC NOTICE

Pursuant to the federal requirements of the Coastal Zone Management Act §306(e) and 15 C.F.R. §923.84(b), the Rhode Island Coastal Resources Management Council (CRMC) has submitted to the Office of Ocean and Coastal Resource Management (OCRM) of the National Oceanic and Atmospheric Administration changes to the federally-approved Rhode Island Coastal Resources Management Program (RICRMP). The CRMC has duly-adopted these changes in accordance with the state Administrative Procedures Act, and is now requesting the concurrence of OCRM as routine changes to the federal program.

These changes update the RICRMP as established through its statutory authorities and occurred October 19, 2010. The updated enforceable policies and authorities appear within the following CRMC programs:

Rhode Island Coastal Resources Management Program Ocean Special Area Management Plan (Ocean SAMP) and include the Ocean SAMP as established through its statutory authorities on October 19, 2010, and subsequent changes to the Ocean SAMP to address comments from OCRM.

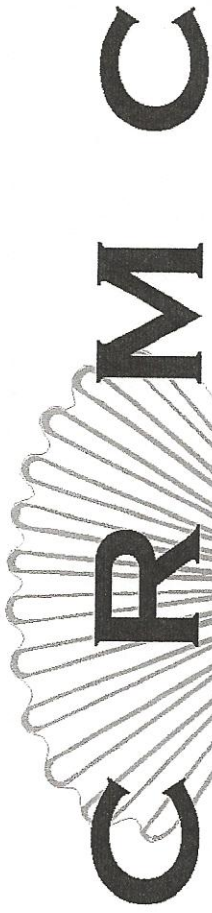
The incorporation of these provisions into the Rhode Island CRMP will allow the State to review federal activities, permits, licenses, and federal assistance for consistency with these policies as provided in section 1456 of the Coastal Zone Management Act.

OCRM is now reviewing this request for concurrence in the determination that these changes are routine and do not require analysis under the National Environmental Policy Act. The intent of this review is to take the OSAMP as adopted by the CRMC and review it along with proposed revisions currently under state review (http://www.crmc.ri.gov/regulations_proposed/04-26-2011_OSAMP_Proposed.pdf) and approve both under one decision. Comments regarding whether the incorporation of these changes into the Rhode Island CRMP qualifies as a routine program change as provided at 15 C.F.R. §923.84(b) may be submitted to OCRM. Send comments to:

John King, Division Chief
Coastal Programs Division, N/ORM3
Office of Ocean and Coastal Resources Management
NOAA Ocean Service
1305 East West Highway
Silver Spring, MD 20910

Comments will be accepted by OCRM for three weeks following the date of publication of this notice herein. The detailed request to OCRM is available at the CRMC's website www.crmc.ri.gov/regulations.

Any questions regarding this notice should be directed to Grover J. Fugate, Executive Director, Coastal Resources Management Council, at (401) 783-3370.



COASTAL RESOURCES MANAGEMENT COUNCIL

Routine Program Changes

For the Period of:

October 19, 2010

The following changes to the federally approved Rhode Island Coastal Resources Management Program are considered to be routine program changes. Routine Program Changes are defined in 15 CFR 923.84 as further detailing of a state's program that are the result of implementing provisions approved as part of a State's approved management program that do not result in substantive changes in or to the enforceable policies or authorities to those identified in 15 CFR Part 923, subparts B through F, which include 1) uses subject to management; 2) special management areas; 3) the boundaries of the coastal zone; 4) authorities and organization; and 5) coordination, public involvement and national interest. The RICRMC hereby declares that the changes herein meet these criteria and therefore are routine program changes.

Each of the following new or changed section(s) is embodied in the subsequently-identified element of the state coastal program, where said element is the mechanism by which the state ensures that each new or changed enforceable policy is legally binding under state law.

