



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

April 30, 2008

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 are the Rhode Island Coastal Resources Management Council's Routine Program Changes (RPCs) from July 2007 through December 2007.

They are submitted in the form of a package, which consists of:

- An explanation of each RPC;
The public notice version of each change (which were published in the Providence Journal Bulletin, a periodical of state-wide circulation);
- Journal Bulletin, a periodical of state-wide circulation);
- The Council's response to comments received, if any, vis-à-vis these RPCs.

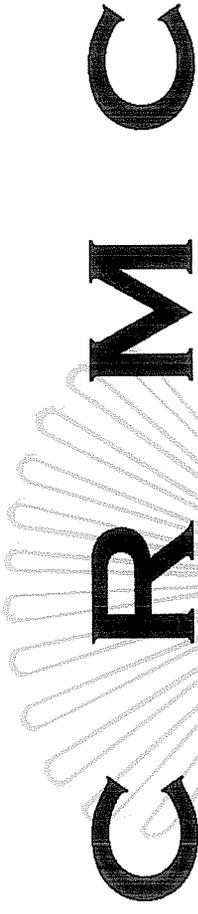
Additionally, attached is the public notice that is being published in the Providence Journal on May 5, 2008 that notifies the public that the Council is seeking federal concurrence with the Council's determination that these changes are routine.

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



COASTAL RESOURCES MANAGEMENT COUNCIL

Routine Program Changes

For the Period of:

July 2007 through December 2007

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 Changes to Sections or Subsections of 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>MODIFIED: <i>CRMP-SAMP's Management Procedures</i></p>				
<p>This revision to the Providence Quadrangle water type map was a minor change to uses subject to management in that it aligns water use zoning to better match current uses. Type 4 waters do not prohibit industrial/commercial use but rather provide more flexibility. Type 4 waters are multi-use waters that "...could support water-dependent commercial, industrial, and/or high-intensity recreational activities." The revision specifically addressed the historic Type 6 waters designation (Industrial and Commercial waters) along the shoreline from approximately the Cranston/ Providence line to Field's Point and revised it to Type 4 waters, which is more in keeping with the activities of the day found here, as Johnson & Wales University is planning recreational ball fields uses, and Save the Bay has its education center here. The revision was first asked for by Save the Bay.</p>	<p>Revise quadrangle maps water types - Providence Quadrangle</p>	<p>RICRMP; RIGL 46-23</p>	<p>25-Sep-2007</p>	<p>18-Oct-2007</p>
<p>This revision was a minor technical change in that its purpose was to replace the word 'seawalls' with 'structural shoreline protection facilities' for consistency with existing language throughout the program.</p>	<p>Section 110.C Applications for Category A and Category B Assents</p>	<p>RICRMP; RIGL 46-23</p>	<p>25-Sep-2007</p>	<p>18-Oct-2007</p>
<p>This is a minor change to uses subject to management, noting that the requirement for Council approval to undertake any dredging activity is not new. This revision clarifies that using any type of mechanical system to remove/alter the seabed by, for example, "prop-washing" would require a Council assent.</p>	<p>Section 300.9.D.3 Dredging</p>	<p>RICRMP; RIGL 46-23</p>	<p>25-Sep-2007</p>	<p>18-Oct-2007</p>
<p>This was a minor change to uses subject to management where an adjusted fee schedule for CAD cell disposal was revised to favor activities that the CAD cells were designed for (marinas and commercial facilities) and discourage their use for residential dredge disposal by assessing a higher fee for these activities.</p>	<p>Section 4.3.2(t) Schedule of Fees</p>	<p>RICRMP; Mgmt Proc; RIGL 46-23</p>	<p>25-Sep-2007</p>	<p>18-Oct-2007</p>
<p>This was a minor change to coordination whereby the inclusion of proposed deed restriction language in staff reports to the Council will allow the Council to review and better understand the intentions of the proposed deed restrictions so they are well educated when evaluating a project. This change improves the Council review process.</p>	<p>Section 5.1(6) Notification</p>	<p>RICRMP; Mgmt Proc; RIGL 46-23</p>	<p>25-Sep-2007</p>	<p>18-Oct-2007</p>
<p>This was a minor change to uses subject to management, where the council clarified what types of activities would constitute "alternations to freshwater flows." Not a significant change since these activities were already regulated through other element areas of the program as well.</p>	<p>Section 310.A.1; A.2; B.1 Alternations to Freshwater Flows</p>	<p>RICRMP; RIGL 46-23</p>	<p>28-Aug-2007</p>	<p>26-Sep-2007</p>

