



## Memorandum

To: Michael Tikoian, Chair; Council members; and Grover Fugate  
From: James Boyd, Coastal Policy Analyst  
Date: January 20, 2011  
Re: Proposed amendments to CRMC “Rules and Regulations Governing the Protection and Management of Freshwater Wetlands in the Vicinity of the Coast”

The Council advertised for public notice the above referenced CRMP amendments on October 29, 2010. The primary purposes of the amendments are to revise entirely the format and content of the CRMC regulations for consistency with revisions to the RIDEM “Rules and regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act.”

One comment letter was submitted in response to the CRMC public notice. The RI Historical Preservation & Heritage Commission (HPHC) submitted comments dated December 10, 2010. Staff concurs with their suggested proposed revision to Rules 2.02.F and 10.05.C, with the exception of including “freshwater wetlands created by dams” as historic resources. CRMC staff believes that inclusion of such language could impede the CRMC’s ability to appropriately regulate freshwater wetlands in the vicinity of the coast.

In addition to the above, staff propose several other revisions as follows. **All staff proposed revisions to the public notice text are shown as underlined for new text and ~~strikethrough~~ for deleted text.**

### **Rule 2.02.F - *Revise public notice text to address HPHC comment.***

F. The CRMC recognizes that *dams* have created *freshwater wetlands* that may provide important wildlife habitats and recreational areas and may provide other important functions, values and benefits such as flood storage areas. The CRMC recognizes that *dams* may also be historic resources (listed on the National Register of Historic Places or eligible for listing) and that preservation of such resources is desirable. Also, consistent with its responsibilities under R.I.G.L. 46-19, Inspection of Dams and Reservoirs, the CRMC finds that many *dams* in the state are in disrepair and may present safety hazards to the public. The CRMC hereby acknowledges that, as a result of an analysis of alternatives for addressing a *dam*’s state of disrepair, the removal or *substantial alteration of a dam* may be required by the CRMC for reasons of public safety. The CRMC finds that the removal or *substantial alteration of a dam* for public safety reasons may be deemed consistent with the authority and purposes of these *Rules* provided that no other feasible alternative is available and impacts related to the *dam*’s removal or alteration are assessed and acceptably mitigated in accordance with these *Rules*.

### **Rule 7.12.A(3) – *Revise in its entirety public notice text for consistency with CRMP Section 300.6 adopted by the Council on December 14, 2010***

(3) 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 Request for Preliminary Determination or Application to Alter Freshwater Wetlands submitted to the CRMC after June 30, 2011 shall comply with the 2010 Stormwater Manual.

**Rule 7.12.A(5)** – *Add new section to make clear that unless otherwise exempted under the rules, projects are required to meet stormwater requirements of CRMP Section 300.6 adopted by the Council on December 14, 2010*

- (5) Unless otherwise exempted as provided in Sections 6.05 or 6.06, all single-family residential, non-residential, multi-family residential and accessory structure projects shall comply with the stormwater requirements of Section 300.6 of the Coastal Resources Management Program.

**Rule 10.05.C.14** - *Revise public notice text to address HPHC comments.*

14. Significant loss of important open space or significant modification of any uncommon geologic features or archaeological ~~features~~ sites that are listed on the National Register of Historic Places or eligible for listing