U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Office for Coastal Management
Silver Spring Metro Center, Building 4
1305 East-West Highway
Silver Spring, Maryland 20910

Mr. Kevin Claridge, Director Florida Coastal Office 3900 Commonwealth Boulevard, M.S. 235 Tallahassee, Florida 32399

SEP 2 9 2017

Dear Mr. Claridge:

Thank you for Florida Department of Environmental Protection's June 2, 2017 request that changes to Chapters 161, 163, 252, 253, 259, 334, 339, 373, 376, 379, 380, 403, 553, 582 and 597 of the Florida Statutes be incorporated into the Florida Coastal Management Program (FL CMP). You requested that the changes described below be incorporated as routine program changes (RPCs), pursuant to Coastal Zone Management Act (CZMA) regulations at 15 C.F.R. part 923, subpart H, and the National Oceanic and Atmospheric Administration's (NOAA's) Office for Coastal Management's *Program Change Guidance (July 1996)*. The Office for Coastal Management's decision deadline for the request received on June 2, 2017 was extended to September 22, 2017.

The Office for Coastal Management received no comments on this RPC submission. Based on our review of your submission, we concur, with the exceptions described below, that the changes are RPCs and we approve the incorporation of the changes as enforceable and non-enforceable policies of the Florida Coastal Management Program. Any changes to enforceable policies of the FL CMP only can be applied for CZMA review purposes after notice of this approval is published pursuant to 15 C.F.R. § 923.84(b)(4) and the Office for Coastal Management's Addendum to the July 1996 Program Change Guidance (November 2013). Please include in the public notice the list of or an electronic address for viewing the changes to the program, and provide a copy of the notice to the Office for Coastal Management.

CHANGES APPROVED

See enclosed table of the changes incorporated into the FL CMP.

ENFORCEABLE POLICIES OF THE FLORIDA CMP

In 2014, Office for Coastal Management and FL CMP staff discussed the need for a comprehensive identification of enforceable policies within the FL CMP. Over the years of reviewing the state's annual submission of program changes, there has been much disagreement over which policies were identified as enforceable for CZMA review purposes. Numerous policies were identified as enforceable policies that OCM found not to meet the requirements for

enforceable policies. Policies were found to contain no standard that could be applied to determine whether an activity was consistent with those policies.

Although the state was required to identify enforceable policies in program change submissions, the determination of whether the program changes were approvable as enforceable policies did not resolve the question of the whether the remaining sections of each chapter within the Florida Statutes were enforceable policies. In an effort to resolve those questions, the Office for Coastal Management and the FL CMP agreed that the FL CMP would submit several chapters of the Florida Statutes annually in their entirety for review to determine whether the policies within the chapters were enforceable. *See* Letter from Joelle Gore, OCM, to Kelly Samek, FL CMP, (June 18, 2014). These submissions were to be made regardless of whether there had been program changes to the chapters. Over the span of several years, all of the chapters of the Florida Statutes will have been reviewed to identify the enforceable policies within them for CZMA review purposes. In the meantime, the state will continue to submit all legislative changes on an annual basis but the Office for Coastal Management agreed to not question the enforceability of policies that are modified by the state legislature until those chapters are brought before the Office for Coastal Management for review in their entirety.

This multi-year effort is being conducted in conjunction with the program change process; however, the determination of the enforceability of policies within the FL CMP is not a program change. It is merely a determination as to whether the policies within the program meet the requirements enforceable policies used for CZMA Federal Consistency review purposes.

In order to keep the determination of enforceable policies current, if program changes are to chapters which have been previously reviewed in their entirety to determine the enforceable policies within them, those changes will be reviewed to determine if the sections as changed are enforceable policies for CZMA review purposes.

Putting aside the question of whether a program change is an enforceable policy is not a confirmation that a policy is such or remains as such until the Office for Coastal Management determines that it is not. The Office for Coastal Management is simply deferring the resolution of the question. If any section of the Florida Statutes is applied as an enforceable policy and that application is challenged, and if the section is found not to meet the requirements for enforceable policies, the Office for Coastal Management will not support the state in its application of the policy.

In previous years, the Office for Coastal Management has reviewed the following chapters in their entirety to determine the enforceable policies within them: 161, 258 and 260 (2015); and 259, 334 and 339 (2016).

This year, the state has submitted the enforceable policies of chapters 267 and 597 for review. The Office for Coastal Management has found that the chapter sections identified by the state as enforceable policies at pages 87 and 475 of the submission qualify as such with the exceptions of sections are 267.031, 267.135, 597.002 and 597.020. The state has asked that these policies be withdrawn from a final determination as to their enforceability so that the state may consult with

agency partners responsible for administering those sections, with the option of resubmitting them in 2018.