Incorporation of Changes to Sections or Subsections of 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>MODIFIED: <i>CRMP SAMP's Management Procedures</i></p> <p>Minor changes were made to uses subject to management, special area management plans, and technical changes such as the removal of outdated text; making the section consistent with current status of nitrogen removal systems under DEM ISDS regulations (as existing CRMC policy currently requires these reduced nitrogen loading systems; the revision made for consistent promotion of the approved types of such systems); proper referencing of CRMC policies; correcting for a coding error in a GIS shape file that had changed a polygon from one land use designation to another. [CRMC legal counsel felt that given the number of technical revisions collectively, the agency should propose them through rule-making and not simply revise them administratively (as each are technical changes) which could have been allowed by state law.]</p>	<p>Chapter Nine - Regulations</p>	<p>RICRMP; Narrow River SAMP; RIGL 46- 23</p>	<p>28-Aug-2007</p>	<p>26-Sep-2007</p>
<p>Minor changes were made to uses subject to management/SAMP. CRMC policies already promoted public access and addressed shoreline stabilization structures. These changes further clarify how policies will be applied within the Urban Coastal Greenways (UCG) program.</p>	<p>Urban Coastal Greenways for the Metro Bay Region</p>	<p>RICRMP; Providence Harbor SAMP; RIGL 46-23</p>	<p>28-Aug-2007</p>	<p>26-Sep-2007</p>
<p>Minor changes were made to uses subject to management, special area management plans, and technical changes such as the removal of outdated text; making the section consistent with current status of nitrogen removal systems under DEM ISDS regulations (as existing CRMC policy currently requires these reduced nitrogen loading systems; the revision made for consistent promotion of the approved types of such systems); proper referencing of CRMC policies; correcting for a coding error in a GIS shape file that had changed a polygon from one land use designation to another. [CRMC legal counsel felt that given the number of technical revisions collectively, the agency should propose them through rule-making and not simply revise them administratively (as each are technical changes) which could have been allowed by state law.]</p>	<p>Chapter Nine - Regulations</p>	<p>RICRMP; Salt Pond Region SAMP; RIGL 46-23</p>	<p>28-Aug-2007</p>	<p>26-Sep-2007</p>

PUBLIC NOTICE
of Routine Program Changes to the
Rhode Island Coastal Resources Management Program

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 over a period between July 2007 and December 2007. The updated enforceable policies and authorities appear within the following CRMC programs:

Management Procedures

Section 4.3.2(t) ; Section 4.3.8 ; Section 5.1(6)

Redbook

Section 300.9.D.3; Providence Quadrangle water types; Section 110.C; Section 310.A.1; 310.A.2; 310.B.1

Providence Harbor SAMP

Urban Coastal Greenways in the Metro Bay, Sections 140; 150 and 190

Salt Pond SAMP

Chapter Nine – Regulations (technical revisions)

Narrow River SAMP

Chapter Nine – Regulations (technical revisions)

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. 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.

