

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 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.B3 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~~

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~~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.

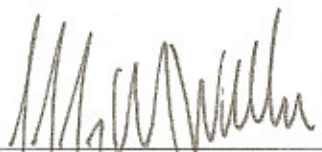
Further information may be obtained by contacting the Coastal Resources Management Council offices at 783-3370.

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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