Incorporation of New Rules or Regulations

Changes to the RHODE ISLAND COASTAL RESOURCES MANAGEMENT PROGRAM				
Name/Description of State or Local Law/ Regulation/Policy/Program Authority or Change	State/Local Legal Citation	Enforcement Mechanism(s)	Date Adopted by State	Date Effective in State
<p>ADDED:</p> <p>These regulations are subject to management and serve as a regulatory, planning and adaptive management tool of the Rhode Island Coastal Resources Management Council (CRMC) to uphold its regulatory responsibilities. Using the best available science and working with well-informed and committed resource users, researchers, environmental and civic organizations, and local, state and federal government agencies, the Ocean SAMP provides a comprehensive understanding of this complex and rich ecosystem. The Ocean SAMP also documents how the people of Rhode Island have used and depended upon these offshore resources for subsistence, work, and play. It also documents important natural wildlife, fish, birds, marine mammals and sea turtles, their habitats and areas important to their survival. To fulfill the agency's mandate, the Ocean SAMP lays out enforceable policies and recommendations to guide CRMC in promoting a balanced and comprehensive ecosystem-based management approach to the development and protection of Rhode Island's ocean-based resources within the state waters of the Ocean SAMP study area.</p> <p>Accompanying the Council approved document are changes which have been suggested by OCRM to ensure the Ocean SAMP remains a minor modification of our existing program. These have been approved by the Ocean SAMP subcommittee and are out for public comment right now. There are no changes in jurisdiction or activities that are regulated. The SAMP merely provides greater guidance to the regulated community as to what is acceptable or not. In addition it adds to the information regarding the natural system and human uses of the system so we can better manage this system.</p> <p>There has been no change in the activities as enumerated in the Rhode Island Coastal Resources Management Plan as contained in jurisdiction, activities regulated or standard to which these activities have to meet.</p>	<p>Ocean Special Area Mgmt Plan</p>	<p>RICRMP; OSAMP; RIGL 46-23</p>	<p>19-Oct-10</p>	<p>26-Dec-10</p>

Incorporation of New Rules or Regulations

<p>The Ocean Special Area Management Plan (OSAMP) is a routine program change (RPC) under NOAA's regulations (15 C.F.R. Part 923, Subpart H) and is not a substantial change since the OSAMP does nothing to change either the jurisdiction or scope of regulated activities within type 4 waters within the OSAMP area. (Type 4 waters include the large expanses of open water in the state's territorial seas as well as the open waters of Narragansett Bay, Block Island and Rhode Island sounds which support a variety of commercial and recreational activities while maintaining good value as a fish and wildlife habitat. The policies for Type 4 waters include maintaining a balance among the diverse activities that must coexist in Type 4 waters; changing characteristics of traditional activities and the development of new water-dependent uses shall, where possible, be accommodated in keeping with the principle that the Council shall work to preserve and restore ecological systems; recognizing that large portions of Type 4 waters include important fishing grounds and fishery habitats, ...</p>			
<p>... and shall protect such areas from alterations and activities that threaten the vitality of Rhode Island fisheries; and, aquaculture leases shall be considered if the Council is satisfied there will be no significant adverse impacts on the traditional fishery.) Since its creation in 1971 the CRMC has had a comprehensive planning authority for all of the states coastal resources. The OSAMP will not result in any change to the uses or activities described in the Rhode Island Coastal Resources Management Program (RICRMP), no change to the jurisdiction of the RICRMP, and non-substantial changes to some of the standards/enforceable policies of the RICRMP (as described below).</p>			
<p>The OSAMP documents the resources and behavior of the ecosystem within Rhode Island's jurisdictional waters for type 4 waters. It also describes for major and minor ocean development activities, areas where these activities may not be suitable (Areas of Particular Concern) due to resource impacts, existing regulatory constraints such as regulated navigation routes and DoD interests, or site suitability. There are also areas (Areas Designated for Preservation) that for the time being have been determined to be unsuitable for major ocean development due to the potential to destroy these areas as important avian habitat. The OSAMP is more specific in the information required for these activities.</p>			
<p>It is important to note that the Coastal Resources Management Council (Council), under the current RICRMP (without the OSAMP), could determine that major and minor ocean development activities may not be suitable for certain areas of state waters due to resource impacts or site suitability.</p>			
<p>The OSAMP also creates two advisory boards (Fishermen's Advisory Board and the Habitat Advisory Board) but these remain advisory to the Council and the Council does not relinquish any authority or jurisdiction to these boards.</p>			

