



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Office for Coastal Management
Silver Spring Metro Center, Building 4
1305 East-West Highway
Silver Spring, Maryland 20910

August 5, 2022

Jeffery Willis, Executive Director
Rhode Island Coastal Resources Management Council
Oliver H. Stedman Government Center
4808 Tower Hill Road, Suite 3
Wakefield, RI 02879

Dear Mr. Willis,

Thank you for the June 22, 2022, request for approval of changes to the Rhode Island Coastal Management Program (CMP) pursuant to the National Oceanic and Atmospheric Administration (NOAA) Coastal Zone Management Act (CZMA) regulations at 15 CFR part 923, subpart H.¹

NOAA's Office for Coastal Management approves the request subject to the qualifications below.

NOAA's regulations require that the state post this decision by the Office for Coastal Management for public notice.² The public notice should state that as of the date of this decision letter the enforceable policies identified in the attached Table of Approved Changes shall be applicable in reviewing federal actions pursuant to the federal consistency requirements of the CZMA and its implementing regulations found at 15 CFR part 930.³ Please send a copy of the public notice to the Office for Coastal Management for our records to close out this file.

PUBLIC AND FEDERAL AGENCY COMMENTS

The Office for Coastal Management did not receive any comments on this program change submission.

CHANGES APPROVED

See the attached Table of Approved Changes to the Rhode Island Coastal Management Program.

¹ This program change request was submitted under NOAA's revised CZMA program change regulations at 15 CFR part 923, subpart H. The Office for Coastal Management's decision due date was July 22, 2022. The review was extended to August 5, 2022.

² 15 CFR § 923.81(e)(5).

³ 15 CFR § 923.81(f).

QUALIFICATIONS

In the submitted table of proposed changes, the column indicating whether the program change pertains to enforceable policies was mistakenly marked as “No.” As originally incorporated into Rhode Island’s CMP in 2000 (RI-1999-2), the Salt Pond Special Area Management Plan (SAMP) contains enforceable policies. When Rhode Island provided the “No” answer in the table of proposed changes, it was apparently under the impression that because it proposed no changes to enforceable policies, the answer should be “No.” The Table of Approved Changes corrects this error. Although the Salt Pond SAMP was approved as an enforceable policy in its entirety in 2000, only the substantive standards within the statute or regulation may be applied as enforceable policies for CZMA Federal consistency reviews. Procedural requirements are not considered to be enforceable policies for CZMA review purposes. See 15 CFR § 923.84(b)(2)(i).

As a standard qualification applying to all program changes, states may not incorporate enforceable policies by reference. If an approved enforceable policy refers to another statute, regulation, policy, standard, guidance, or other such requirement or document, the referenced policy must be submitted to and approved by the Office for Coastal Management as an enforceable policy in order to be applied under the federal consistency review provisions of the CZMA. No referenced policy may be applied for CZMA federal consistency review purposes unless that policy has been separately reviewed and approved as an enforceable policy by the Office for Coastal Management.

Thank you for your cooperation in this review. Please contact Allison Castellan at 202-596-5039, if you have any questions. For future correspondence regarding these program changes, please refer to the file number assigned to this action, RI-2022-3.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joelle Gore', with a long horizontal flourish extending to the right.

Joelle Gore, Chief Stewardship Division

Attachment: Table of Approved Changes RI-2022-3

RI-2022-3: Table of Approved Changes

Please see the Office for Coastal Management August 5, 2022, decision letter for any qualifications, clarifications or exceptions that apply to these approved changes.

Legal citation <i>1000 Character Limit</i>	Title of policy, section, or other descriptor	Is the change new, revised, or deleted	Date effective in state	Enforceable policy	Enforceable mechanism citation
650-RICR-20-00-3 See: https://rules.sos.ri.gov/regulations/part/650-20-00-3	Salt Pond Region Special Area Management Plan	Revised (reformatted)	02/23/1999	Yes	Rhode Island General Laws § 46-23-6