

State of Florida Coastal Management Program
Program Change Submission

Request for Concurrence

May 2020

Submitted by: Office of Resilience and Coastal Protection
Florida Department of Environmental Protection
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Tallahassee, Florida 32399

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Program Change Submission

Introduction

The Florida Coastal Management Program (FCMP) manages over 8,000 miles of coastline through the authority granted by the Florida Legislature in 24 different statutes. This network of statutes is administered by nine state agencies, including all of the water management districts, throughout the state of Florida. In the 2019 legislative session, a new section was added to the statutes governing the FCMP through a proposed new enforceable policy and other sections which will not be proposed as enforceable policies.

The State of Florida has completed the following analysis of these changes according to the requirements of 15 C.F.R. s. 923, Subpart H, and concludes that these are Program Changes as defined in 15 C.F.R. s. 923.84, with the term “Program Change” defined in 15 C.F.R. s. 923.80. This definition, part of a 15 C.F.R. s. 923 update in September 2019, replaces the previous definitions of “routine program change” and “amendment”. A new section that is being proposed as an enforceable policy was created in Chapter 379 of the Florida Statutes (F.S.). However, it does not substantially change the FCMP in the areas of uses subject to management, special management areas, boundaries, authorities and organization, or coordination, public involvement, and the national interest. Only one existing, non-enforceable policy was repealed during the 2019 legislative session, and FCMP is not submitting modifications of existing enforceable policies in this Program Change submission.

The State of Florida is requesting that the Office for Coastal Management (OCM) of the National Oceanic and Atmospheric Administration (NOAA) concur in the incorporation of these Program Changes to the FCMP

Analysis of Changes

The submitted program changes amend the State of Florida’s enforceable policies of the Florida Coastal Management Program. The State of Florida submits the changes to Chapters 267, 334, 339, and 379 of the Florida Statutes as Program Changes to the FCMP. Section 379.2231, F.S., is being proposed as an enforceable policy for federal consistency purposes. Pursuant to 15 C.F.R. s. 923.84, this submitted analysis of changes places the OCM on notice of the submitted Program Changes.

In September 2019, 15 C.F.R. s. 923 was updated with new rules that replaces the previous 1996 guidance and its 2013 Addendum. Under the updated rule, all changes (including amendments and modifications mentioned in 16 U.S.C. S. 1455) submitted to NOAA are considered as “program changes”, as defined in 15 C.F.R. s. 923.80, with the program change criteria defined in 15 C.F.R. s. 923.84.

Other updates to 15 C.F.R. s. 923 in September 2019 established a new submission process for program changes, using a new, online submission process established by OCM to replace the traditional hard copy submission process.

The Program Changes for 2019 which are being submitted as enforceable policies are summarized below, while all statutes that are being added (including non-enforceable policies for federal consistency purposes) are outlined in the following table.

Chapter 379, F.S.

Section 379.2231, F.S., was created, adding additional penalty assessments for violations of statutes in Chapter 379, F.S. On top of other penalties listed for the violation elsewhere in the chapter, a court may order a person who is convicted of a violation to pay an assessment directly to the Wildlife Alert Reward Association, Inc. (Association). The Association can use the funds from the assessment mentioned above to pay a reward for information leading to the arrest of an individual or individuals for a violation of Chapter 379, F.S. As other penalties associated with violations in Chapter 379, F.S., are already included as enforceable policies in previous submissions, FCMP asks for the inclusion of this section to remain consistent with this interpretation.

Examination of Florida Statutes

For 2019, the FCMP is continuing to work with its partner state agencies on enforceable policy determinations on the sections that were discussed during the approval process for the 2016 Routine Program Change submission. FCMP will continue to coordinate with the affected partner state agencies on these and other sections in response to legacy issues discussed with NOAA OCM during the approval process for the 2014 Routine Program Change. FCMP anticipates enhanced coordination with its partner state agencies for this legacy review through a potential future CZM Chapter 309 strategy, which will be evaluated for inclusion in the 309 process by NOAA OCM.

Table of Changes

Statutory Change	Change in 2019	Meaning of Change	Significance of Change
Chapter 161, F.S., Beach and Shore Preservation	None	N/A	N/A
Chapter 163, Part II, F.S., Growth Policy; County and Municipal Planning; Land Development Regulation	None	N/A	N/A
Chapter 186, F.S., State and Regional Planning	None	N/A	N/A
Chapter 252, F.S., Emergency Management	None	N/A	N/A
Chapter 253, F.S., State Lands	None	N/A	n/A
Chapter 258, F.S., State Parks and Preserves	None	N/A	N/A
Chapter 259, F.S., Land Acquisitions for Conservation and Recreation	None	N/A	N/A

