

Program Change Submission

To

State of Florida Coastal Management Program

Request for Concurrence

September 2023

Submitted by: Office of Resilience and Coastal Protection  
Florida Department of Environmental Protection  
2600 Blair Stone Road, MS 235  
Tallahassee, Florida 32399  
(850) 245-2094

## Table of Contents

---

Introduction .....	1
Analysis of Changes .....	1
Examination of Florida Statutes .....	3
Table of Changes .....	4
Conclusion .....	7
Notice of Program Change Request .....	8
Text of Statutes .....	Appendix A

# **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 the water management districts, throughout the state of Florida. In the 2022 legislative session, two new sections were added, and three sections were modified, within the statutes governing the FCMP as new or revised enforceable policies. Other sections were revised or added to the statutes governing the FCMP that are not being 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 and 15 C.F.R. s. 923.80. New sections created in Chapters 163 and 373 of the Florida Statutes (F.S.) are being proposed as enforceable policies. FCMP is also submitting revisions to three sections of enforceable policies in Chapters 253, 379, and 381 of the Florida Statutes in this Program Change submission. These changes do not substantially change the FCMP in the following management program areas: Uses Subject to Management, Special Management Areas, Boundaries, Authorities and Organization, and Coordination, Public Involvement, and National Interest.

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 alter the State of Florida's enforceable policies of the Florida Coastal Management Program. The State of Florida submits the changes to Chapters 163, 252, 253, 339, 373, 376, 377, 379, 381, and 403 of the Florida Statutes as Program Changes to the FCMP. New sections 163.32051 and 373.4134, F.S., and revised language in the following existing sections of enforceable policies 253.0346, 379.101, and 381.0065, F.S., are 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 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 2022 which are being submitted as enforceable policies are summarized below. Other statutes, including non - enforceable policies for federal consistency purposes, are outlined in the following table.

### **Chapter 163, F.S.**

Section 163.32051, F.S., outlines regulatory and planning requirements for private and public entities to initiate or expand floating solar facilities to harness energy in bodies of water permitted for storage such as wastewater treatment ponds, abandoned limerock mine areas, stormwater treatment ponds, reclaimed water ponds, and other water storage reservoirs. Development in these environments or within permitted stormwater systems or mines must comply with USACE permit requirements.

### **Chapter 253, F.S.**

Section 253.0346, F.S., was amended to specify time ranges/limits for tenancies in mooring fields in Monroe County. The general tenancy on a mooring may exceed 12 months, if requested, but may not exceed 10 years. A sovereign submerged land lease or other proprietary lease may not prohibit vessels from approved and permitted mooring fields based on an individual's establishment of domicile or use as a primary residence. The Florida Keys National Marine Sanctuary is within Monroe County and a USACE permit is required for establishment of a mooring field.

### **Chapter 373, F.S.**

373.4134, F.S., establishes the creation of "water quality enhancement areas" for local governments to improve water quality regionally and receive credits to offset impacts within the same basin to address a Basin Management Action Plan allocation associated with a Total Maximum Daily Load assessment. To obtain a water quality enhancement area permit, an applicant must meet the requirements for issuance of an ERP; therefore, a USACE permit will be required for work in wetlands.

### **Chapter 379, F.S.**

Section 379.101, F.S., was amended to clarify the definitions of "marine fish" and "saltwater fish" to reflect updates in the scientific classification. Clear, accurate definitions are essential in the enforcement of Florida's fishing regulations.

### **Chapter 381, F.S.**

Section 381.0065, F.S., was amended to outline rules and procedures for hiring a private provider to perform an inspection that follows applicable regulatory requirements of the onsite sewage treatment and disposal system. Onsite sewage treatment and disposal systems are present at federal facilities.

## **Examination of Florida Statutes**

During 2022, the FCMP, after the initial meeting, meet with just the network partner agencies. Questions were raised concerning the rewording / rewriting of Statutes. Concerns were expressed that legislative wording had been carefully crafted and that legislatively intended elements might be lost. Later, FCMP meet with the Florida Clearinghouse Coordinator and Offshore Project Review Coordinator for the state. These two sections coordinate the federal consistency review of all projects that do not require a state environmental resource permit.

While FCMP continues to examine the potential benefits of narrative enforceable policies in federal consistency for Florida, we are also proceeding to develop a document to aid the federal agencies or other applicants to clearly and quickly understand which enforceable policies do or do not apply to their project.

During this process, FCMP will continue to submit annual program change submissions to keep the program up to date using the current format as this project continues.

