



MEMORANDUM

To: Jeff Willis, Executive Director
Laura Miguel, Deputy Director

CC: Raymond C. Coia, CRMC Chair
Council members

From: Bruce Lofgren, Coastal Policy Analyst

Date: May 16, 2024

Re: Beach Vehicle Permits and Permit Extensions– Proposed Rulemaking to Management Procedures at § 1.4.6(A)(10) and § 1.5.12.

RULEMAKING HISTORY:

The proposed regulation amendment was presented to the Planning and Procedures Committee on September 26, 2023 (Permit Extensions), and November 14 2023 (Beach Vehicle Permits). The Planning and Procedures Committee unanimously directed CRMC staff to initiate rulemaking for both rulemaking proposals. As both rulemaking changes are in the Management Procedures (650-RICR-10-00-1) staff combined both amendments and initiated rulemaking under one proposal.

The Coastal Resources Management Council (CRMC) issued a public notice dated March 26th, 2024, that provided a 30-day comment period for the above referenced sections of the Management Procedures (650-RICR-10-00-1).

In accordance with R.I. Gen. Laws § 42-35-2.8, the Council held a public hearing on proposal on April 9, 2024. At the public hearing, CRMC Staff provided a brief presentation on the rulemaking, but no public comments were received. In addition, CRMC did not receive any written public comments or correspondence during the 30-day public comment period. The public comment period ended on April 26th, 2024.

Based on the favorable review by the Planning and Procedures Subcommittee and the lack of comments/questions during the public comment period, CRMC Staff recommends that the Council consider adopting the proposed rulemaking as presented. If adopted by the Council, CRMC Staff will initiate post adoption rulemaking procedures and submit the adopted rule to OMB for final approval.

Summary of Rulemaking Action:

The CRMC proposes to amend its Management Procedures at § 1.4.6(A)(10) to eliminate the 3-day beach vehicle permit program. The change to the beach vehicle permits regulations would also require a change in the fee schedule to remove the 3-day beach vehicle permit pass fee. The annual beach vehicle permit program will remain in full force and effect and will remain unchanged.

The CRMC also proposes to amend its Management Procedures at § 1.5.12 to eliminate the fourth extension request, which is required to be heard before the Council, but retain the three (3) administrative extension requests, each for a one-year maximum.

The proposed regulation amendment to Section 650-RICR-10-00-1.1.4.6(A) 10 Beach Vehicle Permits was initiated due to conversations between Staff and municipal police departments. During the impromptu discussion, local police departments inquired about CRMC's 3-day beach vehicle pass program as there have been a disproportionate number of instances for 3-day beach vehicle pass holders as opposed to annual beach vehicle pass holders.

After reviewing our beach vehicle permit history over the past 3 years, Staff estimates that CRMC issues approximately 2,000 annual beach passes per year and less than fifty (50) 3-day beach passes per year. Due to the limited and declining participation in the 3-day beach vehicle pass program and the ability for 3-day users to still apply for an annual beach vehicle pass, CRMC has proposed to eliminate 3-day passes.

The proposed regulation amendment to Section 650-RICR-10-00-1.5.12 Permit Extensions proposes to eliminate the fourth extension request, which is required to be heard before the Council, but retain the three administrative (3) extension requests, each for a one-year maximum. This proposed amendment would allow for a more efficient and timely processing of such requests. Additionally, the requirement that all extension requests must demonstrate "good cause" will remain as is.

STATUTORY AUTHORITY:

Pursuant to the federal Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 through 1466) and R.I. Gen. Laws Chapter 46-23 the Coastal Resources Management Council is authorized to develop and adopt policies and regulations necessary to manage the coastal resources of the state and to provide for the integration and coordination of the protection of natural resources, the promotion of reasonable coastal-dependent economic growth, and the improved protection of life and property from coastal hazards.

PROPOSED REGULATION AMENDMENTS:

Proposed text for removal is shown in ~~red with strikethrough~~. The proposed new text is shown in [blue](#).