The state withdrew several sections from the review last year after it was determined by the Office for Coastal Management that the sections did not qualify as enforceable policies. The state requested that it be able to resubmit those sections after consultation with the state agencies which administered those statutes. Several sections were resubmitted as enforceable policies as part of this program change submission. In this review and discussions with the FL CMP, the enforceability of the previously submitted chapters and sections has been determined and agreed upon as shown in the separate table of enforceable policies of the FL CMP with the exceptions of sections 259.04, 259.06, and 339.175. The state has asked that these policies be withdrawn from a final determination as to their enforceability so that the state may consult with its agency partners responsible for administering those sections, with the option of resubmitting them in 2018.

STANDARD QUALIFICATION

As a standard qualification placed on all program change approvals, it is noted that states may not incorporate enforceable policies by reference. If an approved enforceable policy refers to another statute, regulation, policy, standard, guidance, or other such requirement or document, the referenced policy itself must be submitted to and approved by the Office for Coastal Management as an enforceable policy in order to be applied under the federal consistency review provisions of the CZMA. Therefore, no referenced policy in these approved enforceable policies may be applied for federal consistency unless that referenced policy has been separately approved by the Office for Coastal Management.

Thank you for your cooperation in this review. Please contact Kristin Ransom at (228) 688-1966 if you have any questions.

Sincerely,

Joelle Gore, Chief Stewardship Division

Enclosure(s):

Table of Approved Changes to the Florida Coastal Management Program (9-29-2017); Multi-Year Review of Enforceable Policies of the Florida CMP (September 2017)

		Enforcement Mechanism(s)		Date
			Data Adamtad hu	
Description of changes to Floride Statutes	State Legal Citation	[the law(s) and mechanism(s) used by the state to	Date Adopted by	Effective in
Description of changes to Florida Statutes	State Legal Citation	implement and enforce the section of the statute]	State	State
ADDED:				
Ensuring availability of emergency supplies	252.359*	N/A	2016 Legislative Session	7/1/2016
Alternatives to fee simple acquisition	253.0251*	N/A	2016 Legislative Session	7/1/2016
Inventory of state, federal, and local government conservation lands by the Department				
of Environmental Protection	253.87*	N/A	2016 Legislative Session	7/1/2016
Florida Department of Transportation Financing Corporation	339.0809*	N/A	2016 Legislative Session	7/1/2016
Pilot program for alternative water supply development in restricted allocation areas	373.037*	N/A	2016 Legislative Session	7/1/2016
Central Florida Water Initiative	373.0465*	N/A	2016 Legislative Session	7/1/2016
Legislative findings and intent	373.801	373.413, 373.451	2016 Legislative Session	7/1/2016
Definitions	373.802	373.413, 373.451	2016 Legislative Session	7/1 <i>/</i> 2016
Delineation of priority focus areas for Outstanding Florida Springs	373.803	373.413, 373.451	2016 Legislative Session	7/1/2016
Minimum flows and minimum water levels for Outstanding Florida Springs	373.805	373.413, 373.451	2016 Legislative Session	7/1/2016
Protection of water quality in Outstanding Florida Springs	373.807	373.413, 373.451	2016 Legislative Session	7/1/2016
Prohibited activities within a priority focus area	373.811	373.413, 373.451	2016 Legislative Session	7/1/2016
Rules	373.813*	N/A	2016 Legislative Session	7/1/2016
Innovative nutrient and sediment reduction and conservation pilot project program	403.0617*	N/A	2016 Legislative Session	7/1/2016
Progress reports	403.0675*	N/A	2016 Legislative Session	7/1/2016
Assessment of water resources and conservation lands	403.928*	N/A	2016 Legislative Session	7/1/2016
MODIFIED:		The following are modifications of previously established policies.		
MODITIED.		established policies.		
Minor technical change***	161.143		2016 Legislative Session	7/1/2016
Minor technical change.	163.3177		2016 Legislative Session	7/1/2016
Minor technical change.	163.3184		2016 Legislative Session	7/1/2016
Minor technical change.	252.34		2016 Legislative Session	7/1/2016
Minor technical change.	253.025		2016 Legislative Session	7/1/2016
Minor technical change.	253.03		2016 Legislative Session	7/1/2016
Minor technical change.	253.0341		2016 Legislative Session	7/1 <i>/</i> 2016
Minor technical change.	253.111		2016 Legislative Session	7/1/2016
Minor technical change.	253.42		2016 Legislative Session	7/1/2016
Minor technical change.	235.782		2016 Legislative Session	7/1/2016
Minor technical change.	253.7821		2016 Legislative Session	7/1/2016
Minor technical change.	259.105		2016 Legislative Session	7/1/2016
Minor technical change.	339.175		2016 Legislative Session	7/1/2016
Minor technical change.	373.019		2016 Legislative Session	7/1/2016
Minor technical change.	373.036		2016 Legislative Session	7/1/2016
Minor technical change.	373.042		2016 Legislative Session	7/1/2016
Minor technical change.	373.0421		2016 Legislative Session	7/1/2016