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:

RICRMP/MANAGEMENT PROCEDURES

1. Revise Section 4.3.2(t) – Schedule of Fees as follows:

(t) CAD Cell Disposal Fee:	<u>Marinas, Boatyards, Yacht Clubs:</u>	\$11.65 cy
	<u>Commercial Facilities:</u>	\$15.00 cy
	<u>Residential Docks:</u>	\$25.00 cy

The purpose is to differentiate CAD cell disposal fees by activity type

2. Revise 5.1(6) as follows:

(6) Upon the expiration of the thirty (30) day period, the Council shall consider the application including staff reports and recommendations thereon, reports and recommendations from other state and local agencies thereon, and comments thereon.

When an application requires as a condition of assent that a deed restriction is necessary, the proposed language for said restriction shall be, unless the executive director determines the application would be better processed without it, made part of the staff reports to the council.

The purpose is to require deed language in an application's staff report when such is proposed to become a condition of assent

RICRMP/REDBOOK

3. Revise Section 110.C Applications for Category A and Category B Council Assents as follows:

- C. Applications eligible for administrative review include the following.
- Subdivisions of less than 20 units;
 - Residential docks less than 200 feet (MLW) in length in the Sakonnet River or the open waters of Narragansett Bay; up to 75 feet (MLW) in all other waters;
 - Terminal floats less than 200 square feet;

- Aquaculture sites of up to three (3) acres in the salt ponds or upper Narragansett Bay; less than 10 acres elsewhere;
- Seawalls Structural shoreline protection facilities of less than 300 linear feet;
- Dredging of less than 100,000 cubic yards for marinas or state navigation projects;
- Wetland mitigation that is habitat restoration when an applicant is federal, state, or municipal entity;
- Harbor management plans that are recommended for approval;
- Boat and float lifts.

The purpose is to better define that structural shoreline protection facilities are to be considered herein rather than one type of such

4. Add Section 300.9.D.3 as follows:

3. It is prohibited to utilize a vessels propulsion system to remove, relocate, wash or otherwise alter the seabed in any Rhode Island waters. It is also prohibited to remove, relocate, wash or otherwise alter marine sediments with any device or deflector without a permit for the specific equipment, method and location.

The purpose is to prohibited the alteration of marine sediments using a vessel propulsion system

5. Proposed water type change - Providence Quadrangle

A line starting from the southern end of the Port Edgewood breakwater easterly and 500 feet offshore to include the cove immediately east of the Save The Bay center.

Purpose: To change the water type to be better consistent with existing permitted uses.

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 September 4, 2007. 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 in the Boardroom, Narragansett Bay Commission, One Service Road, Providence, RI, on September 25, 2007, at 6:00 p.m.

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.

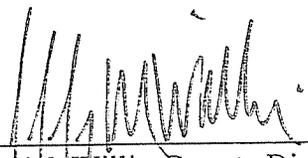
Further information may be obtained by contacting the Coastal Resources Management Council offices at 783-3370.

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:

Betsy Nicholson
NOAA Regional Coastal Program Specialist
University of New Hampshire
Gregg Hall, Suite 148
35 Colovos Rd.
Durham, NH 03824

Signed this 8th day of August, 2007.



Jeffrey M. Willis, Deputy Director
Coastal Resources Management Council

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STATE OF RHODE ISLAND
COASTAL RESOURCES MANAGEMENT COUNCIL

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

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The following change is proposed:

The following changes are proposed for the RI Coastal Resources Management Program:

1. RICRMP Section 310 - Alterations to Freshwater Flows to Tidal Waters and Water Bodies and Coastal Ponds

Revise Section 310.A.1 as follows:

1. Alterations to the flows of tributaries include the installation of dams or other devices or fill material that alter flows of tributaries to tidal waters and that significantly change the timing and/or volumes of fresh water to coastal waters. Such alterations have a reasonable probability to conflict with a Council plan or program for resources management or may significantly affect the environment of the coastal region.

Revise Section 310.A.2 as follows:

2. Alterations to the circulation of tidal waters include all structures and fill material that alter the behavior of waters within tidal water bodies, including the removal of tidal waters for industrial cooling or other purposes and the installation of structures in embayments and salt ponds that alter the volumes and/or timing of exchange with outlying tidal waters.