Incorporation of New Rules or Regulations

<p>The Policies which the OSAMP considers enforceable for Federal Consistency Purposes in the document are contained in the Regulatory Standards section for each of the applicable chapters. The specific additions to RICRMP enforceable policies include: More specific breakout as to the categorization of applications into minor and major ocean development; Setting out a preferred area for renewable energy development in a renewable energy zone consistent with Section 300.8 and the Energy Amendments in the RICRMP; Setting up a process and review that is consistent and seamless with current federal reviews for similar activities; Formalizing the joint agency work group which currently reviews all application in the area now under the ACOE's Programmatic General Permit Review; Be more explicit in the protection standards for the fisher already protected in type 4 water policies; Setting clearer standard for review of historic resources that are already protected in section 220 and 300.30 of the RICRMP;</p>			
<p>Establishing clearer protections goals for habitat and important ecological resources already protected in type 4 water policies, 300.1 and 300.18 of the RICRMP, through the establishment of APS's and ADP's; The review of mining, sand and gravel extraction, aquaculture and dredging do not change from the current process except for being more specific where dredge material can not be disposed of consistent with 300.1, 3009.9, 200.4 and 300.18 of the RICRMP; Setting out clearer informational requirements for applicants pursuing development applications; Reorganizing the application and approval process into 3 phases to allow for a more rational application process that is commensurate with the information that is required for each phase. Therefore, since the CRMC is not adding new uses to the RICRMP, the CRMC can already address the activities discussed in the OSAMP through Council Assents and/or CZMA federal consistency, and the OSAMP enforceable policies are either restatements or further clarifications of existing policies or include only a few new enforceable policies, the OSAMP is a routine program change.</p>			
<p>The new and revised RICRMP enforceable policies added by the OSAMP are:</p>			
<p>The enforceable policies for federal consistency purposes are herein contained in the Rhode Island Coastal Resources Management Program/Ocean Special Area Management Plan Chapter 11, Section 1160 - Regulatory Standards</p>			

STATE OF RHODE ISLAND
COASTAL RESOURCES MANAGEMENT COUNCIL

Oliver-Stedman Government Center
4808 Tower Hill Road; Suite 3, Wakefield, RI 02879-1900

In accordance with and pursuant to the provisions of the "Administrative Procedures Act" (Section 42-35-3 of the General Laws of Rhode Island) and the Rule and Regulations of the Coastal Resources Management Council, notice is hereby given of the intention of the Coastal Resources Management Council to change the management plans, policies, procedures and regulations of the agency regarding planning and management of the coastal resources of the State relative to Chapter 46-23 of the State of Rhode Island.

The following changes are proposed:

**RI Coastal Resources Management Program/
Ocean Special Area Management Plan (Ocean SAMP)**

Executive Summary

The purpose of this chapter is to provide an overview of the Ocean SAMP document – why it was developed; a brief history of the Rhode Island Coastal Resources Management Council's history in creating SAMPs; the goals of the SAMP; and the process by which the Ocean SAMP was produced.

Section 100: Chapter 1 – Introduction

The purpose of this chapter will provide a broad overview of the SAMP area and SAMP document, laying the foundation for the subsequent chapters which describe the present status of the Ocean SAMP study area, characterize the natural attributes and resources of this body of water, describe current uses, identify and review existing and potential future use impacts, and present policies and recommendations that will help federal, state, and local governments work with the people of Rhode Island to wisely manage the Ocean SAMP study area for this and future generations.

Section 1100: Chapter 11 – New Policies and Regulations

While a number of federal and state statutes, regulations, and policies now govern the uses of the areas contained within the Ocean SAMP, the purpose of this chapter is to address additional provisions to provide policy direction for, and regulation and management of, new ocean resources and uses, as well as to enhance management of existing activities. The Ocean SAMP New Policies Chapter addresses these emerging policies.