## Table of Changes

Statutory Change	Change in 2022	Meaning of Change
Chapter 161, F.S, Beach and Shore Preservation	None	N/A
Chapter 163, Part II, F.S., Growth Policy; County and Municipal Planning; Land Development Regulation	<b>New: 163.32051</b>	163.32051 outlines regulatory and planning requirements for private and public entities to initiate or expand floating solar facilities.
Chapter 186, F.S., State and Regional Planning	None	N/A
Chapter 252, F.S., Emergency Management	<b>New: 252.3711, 252.64, 252.71</b>	<p>252.3711 creates the Emergency Preparedness and Response Fund within the Executive Office of the Governor for use as a depository for moneys to prepare or respond to a declared state of emergency that exceeds regularly appropriated funds.</p> <p>252.64 establishes that an emergency order authorized by this part may not directly or indirectly prohibit a religious institution from conducting regular religious services or activities.</p> <p>252.71 creates the Florida Emergency Management Assistance Foundation to support the Department of Emergency Management in its disaster response, recovery, and relief efforts, and provides for the operation and maintenance of the nonprofit Foundation.</p>
Chapter 253, F.S., State Lands	Amended: 253.0346	253.0346 specifies time ranges/limits for tenancies in mooring fields in Monroe County.
Chapter 258, F.S., State Parks and Preserves	None	N/A
Chapter 259, F.S., Land Acquisitions for Conservation and Recreation	None	N/A

Chapter 260, F.S., Florida Greenways and Trails Act	None	N/A
Chapter 267, F.S., Historical Resources	None	N/A
Chapter 288, F.S., Commercial Development and Capital Improvements	None	N/A
Chapter 334, F.S., Transportation Administration	None	N/A
Chapter 339, F.S., Transportation Finance and Planning	<b>New:</b> <b>339.157</b>	339.157 requires development of a Resilience Action Plan for the State Highway System based on current conditions and forecasted future events such as rainfall, storm surge flooding and sea level rise.
Chapter 373, F.S., Water Resources	<b>New:</b> <b>373.4134,</b> <b>373.41365</b>	373.4134 establishes the creation of “water quality enhancement areas” for local governments to improve water quality regionally and receive credits to offset impacts within the same basin to address a Basin Management Action Plan allocation associated with a Total Maximum Daily Load assessment.  373.41365 requires rulemaking to establish or clarify financial assurances for long-term management of mitigation under ss. 373.4136 and 373.414.
Chapter 375, F.S., Outdoor Recreation and Conservation Lands	None	N/A
Chapter 376, F.S., Pollutant Discharge Prevention and Removal	<b>New:</b> <b>376.91</b>  Repealed: 376.15	376.91 creates a timeline for developing, by rule, statewide cleanup target levels for perfluoroalkyl and polyfluoroalkyl substances in drinking water, groundwater, and soil.  376.15, which finds it unlawful for any person, firm, or corporation to willfully leave any derelict vessel upon the waters of this state, is repealed.
Chapter 377, F.S., Energy Resources	<b>New:</b> <b>377.814</b>	377.814 establishes the Municipal Solid Waste-to-Energy Program to provide financial assistance and incentive grants to municipal solid waste-to-energy facilities.

Chapter 379, F.S., Fish and Wildlife Conservation	Amended: 379.101	379.101 revises the definitions of “marine fish” and “saltwater fish” to reflect updates in the scientific classification.
Chapter 380, F.S., Land and Water Management	None	N/A
Chapter 381, F.S., Public Health: General Provisions	Amended: 381.0065	381.0065 outlines rules and procedures for hiring a private provider to perform an inspection that follows applicable regulatory requirements of the onsite sewage treatment and disposal system.
Chapter 388, F.S., Mosquito Control	None	N/A
Chapter 403, F.S., Environmental Control	<b>New:</b> <b>403.0741,</b> <b>403.9339</b>  Repealed: 403.73	403.0741 regulates the removal and disposal of grease waste.  403.9339 develops a golf course best management practices certification program.  403.73, a public records exemption for records, reports, or information containing trade secrets, is repealed.
Chapter 553, F.S., Building Construction Standards	None	N/A
Chapter 582, F.S., Soil and Water Conservation	None	N/A
Chapter 597, F.S., Aquaculture	None	N/A



## **Conclusion**

The Florida Department of Environmental Protection has determined that the proposed Program Changes are considered a Program Change as defined by the 15 C.F.R. s. 923.84 decision criteria. This Program Change submission will incorporate new statutory changes and modifications enacted by the Florida Legislature during the 2022 legislative sessions to the 24 statutes included in the FCMP.

Staff has evaluated these changes pursuant to 15 C.F.R. 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 the following management program areas: Uses Subject to Management, Special Management Areas, Boundaries, Authorities and Organization, and 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 and modifications to these statutes adopted by the Florida Legislature during the 2022 legislative sessions, 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 and revised Florida Statutes enacted by the Florida Legislature during the 2022 legislative session into the Florida Coastal Management Program. This includes incorporation of new sections 163.32051 and 373.4134, F.S., and revised language in sections 253.0346, 379.101, and 381.0065, F.S., 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, and 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 Program Change submittal, please contact: Ms. Anne Lunie Rodney, Department of Environmental Protection, Office of Resilience and Coastal Protection, 2600 Blair Stone Road, M.S. 235, Tallahassee, FL, 32399-3000, (850) 245-7559 or [AnneLunie.Rodney@FloridaDEP.gov](mailto:AnneLunie.Rodney@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).