Revise Section 310.B. as follows:

1. The Council recognizes that alterations to the volume and timing of fresh water discharged to estuarine water bodies can have a significant effect on the species and abundance of organisms present in the estuary and may also cause changes to sedimentation, erosion patterns, and flooding.

Purpose: to strengthen the program in regard to other activities that could alter freshwater flows

2. Providence Harbor SAMP - Urban Coastal Greenway (UCG) for the Metro Bay Region regulations

Revise Figure 3 – Area of Particular Concern Zone Requirements by adding a new bullet under Option 1 with same language from Option 2 as follows:

Applicant should provide public access in accordance with RICRMP Section 335

Revise Figure 5 – Development Zone Requirements by adding a new bullet under Option 1 as follows:

Applicant should provide public access in accordance with RICRMP Section 335

Revise Section 140.2 (b)

(b) The entire extent of a development project must be submitted to the RICRMC as part of any Preliminary Determination application and must be included for reference with any subsequent submittals for phased projects, regardless of parcel ownership. The applicant must include any plans for phased development on the tract(s) of land so that the RICRMC can review proposals for jurisdiction and/or project impacts.

Revise Section 140.2(c)

(c) In any case where an applicant is submitting phased portions of a development project for consideration, the applicant shall not create any circumstance that would preclude the installation of the ~~Urban Coastal~~ Greenway on any phase of the project site. Accordingly, the applicant shall be cognizant that the ~~Urban Coastal~~ Greenway requirements may still apply for any future development on the site, and subsequent phases of development must accommodate the UCG.

Add new UCG Section 150.5(j)

(j) In order to facilitate public access to the shoreline and promote passive recreational uses of the waterways, and where appropriate based on site conditions, each project with a UCG must provide a minimum of one public access point that leads directly to the water in the form of a stabilized path or steps, canoe/kayak ramp, overlook, or other access method. Where appropriate, given the discretion of the executive director, this requirement may be satisfied if the UCG public access path directly abuts the shoreline feature. Applicants should consult with CRMC staff concerning the type and design of direct shoreline access methods.

Revise Section 150.7(d)

(d) When structural shoreline protection is deemed necessary, all such structures must meet requirements of RICRMP Section 300.7. , ~~the applicant may receive credit toward the 15% vegetation requirement for revetments that incorporate sustainable and natural low shrubs and ground covers. To protect prevent revetment failure structural integrity, trees and shrubs must not be planted directly on the revetment, but may be planted on vegetated slopes above the revetment.~~ No stormwater treatment or public access shall be included upon the revetment.

Revise Section 150.7(e)

(e) ~~At the discretion of the RICRMC, terracing~~ Terracing may be allowed is permissible within the UCG-greenway and setback (See Figure 7), however, all slopes within the greenway must be properly stabilized and vegetated. ~~when elevation changes are needed to meet flood zone~~

~~requirements. Rip-rap or other armored Terraced slopes shall not be incorporated as part of the greenway. Accordingly, revetments or armored slopes shall be located seaward or landward of the greenway within the UCG. In addition, all slope designs and treatments must be consistent with the USDA NRCS Engineering Field Handbook., however, must be vegetated and not armored with stone or other hard materials. If non-vegetated terraced slopes are necessary, then they cannot be included as part of the UCG area.~~

Add new Section 190.3(d)

(d) The applicant must provide a public access plan in accordance with RICRMP Section 335.

Purpose: to address minor and technical revisions; to address phased projects; and, to address requirements for public access and structural shoreline protection.

