



Memorandum

To: Michael Tikoian, Chair; Council members; and Grover Fugate
From: James Boyd, Coastal Policy Analyst
Date: December 8, 2010
Re: Proposed amendments to **CRMP Section 300.6**

The Council advertised for public notice the above referenced CRMP amendments on October 19, 2010. The primary purpose of the amendments are to bring Section 300.6 into compliance with the requirements of the “Smart Development for a Cleaner Bay Act of 2007” promulgated under R.I.G.L. § 45-61.2. The Act requires the CRMC and DEM to update the *Rhode Island Stormwater Design and Installations Standards Manual* and to incorporate low impact development (LID) techniques for managing stormwater runoff. The revised state stormwater manual, dated December 2010, has now been completed. Further, the Act required both CRMC and DEM to incorporate the revised manual and LID requirements into existing regulatory programs. The proposed CRMP 300.6 amendments have been developed to comply with state law. As a matter of information, the DEM has recently promulgated new stormwater rules and, as of December 8, filed them with the Secretary of State.

Two comments were submitted in response to the CRMC public notice. Dominion Resources Services, Inc. submitted comments dated November 18 in regard to the redevelopment provision under 300.6.E.7. Staff agrees with their concern and recommends the proposed revision to 300.6.E.7 below to address the issue. The second comment was submitted by RIDOT on December 6 in regard to allowing an extended permit filing process for major roadway construction projects. Staff in consultation with DEM proposed language to provide an extended filing period similar to the extended filing period provided in the public notice for major land development projects that require local Master Plan approval. After further consultation with RIDOT, staff believes the proposed revisions below will adequately address RIDOT concerns. **All staff proposed revisions to the public notice text are shown as underlined for new text and ~~strikethrough~~ for deleted text.**

300.6.C.2 - *Revise public notice text based on consultation with DEM RIPDES program staff to remove old outdated prerequisite*

- ~~All federal water pollution control requirements established by the Federal Water Pollution Control Act (Clean Water Act), as amended, or established by the federal government or by any state or local government pursuant to such act, are the water pollution control requirements of the Rhode Island Coastal Resources Management Program. Accordingly, all discharge standards, effluent limitations and/or pretreatment standards established pursuant to the Clean Water Act for discharges of pollutants to the waters of Rhode Island under the Rhode Island Pollutant Discharge Elimination System (RIPDES) shall be met (Rhode Island is an EPA-delegated state with respect to the NPDES program). In addition, applicants shall obtain an Underground Injection Control (UIC) permit from the Rhode Island Department of Environmental Management when applicable. The discharge standards, effluent limitations and pretreatment standards established for the discharge of pollutants to waters of the State under the Rhode Island Pollutant Discharge Elimination System (RIPDES) program, and administered by the Department of Environmental Management (DEM), are the State's water pollution control requirements. Applicants for projects for which an Individual RIPDES Permit is required shall obtain said permit from DEM and submit the Individual RIPDES Permit with the CRMC Assent application. **Note:** Projects that are eligible to submit a Notice of Intent (NOI) for coverage under a RIPDES General Permit are not required to submit the RIPDES Authorization with the CRMC Assent application. Applicants for such projects, however, are encouraged to file a Notice of Intent (NOI) with DEM concurrently with their CRMC application to allow a coordinated review between the agencies.~~

300.6.E.2 and 300.6.E.3 - Combine Sections 2 and 3 into subsections 2(a) and (b) and revise public notice text as follows. Subsection 2(b) was added to provide extended application filing process for RIDOT (at their request) similar to the process provided in draft rule for projects with local Master Plan approval and subsequently modified based on consultation with RIDOT.

2. The 1993 *Rhode Island Stormwater Design and Installation Standards Manual* (“Stormwater Manual”) will be superseded by the 2010 Stormwater Manual upon effective date of adoption by the Council. Unless otherwise provided in ~~this~~ subsections (a) or (b), the requirements of the 2010 Stormwater Manual, as amended, shall apply to all CRMC applications submitted on or after January 1, 2011. ~~The 2010 Stormwater Manual as amended may be used in lieu of the 1993 Stormwater Manual beginning on or after the effective date of adoption by the Council.~~

~~3~~a. Applicants for projects which have a currently valid and vested Master Plan approval from a local planning board or commission on or before March 31, 2011 may elect to comply with the 1993 Stormwater Manual instead of the 2010 Stormwater Manual provided that a complete application for the project is submitted to the CRMC on or before June 30, 2011. Any project applicant that received Master Plan approval who submits an application to the CRMC after June 30, 2011 shall comply with the 2010 Stormwater Manual, including any future phases of a phased project having received Master Plan approval as of March 31, 2011. Applicants shall, at the time of application, submit a copy of the Master Plan approval document(s) demonstrating eligibility under this subsection. This subsection applies only to those projects which are required to obtain local Master Plan approval pursuant to R.I.G.L. § 45-23-40.

b. In the case of any RIDOT project or a local government road or bridge project, the applicant may elect to comply with the 1993 Stormwater Manual instead of the 2010 Stormwater Manual provided that a complete application for the project is submitted to the CRMC on or before June 30, 2011. Any application submitted to the CRMC after June 30, 2011 shall comply with the 2010 Stormwater Manual.

300.6.E.6 - Append public notice text as follows

6. Roadways, highways, bridges, and other projects subject to Section 300.13 shall provide treatment and management of stormwater runoff for all new impervious surfaces. These projects shall submit a stormwater management plan that demonstrates compliance with the eleven (11) minimum stormwater management standards and performance criteria as detailed in the most recent version of the *Rhode Island Stormwater Design and Installation Standards Manual*. Any improvement projects to existing roads, highways and bridges and other projects subject to Section 300.13 that result in the creation of new impervious surfaces shall provide treatment and management of stormwater as above for all new impervious surfaces. Maintenance activities such as pavement resurfacing projects, replacement of existing drainage systems, minor roadway repairs, or emergency roadway and drainage repairs are excluded from these requirements provided there is no expansion of the existing impervious surface area and no new or enlarged stormwater discharges.

300.6.E.7 – Append public notice text to address concern raised by public comment

7. Any redevelopment that disturbs existing impervious surface coverage, regardless of the total area disturbed, shall comply with Minimum Stormwater Standard 6 (Redevelopment and Infill Projects) of the most recent version of the *Rhode Island Stormwater Design and Installation Standards Manual*. Maintenance activities subject to Section 300.14 are excluded from these requirements provided there is no expansion of the existing impervious surface area and no new or enlarged stormwater discharges resulting from the maintenance activity.