650-RICR-10-00-1 Management Procedures Proposed Changes

Management Procedures (650-RICR-10-00-1) -- Amend § 1.4.6, as follows.

Section 1.4.6(A)(10) Beach Vehicle Permits

10. Beach Vehicle Permits:
 - a. Annual, in-State vehicle registration: one hundred dollars (\$100.00)
 - b. Annual, out-of-State vehicle registration: two hundred dollars (\$200.00)
 - ~~c. Three (3) day pass, in-State vehicle registration: twenty five dollars (\$25.00)~~
 - ~~d. Three (3) day pass, out-of-State vehicle registration: sixty dollars (\$60.00)~~

Management Procedures (650-RICR-10-00-1) -- Amend § 1.5.12, as follows.

1.5.12 Permit Extensions

- A. Where the Council has issued a permit to undertake an activity in accordance with this Program, said permit shall require such activity licensed or permitted thereunder to be completed within (3) years from the date of issuance unless specifically granted a longer period of time by the Council. Extensions may be granted for good cause demonstrated by the applicant. Additionally, in determining whether to grant an extension, the Council will consider whether there has been a substantial change in the environmental conditions on the site, whether the CRMP has been amended such that the activity would now require variances or special exceptions, or additional variances or special exceptions, and whether the applicant has made a good faith effort to undertake construction of the permitted activity. In the event an applicant or his agents cannot complete said activity within the three (3) year permitted time, unless specifically granted a longer period of time by the Council, the permit shall expire unless the applicant files a timely written petition with the Council for a permit extension. The applicant may, 30 days prior to the expiration of said time, petition the Council in writing for an extension. Extensions may be granted for projects only if it has been determined by staff that the work accomplished is in compliance with the conditions of approval established by the Council.
- B. The Executive Director in his discretion for cause shown may administratively grant an extension for a period of time of up to one (1) year from the expiration date of the permit. The Executive Director may grant a maximum of three (3) one (1) year extensions. ~~A fourth (4th) and final one (1) year extension may be granted~~

~~only by the Council and only for a period of time of up to one (1) year.~~ However, for projects associated with public infrastructure, the Council may grant extensions for more than one (1) year.

- C. Large scale projects are generally commercial or public projects which, due to their size, complexity and scope, have construction schedules which, at reasonable rates of build-out, exceed seven (7) years. The applicant may, 30 days prior to the expiration of a permit, petition the Council in writing for an extension beyond that period of time originally and specifically granted by the Council. The Council itself may grant an extension that exceeds the permitted assent completion date upon demonstration of a good faith effort to meet construction timelines. The granting of an extension by the Council shall be the minimum necessary to complete the project, but shall not exceed ten (10) years beyond that period of time originally and specifically granted by the Council. In granting this extension the Council may place additional conditions on the previous permit that may be necessary to bring remaining elements of the project in conformance with current regulatory standards.
- D. A notification of permit extension shall be mailed to appropriate municipal and State agencies.
- E. Where a proposed activity requires a Section 401 water quality certification (WQC) (or its waiver) from the RIDEM as a prerequisite of the Rhode Island Coastal Resources Management Program (RICRMP), the applicant shall obtain the WQC, its waiver, or its denial within one (1) year from the date of public notice otherwise the prerequisite will be waived. However, if the applicant has not obtained the section 401 water quality certification, its waiver, its cancellation, or its denial within one (1) year of the date of public notice, the prerequisite contained in the Rhode Island CRMP may be waived by the Executive Director in his discretion if he determines that there is no significant potential for the proposed activity to result in a discharge of pollutants into the State's coastal waters. Thirty (30) days prior to waiving the section 401 WQC of the RICRMP, the Council shall notify the RIDEM that it is considering such a waiver.
- F. If, at any time, the RIDEM issues a denial for a section 401 WQC, then the applicant shall have thirty (30) days after such final determination of denial to obtain a section 401 WQC otherwise the application and/or the Council's approval shall be canceled.