3. Narrow River Special Area Management Plan

Revise Section 920.A.2 as follows:

~~2. The installation and operation of nitrogen removal systems is permissible under Although presently only the RUCK system has been approved by RIDEM as a nitrogen removal system, the RIDEM Rules and Regulations Establishing Minimum Standards Relating to Location, Design, Construction and Maintenance of Individual Sewage Disposal Systems., allow nitrogen removal systems which are approved through the variance process or as an experimental system or technology. The Technical Review Committee organized by RIDEM and responsible for review of these systems will be considering proprietary technologies as they are submitted to RIDEM. RIDEM is also developing a guidance document in cooperation with the URI On-Site Wastewater Training Program for the design, operation and maintenance of sand filters. Sand filters when designed, installed, and operated properly will reduce ammonia-nitrogen levels from 100mg/l to less than 5mg/l (draft guidance document). In addition to the work RIDEM is doing to approve nitrogen reducing technologies, there is ongoing research through the University of Rhode Island Cooperative Extension to document the removal rates for nitrate-nitrogen, pathogens, Total Suspended Solids and Biological Oxygen Demand. Twelve systems have been installed as part of an Aqua Fund Project with a number of different systems chosen to demonstrate the technologies' flexibility and adaptability to specific site problems and conditions. Based on preliminary monitoring results from the URI Aqua Fund Project and ongoing research and monitoring results from other communities on Cape Cod, MA, CRMC requires nitrogen removal systems as noted in Table 9-1 and in Section 920.1 technologies in the land uses specified in the following regulations and within CRMC jurisdiction as specified in Sections 900.B.3 and 900.B.4.~~

Amend Section 920.1.A.1(d); Section 920.1.A.2(a); Section 920.1.B.1(d); Section 920.1.B.2(a); and, Section 920.1.C.1(d), as follows:

Land suitable for development shall be defined as the net total acreage of the parcel, lot or tract remaining after exclusion of the areas containing, or on which occur the following protected resources: coastal features as defined within Chapter 46-23 GLRI and/or the CRMP Section 210; freshwater wetlands, as defined in the RIDEM Freshwater Wetlands Rules and Regulations,

including the 50' Perimeter Wetland, and the CRMC Rules and Regulations Governing the Protection and Management of Freshwater wetlands in the Vicinity of the Coast.

Amend Section 920.1.A.2(c), as follows:

(c) Any major land development project or any major subdivision of land (as defined in RIGL 45-23 et. seq.) within Self-Sustaining Lands, occurring after ~~November 27, 1984~~ April 12, 1999, must meet the minimum density requirement of one residential unit per 80,000 square feet. Relief from this regulation requires a Special Exception as defined in Section 130 of the RICRMP. Lands which were subdivided prior to ~~November 27, 1984~~ April 12, 1999, and do not meet the CRMC density requirement as defined in Section 920.A.1, require a Variance as defined in Section 120 of the RICRMP.

Amend Section 920.1.A.2(d), as follows:

(d) Nitrogen reducing technologies as defined in Section 920.1.A.1.e are required for any lands subdivided after April 12, 1999 that do not meet the CRMC density requirement (80,000 square feet) for activities within 200' of a coastal feature and all watershed activities as defined in Section 900.B.3 and 900.B.4. ~~Relief from this regulation requires a Special Exception as defined in Section 130 of the RICRMP, unless the lands were subdivided prior to April 12, 1999 and cannot accommodate the requirement. A nitrogen reducing technology cannot be used as mitigation to increase dwelling densities on parcels which can support the density requirement. A grace period will be allowed for applicants who have ISDS applications pending and/or approved, with assigned ISDS file numbers, by the RIDEM Division of Water Resources ISDS Section prior to April 12, 1999. These applications will not be subject to the requirements contained herein. Applications accepted by RIDEM Division of Water Resources ISDS Section on or after April 12, 1999 shall be subject to the requirements contained herein.~~

Amend Section 920.1.A.2(f), as follows:

(f) A 150' buffer zone from the Narrow River, its tributaries, and coastal wetlands, including tributary wetlands, is required for activities within 200' of a coastal feature and all watershed activities as defined in Section 900.B.3 and 900.B.4 in Self Sustaining Lands. Relief from this regulation requires a Special Exception as defined in Section 130 of the RICRMP, unless the lands were subdivided prior to ~~December 8, 1986~~ April 12, 1999 and cannot accommodate the requirement.

