

Program Change Submission
To
State of Florida Coastal Management Program

Request for Concurrence

May 2021

Submitted by: Office of Resilience and Coastal Protection
Florida Department of Environmental Protection
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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 2020 legislative session, 2 new sections were added to the statutes governing the FCMP through proposed new enforceable policies 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. New sections are being proposed as enforceable policies and were created in Chapters 258 and 403 of the Florida Statutes (F.S.). However, it does not substantially change the FCMP in the areas of uses subject management, special management areas, boundaries, authorities and organization, or coordination, public involvement, and the national interest. Five existing, enforceable policies were repealed during the 2020 legislative session. 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 161, 252, 258, 339, 373, 376, 379, 381, and 403 of the Florida Statutes as Program Changes to the FCMP, with 258.3991 and 403.0855, F.S., being proposed as enforceable policies 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 replaced 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 in rule 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. Program changes now include all changes to enforceable policies, as well as changes to one of the following management program areas under 15 C.F.R. s. 923: Uses Subject to Management, Special Management Areas, Boundaries, Authorities and Organization, and Coordination, Public Involvement and National Interest.

The Program Changes for 2020 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 258, F.S.

Section 258.3991, F.S., was created, which created the new Nature Coast Aquatic Preserve along the shoreline stretching from Pasco County to Citrus County on the Gulf Coast. The boundaries for the new Aquatic Preserve are set in this new section. The boundaries created in this section are where existing protections and requirements for actions within aquatic preserves will be applied within the Nature Coast Aquatic Preserve. This would mean that restrictions for USACE permits that would apply to submerged lands within aquatic preserves would also apply to submerged lands within the boundaries of the Nature Coast Aquatic Preserve.

Chapter 403, F.S.

Section 403.0855, F.S., was created dealing with biosolids management to help minimize the migration of nutrients that impair water bodies. The new section includes additional permit requirements for biosolids land application site permits or permit renewals that were submitted after July 1, 2021. These requirements include minimum unsaturated soil depth between the depth of biosolid placement and the depth of the water table. All permits shall comply with the requirements listed in the section by July 1, 2022. Since this could apply to federal facilities that were building a new wastewater treatment plant (like an Air Force base) where they wanted to land apply their biosolids, this is being submitted as an enforceable policy.

Examination of Florida Statutes

For 2020, the FCMP developed and submitted a strategy in its 2021-2025 CZM Chapter 309 Assessment and Strategies submission. The strategy will have FCMP and its partner state agencies develop draft narrative versions of FCMP's enforceable policies for submittal to our federal partners. Alongside the development of draft narrative versions of these policies, another part of this strategy will look to review FCMP's enforceable policies with the relevant partner state agencies and water management districts who have the best knowledge of these Florida Statute sections.

FCMP anticipates enhanced coordination with its partner state agencies for this legacy review through an approved CZM Chapter 309 strategy, which had been submitted by FCMP as part of its latest Chapter 309 Assessment and Strategies. The Assessment and Strategies were approved by NOAA OCM in Summer 2020.

Table of Changes

Statutory Change	Change in 2020	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	New: 252.351	Creates 252.351, which deals with new mandatory reporting requirements of certain emergency incidents by political subdivisions in the state	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 253, F.S., State Lands	None	N/A	N/A
Chapter 258, F.S., State Parks and Preserves	New: 258.3991	Creates 258.3551, which establishes the Nature Coast Aquatic Preserve. The areas within the denoted boundary of the new aquatic preserve are also denoted as an Outstanding Florida Water body (through 403.061(27))	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 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	None	N/A	N/A
Chapter 288, F.S., Commercial Development and Capital Improvements	None	N/A	N/A
Chapter 334, F.S., Transportation Administration	None	N/A	N/A
Chapter 339, F.S., Transportation Finance and Planning	New: 339.287	Creates 339.287, which calls for the development of an infrastructure plan for electric vehicle charging stations by FDOT and DACS. The plan will identify the characteristics of possible locations for electric vehicle charging stations, support short- and long-range vehicles, and adequately serve evacuation routes. The plan will also investigate barriers to charging stations, and an implementation strategy.	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	Repealed: 373.467	373.467, which had established the Harris Chain of Lakes Restoration Council, was repealed	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 375, F.S., Outdoor Recreation and Conservation Lands	None	N/A	N/A
Chapter 376, F.S., Pollutant Discharge Prevention and Removal	Repealed: 376.86	376.86, which had established the Brownfield Areas Loan Guarantee Program and corresponding council, was repealed	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 377, F.S., Energy Resources	None	N/A	N/A
Chapter 379, F.S., Fish and Wildlife Conservation	New: 379.1026, 379.4041 Repealed: 379.2524	Creates 379.1026, which exempts site-specific information about endangered or threatened species from 119.07(1), F.S. and s. 24(a), Art I of the State Constitution, outside of animals held in captivity. 379.2524, F.S., which had established a Sturgeon Production Working Group, is repealed Creates 379.4041, which establishes penalties for the illegal taking, possession, and sale of bears outside of season	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	New: 381.00652	Creates 381.00652, which establishes an Onsite Sewage Treatment and Disposal Systems Technical Advisory Committee	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 388, F.S., Mosquito Control	None	N/A	N/A
Chapter 403, F.S., Environmental Control	New: 403.0616, 403.0671, 403.0673, 403.0855 Repealed: 403.42, 403.87	Creates 403.0616, which calls for DEP to establish a real time water quality monitoring program Creates 403.0671, which requires DEP in coordination with listed agencies to submit Basin Management Action Plan Wastewater Report to the Governor, Speaker of the House, and President of the Senate. This report includes a list of projects dealing with sewage treatment and disposal systems, costs, implementation, and funding plans for each project listed. Creates 403.0673, which establishes a Wastewater Grant Program within DEP which would fund specified projects that are within a basin management action plan, an alternative restoration plan, or a rural area of opportunity which will reduce excess nutrient pollution. Creates 403.0855, which establishes new permitting requirements for biosolids land application site permits and permit renewals 403.42, which had established a Clean Fuel Florida Advisory Board, is repealed	None of the modifications substantially change the uses subject to management, the special management areas, or the authorities and organization within the coastal zone

		403.87, which had established a technical advisory council for water and domestic wastewater operator certification, is repealed	
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 2020 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 the federal Office for Coastal Management (OCM) to approve the incorporation of the changes to these statutes adopted by the Florida Legislature during the 2020 legislative session, into the approved Florida Coastal Management Program.

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 submitted these changes as a "program change" based on the decision criteria in 15 CFR 923.84.

This program change submission will incorporate relevant new Florida Statutes enacted by the Florida Legislature during the 2020 legislative session into the Florida Coastal Management Program. This includes incorporation of Sections 258.3991 and 403.0855, Florida Statutes, as enforceable policies for federal consistency purposes. The program change submittal is available at <https://floridadep.gov/rcp/fcmp/content/fcmp-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).