Chapter 260, F.S., Florida Greenways and Trails Act	None	N/A	N/A
Chapter 267, F.S., Historical Resources	New: 267.0618	Creates 267.0618, which establishes language for the state's Women's Suffrage Centennial Commission	N/A
Chapter 288, F.S., Commercial Development and Capital Improvements	None	N/A	N/A
Chapter 334, F.S., Transportation Administration	New: 334.179	Creates 334.179, which determines that a local government may not adopt standards that are contrary to DOT standards with regards to the use of aggregates	None of the modifications substantially change the uses subject to management, the special management areas, or the authorities and organization within the coastal zone
Chapter 339, F.S., Transportation Finance and Planning	New: 339.1373	Creates 339.1373, which creates funding allocations for multi-use corridors of Regional Economic Significance Program	None of the modifications substantially change the uses subject to management, the special management areas, or the authorities and organization within the coastal zone
Chapter 373, F.S., Water Resources	None	N/A	N/A
Chapter 375, F.S., Outdoor Recreation and Conservation Lands	None	N/A	N/A

Chapter 376, F.S., Pollutant Discharge Prevention and Removal	None	N/A	N/A
Chapter 377, F.S., Energy Resources	None	N/A	N/A
Chapter 379, F.S., Fish and Wildlife Conservation	New: 379.107, 379.2231, 379.2273	<p>Creates 379.107, which allows FWC staff to organize, equip, and operate residential conservation programs to provide education and training programs to the public, employees, and volunteers</p> <p>Creates 379.2231, which, on top of other penalties in Chapter 379, to allow a court to order a person who has been convicted of a violation of Chapter 379 to pay an assessment directly to Wildlife Alert Reward Association</p> <p>Creates 379.2273, which establishes the Florida Red Tide Mitigation and Technology Initiative as a partnership between FWC's Fish and Wildlife Research Institute and Mote Marine Aquarium</p>	None of the modifications substantially change the uses subject to management, the special management areas, or the authorities and organization within the coastal zone
Chapter 380, F.S., Land and Water Management	None	N/A	N/A
Chapter 381, F.S., Public Health: General Provisions	None	N/A	N/A
Chapter 388, F.S., Mosquito Control	None	N/A	N/A
Chapter 403, F.S., Environmental Control	None	N/A	N/A
Chapter 553, F.S., Building Construction Standards	None	N/A	N/A
Chapter 582, F.S., Soil and Water Conservation	None	N/A	N/A
Chapter 597, F.S., Aquaculture	None	N/A	N/A

Conclusion

The Department of Environmental Protection has determined that the proposed program changes are a program change as defined by the 15 CFR s. 923.84 decision criteria. This program change submission will incorporate new statutory changes enacted by the Florida Legislature during the 2019 legislative session to statutes included in the FCMP.

Staff has evaluated these changes pursuant to 15 CFR s. 923, Subpart H and concluded that these changes will not result in any substantial change to the enforceable policies or authorities of the FCMP related to uses subject to management, special management areas, boundaries, authorities and organization, or coordination, public involvement and national interest.

The State of Florida requests that the federal Office for Coastal Management (OCM) approve the incorporation of the changes to these statutes adopted by the Florida Legislature during the 2019 legislative session, into the approved Florida Coastal Management Program (FCMP).

Notice of Program Change Request

The Department of Environmental Protection's Office of Resilience and Coastal Protection has requested the concurrence of the federal Office for Coastal Management (OCM) of the National Oceanic and Atmospheric Administration (NOAA), in updating the statutory authorities included within the Florida Coastal Management Program (FCMP) as a program change. The Department of Environmental Protection has determined that the proposed program changes are a "program change" based on the decision criteria in 15 CFR 923.84. As 15 CFR 923 was updated in September 2019 and removed the distinction for the terms "routine program change" and "amendment". All change to the FCMP submitted going forward will be a "program change" as defined in 15 CFR 923.80 and using the criteria in 15 CFR 923.84.

This program change submission will incorporate relevant new Florida Statutes enacted by the Florida Legislature during the 2019 legislative session into the Florida Coastal Management Program. This includes incorporation of Section 379.2231, Florida Statutes, as an enforceable policy for federal consistency purposes. The program change submittal is available at <https://floridadep.gov/rcp/fcmp/content/routine-program-changes> and describes the nature of the changes as well as identifies the enforceable policies to be added to the management program of the State, if approved. A list of all statutes that make up the FCMP is available at <https://floridadep.gov/rcp/fcmp/content/24-florida-statutes-florida-coastal-management-program>.

Staff has evaluated these changes pursuant to 15 CFR 923, Subpart H and concluded that these changes will not result in any substantial change to the enforceable policies or authorities of the FCMP related to uses subject to management, special management areas, boundaries, authorities and organization, or coordination, public involvement and the national interest.

Notice is being provided to the general public and affected parties, including local governments, state agencies, and regional offices of relevant federal agencies as required by 15 CFR 923.81(e)(1). A list of persons and organizations notified is available for inspection or can be provided upon request from the department contact below.

Pursuant to 15 CFR 923.81(e)(3), comments on the submitted program change to the FCMP may be submitted to Joelle Gore, NOAA/OCM, 1305 East-West Highway, Silver Spring, MD 20910 within 21 days of the date of issuance of this notice or posted online on the FCMP program change listing at <https://coast.noaa.gov/czmprogramchange/#/public/home>.

For more information on this RPC submittal, please contact: Mr. Joseph Bauer, Department of Environmental Protection, Office of Resilience and Coastal Protection, 3900 Commonwealth Boulevard, M.S. 235, Tallahassee, FL 32399-3000, (850) 245-2180 or joseph.bauer@floridadep.gov. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).