Amend Section 920.1.B.2(d), as follows:

(d) Nitrogen reducing technologies as defined in Section 920.1.A.1.e are required for any lands subdivided after April 12, 1999 that do not meet the CRMC density requirement for Lands of Critical Concern (120,000 square feet) for activities within 200' of a coastal feature and all watershed activities as defined in Section 900.B.3 and 900.B.4. ~~Relief from this regulation requires a Special Exception as defined in Section 130 of the RICRMP, unless the lands were subdivided prior to April 12, 1999 and cannot accommodate the requirement. A nitrogen reducing technology~~

cannot be used as mitigation to increase dwelling densities on parcels which can support the density requirement. ~~A grace period will be allowed for applicants who have ISDS applications pending and/or approved, with assigned ISDS file numbers, by the RIDEM Division of Water Resources ISDS Section prior to April 12, 1999. These applications will not be subject to the requirements contained herein. Applications accepted by RIDEM Division of Water Resources ISDS Section on or after April 12, 1999 shall be subject to the requirements contained herein.~~

Amend Section 920.1.C.2(a), as follows:

(a) Nitrogen reducing technologies as defined in Section 920.1.C.1.e are required for all new installations or replacement of existing ISDS for activities within 200' of a coastal feature and all watershed activities as defined in Section 900.B.3 and 900.B.4 in Lands Developed Beyond Carrying Capacity. ~~Relief from this regulation requires a Special Exception as defined in Section 130 of the RICRMP, unless the lands were subdivided prior to April 12, 1999 and cannot accommodate the requirement. A grace period will be allowed for applicants who have ISDS applications pending and/or approved, with assigned ISDS file numbers, by the RIDEM Division of Water Resources ISDS Section prior to April 12, 1999. These applications will not be subject to the requirements contained herein. Applications accepted by RIDEM Division of Water Resources ISDS Section on or after April 12, 1999 shall be subject to the requirements contained herein.~~

Amend Figure 9-1 to correct a coding error in land use designation from Self-sustaining to Lands Developed Beyond Carrying Capacity (LDBCC) for a section in the northern area of Narragansett.

Purpose: To remove outdated text and make section consistent with current status of nitrogen removal systems under DEM ISDS regulations; to reference the CRMC freshwater wetland rules, where applicable; to add correct date reflecting adoption of modified density requirements; to remove outdated text, because the availability of numerous nitrogen removal systems negates the need to provide relief for the requirement (additionally, DEM ISDS does not have any pending subdivision suitability applications prior to April 1999.); and, to correct for a coding error in the GIS shape file that changed a polygon from LDBCC, as filed with the Secretary of State (SOS) in 1999, to Self-sustaining, when refiled with the SOS in 2006.

4. Salt Pond Special Area Management Plan

Revise Section 920.A.2 as follows:

2. The installation and operation of nitrogen removal systems is permissible under ~~Although presently only the RUCK system has been approved by RIDEM as a nitrogen removal system, the RIDEM Rules and Regulations Establishing Minimum Standards Relating to Location, Design, Construction and Maintenance of Individual Sewage Disposal Systems., allow nitrogen removal systems which are approved through the variance process or as an experimental system or technology. The Technical Review Committee organized by RIDEM and responsible for review of these systems will be considering proprietary technologies as they are submitted to RIDEM. RIDEM is also developing a guidance document in cooperation with the URI On-Site Wastewater Training Program for the design,~~