The Rhode Island Ocean Special Area Management Plan (Ocean SAMP) in its entirety

The purpose of the Ocean Special Area Management Plan (Ocean SAMP) is to serve as a regulatory, planning and adaptive management tool of the Rhode Island Coastal Resources Management Council (CRMC) to uphold its regulatory responsibilities. Using the best available science and working with well-informed and committed resource users, researchers, environmental and civic organizations, and

local, state and federal government agencies, the Ocean SAMP provides a comprehensive understanding of this complex and rich ecosystem.

The Ocean SAMP also documents how the people of Rhode Island have used and depended upon these offshore resources for subsistence, work, and play. It also documents important natural wildlife, fish, birds, marine mammals and sea turtles, their habitats and areas important to their survival. To fulfill the Council's mandate, the Ocean SAMP lays out enforceable policies and recommendations to guide CRMC in promoting a balanced and comprehensive ecosystem-based management approach to the development and protection of Rhode Island's ocean-based resources within the state waters of the Ocean SAMP study area.

Please go to the following websites to download chapters for review. Also see the Ocean SAMP websites at www.crmc.ri.gov/samp_ocean.html and <http://seagrant.gso.uri.edu/oceansamp/> for detailed information regarding the SAMP's development.

The Council has complied with the requirements of R.I. Gen. Laws Section 42-35-3 by considering alternative approaches to the proposed regulation(s) and has determined that there is/are no alternative approach(es) that would be as effective and less burdensome. The Council has also determined that the proposed regulation(s) do(es) not overlap or duplicate any other state regulation. The Council has complied with the requirements of R.I. Gen. Laws Section 42-35-3.3 by submitting copies of the proposed regulation(s) to the Governor's Office and the Economic Development Corporation (EDC).

Parties interested in or concerned with the above proposed changes are invited to **submit written comments by Thursday September 9, 2010**. All such comments should be directed to Grover J. Fugate, Executive Director, at the above address.

A public hearing has been scheduled for these proposed changes to be held on Tuesday, August 24, 2010, Tuesday, September 14, 2010, with final action on Tuesday, October 12, 2010. Each of these hearings will take place at 6:00 p.m. in Conference Room A, Administration Building, One Capitol Hill, Providence, RI.

Copies of the proposed regulations are also available from the Coastal Resources Management Council offices and its website – www.crmc.ri.gov.

Individuals requesting interpreter services for the hearing impaired must notify the Council office at 783-3370, 72 hours in advance of the hearing date.

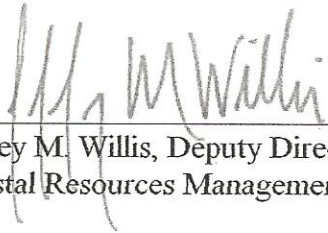
Further information may be obtained by contacting the Coastal Resources Management Council offices at 783-3370.

NOTICE

These changes are considered to be routine program changes to the federally approved Coastal Resources Management Program of Rhode Island. The CRMC will be requesting that the federal Office of Ocean and Coastal Resources Management concur with this determination when it seeks inclusion of such in the federally approved program. Persons who disagree that these are routine modifications to the federally approved program may submit such written comments within three weeks of the date of the issuance of this notice to:

John King
Division Chief
NOAA/NOS/OCRM
Coastal Programs Division
1305 East-West Highway, SSMC4
Silver Spring, MD 20910

Signed this 23rd day of July, 2010.



Jeffrey M. Willis, Deputy Director
Coastal Resources Management Council

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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

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Wakefield, R.I. 02879-1900

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FAX: (401) 783-3767

March 10, 2011

Ocean SAMP Routine Program Changes – Addendum

Due to the significant volume of paper that is the OSAMP and its accompanying documents, please refer to the following webpages for the following information:

- **Full version Ocean SAMP as adopted by the RICRMC:**
http://www.crmc.ri.gov/samp_ocean.html
 - **Comments received and RICRMC Response to comments:**
http://www.crmc.ri.gov/samp_ocean/FullSAMP_Responses.pdf
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