~~operation and maintenance of sand filters. Sand filters when designed, installed, and operated properly will reduce ammonia-nitrogen levels from 100mg/l to less than 5mg/l (draft guidance document). In addition to the work RIDEM is doing to approve nitrogen-reducing technologies, there is ongoing research through the University of Rhode Island Cooperative Extension to document the removal rates for nitrate-nitrogen, pathogens, Total Suspended Solids and Biological Oxygen Demand. Twelve systems have been installed as part of an Aqua Fund Project with a number of different systems chosen to demonstrate the technologies' flexibility and adaptability to specific site problems and conditions. Based on preliminary monitoring results from the URI Aqua Fund Project and ongoing research and monitoring results from other communities on Cape Cod, MA, CRMC requires nitrogen removal systems as noted in Table 9-1 and in Section 920.1 technologies in the land uses specified in the following regulations and within CRMC jurisdiction as specified in Sections 900.B.3 and 900.B.4.~~

Amend Section 920.1.A.1(d); Section 920.1.A.2(a); Section 920.1.B.1(d); Section 920.1.B.2(a); and Section 920.1.C.1(d), as follows:

Land suitable for development shall be defined as the net total acreage of the parcel, lot or tract remaining after exclusion of the areas containing, or on which occur the following protected resources: coastal features as defined within Chapter 46-23 GLRI and/or the CRMP Section 210; freshwater wetlands, as defined in the RIDEM Freshwater Wetlands Rules and Regulations, including the 50' Perimeter Wetland, and the CRMC Rules and Regulations Governing the Protection and Management of Freshwater wetlands in the Vicinity of the Coast.

Amend Section 920.1.A.2(c), as follows:

(c) Any major land development project or any major subdivision of land (as defined in RIGL 45-23 et. seq.) within Self-Sustaining Lands, occurring after ~~November 27, 1984~~ April 12, 1999, must meet the minimum density requirement of one residential unit per 80,000 square feet. Relief from this regulation requires a Special Exception as defined in Section 130 of the RICRMP. Lands which were subdivided prior to ~~November 27, 1984~~ April 12, 1999, and do not meet the CRMC density requirement as defined in Section 920.A.1, require a Variance as defined in Section 120 of the RICRMP.

Amend Section 920.1.A.2(d), as follows:

(d) Nitrogen reducing technologies as defined in Section 920.1.A.1.e are required for any lands subdivided after April 12, 1999 that do not meet the CRMC density requirement (80,000 square feet) for activities within 200' of a coastal feature and all watershed activities as defined in Section 900.B.3 and 900.B.4. ~~Relief from this regulation requires a Special Exception as defined in Section 130 of the RICRMP, unless the lands were subdivided prior to April 12, 1999 and cannot accommodate the requirement. A nitrogen reducing technology cannot be used as mitigation to increase dwelling densities on parcels which can support the density requirement. A grace period will be allowed for applicants who have ISDS applications pending and/or approved, with assigned ISDS file numbers, by the RIDEM Division of Water Resources ISDS Section prior to April 12, 1999. These applications will not be subject to the requirements contained herein. Applications accepted by RIDEM Division of Water Resources ISDS Section on or after April 12, 1999 shall be subject to the requirements contained herein.~~

Amend Section 920.1.A.2(f), as follows:

(f) A 150' buffer zone from the salt ponds, their tributaries, and coastal wetlands, including tributary wetlands, is required for activities within 200' of a coastal feature and all watershed activities as defined in Section 900.B.3 and 900.B.4 in Self Sustaining Lands. Relief from this regulation requires a Special Exception as defined in Section 130 of the RICRMP, unless the lands were subdivided prior to ~~December 8, 1986~~ April 12, 1999 and cannot accommodate the requirement.

Amend Section 920.1.B.2(d), as follows:

(d) Nitrogen reducing technologies as defined in Section 920.1.A.1.e are required for any lands subdivided after April 12, 1999 that do not meet the CRMC density requirement for Lands of Critical Concern (120,000 square feet) for activities within 200' of a coastal feature and all watershed activities as defined in Section 900.B.3 and 900.B.4. ~~Relief from this regulation requires a Special Exception as defined in Section 130 of the RICRMP, unless the lands were subdivided prior to April 12, 1999 and cannot accommodate the requirement.~~ A nitrogen reducing technology cannot be used as mitigation to increase dwelling densities on parcels which can support the density requirement. ~~A grace period will be allowed for applicants who have ISDS applications pending and/or approved, with assigned ISDS file numbers, by the RIDEM Division of Water Resources ISDS Section prior to April 12, 1999. These applications will not be subject to the requirements contained herein. Applications accepted by RIDEM Division of Water Resources ISDS Section on or after April 12, 1999 shall be subject to the requirements contained herein.~~

Amend Section 920.1.B.2(g), as follows:

(g) A 200' buffer zone from the salt ponds, their tributaries, and coastal wetlands, including tributary wetlands, is required for all development activities within 200' of a coastal feature and all watershed activities as defined in Section 900.B.3 and 900.B.4 in Lands of Critical Concern. Relief from this regulation requires a Special Exception as defined in Section 130 of the RICRMP, unless the lands were subdivided prior to ~~November 27, 1984~~ April 12, 1999 and cannot accommodate the requirement.

1. Activities permitted within the buffer strip may include various management options consistent with CRMC's Buffer Zone Management Guidance, and, in Type 2 waters, one dock per lot of record as of ~~November 27, 1984~~ April 12, 1999.

Amend Section 920.1.C.2(a), as follows:

(a) Nitrogen reducing technologies as defined in Section 920.1.C.1.e are required for all new installations or replacement of existing ISDS for activities within 200' of a coastal feature and all watershed activities as defined in Section 900.B.3 and 900.B.4 in Lands Developed Beyond Carrying Capacity. ~~Relief from this regulation requires a Special Exception as defined in Section 130 of the RICRMP, unless the lands were subdivided prior to April 12, 1999 and cannot accommodate the requirement.~~ A grace period will be allowed for applicants who have ISDS

~~applications pending and/or approved, with assigned ISDS file numbers, by the RIDEM Division of Water Resources ISDS Section prior to April 12, 1999. These applications will not be subject to the requirements contained herein. Applications accepted by RIDEM Division of Water Resources ISDS Section on or after April 12, 1999 shall be subject to the requirements contained herein.~~

Amend Figure 9-2 to correct a coding error in land use designation from Critical Concern to Self-sustaining for the northern most section of watershed in Charlestown.

Amend Figure 9-3 to correct a coding error for two northern sections above Route 1 in South Kingstown from Critical Concern to Self-sustaining.

Purpose: to remove outdated text and make section consistent with current status of nitrogen removal systems under DEM ISDS regulations; to reference the CRMC freshwater wetland rules, where applicable; to add correct date reflecting adoption of modified density requirements; to remove outdated text, because the availability of numerous nitrogen removal systems negates the need to provide relief for the requirement (additionally, DEM ISDS does not have any pending subdivision suitability applications prior to April 1999.); to correct revision date; and, to correct for a coding error in the GIS shape file that changed a polygon from self-sustaining, as filed with the Secretary of State (SOS) in 1999, to critical concern, when refiled with the SOS in 2006.

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 August 17, 2007. 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 in the Boardroom, Narragansett Bay Commission, One Service Road, Providence, RI, on August 28, 2007, at 6:00 p.m.

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.

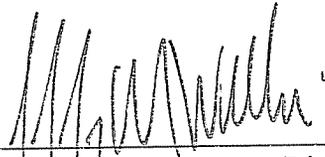
Further information may be obtained by contacting the Coastal Resources Management Council offices at 783-3370.

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:

Betsy Nicholson
NOAA Regional Coastal Program Specialist
University of New Hampshire
Gregg Hall, Suite 148
35 Colovos Rd.
Durham, NH 03824

Signed this 6th day of July, 2007.



Jeffrey M. Willis, Deputy Director
Coastal Resources Management Council

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