^{*}The FCMP seeks to incorporate changes into its program, but the changes do not contain enforceable policies that can be used for federal consistency purposes.

^{**}Was modified from 570.0741, F.S., and does not contain enforceable policies

	7.1.		<u> </u>	Γ
		Enforcement Mechanism(s)		Date
		[the law(s) and mechanism(s) used by the state to	Date Adopted by	Effective in
Description of changes to Florida Statutes	State Legal Citation	implement and enforce the section of the statute	State	State
Minor technical change.	373.089		2016 Legislative Session	7/1/2016
Minor technical change.	373.139		2016 Legislative Session	7/1/2016
Minor technical change.	373.1501		2016 Legislative Session	7/1/2016
Minor technical change.	373.219		2016 Legislative Session	7/1/2016
Minor technical change.	373.223		2016 Legislative Session	7/1/2016
Minor technical change.	373.2234		2016 Legislative Session	7/1/2016
Minor technical change.	373.227		2016 Legislative Session	7/1/2016
Minor technical change.	373.233		2016 Legislative Session	7/1/2016
Minor technical change.	373.236		2016 Legislative Session	7/1/2016
Minor technical change.	373.323		2016 Legislative Session	7/1/2016
Minor technical change.	373.4137		2016 Legislative Session	7/1/2016
Minor technical change.	373.4149		2016 Legislative Session	7/1/2016
Minor technical change.	373.41492		2016 Legislative Session	7/1/2016
Minor technical change.	373.4591		2016 Legislative Session	7/1/2016
Minor technical change.	373.4595		2016 Legislative Session	7/1/2016
Minor technical change.	373.467		2016 Legislative Session	7/1/2016
Minor technical change.	373.6055		2016 Legislative Session	7/1/2016
Minor technical change.	373.705		2016 Legislative Session	7/1/2016
Minor technical change.	373.707		2016 Legislative Session	7/1/2016
Minor technical change.	373.709		2016 Legislative Session	7/1/2016
Minor technical change.	376.301		2016 Legislative Session	7/1/2016
Minor technical change.	376.305		2016 Legislative Session	7/1/2016
Minor technical change.	376.30701		2016 Legislative Session	7/1/2016
Minor technical change.	376.3071		2016 Legislative Session	7/1/2016
Minor technical change.	376.30713		2016 Legislative Session	7/1/2016
Minor technical change.	376.79		2016 Legislative Session	7/1/2016
Minor technical change.	376.81		2016 Legislative Session	7/1/2016
Minor technical change.	379.204		2016 Legislative Session	7/1/2016
Minor technical change.	379.2223		2016 Legislative Session	7/1/2016
Minor technical change.	379.2257	4	2016 Legislative Session	7/1/2016
Minor technical change.	379.2425		2016 Legislative Session	7/1/2016
Minor technical change.	379.2431		2016 Legislative Session	7/1/2016
Minor technical change.	379.29		2016 Legislative Session	7/1/2016
Minor technical change.	379.295		2016 Legislative Session	7/1/2016
Minor technical change.	379.33		2016 Legislative Session	7/1/2016
Minor technical change.	379.3502		2016 Legislative Session	7/1/2016
Minor technical change.	379.3503		2016 Legislative Session	7/1/2016
Minor technical change.	379.3504		2016 Legislative Session	7/1/2016
Minor technical change.	379.3511		2016 Legislative Session	7/1/2016
Minor technical change.	379.354		2016 Legislative Session	7/1/2016

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		Enforcement Mechanism(s)		Date
	**	[the law(s) and mechanism(s) used by the state to	Date Adopted by	Effective in
Description of changes to Florida Statutes	State Legal Citation	implement and enforce the section of the statute	State	State
	379.357	implement and emorce the section of the statute		
Minor technical change.	379.363		2016 Legislative Session	7/1/2016
Minor technical change.			2016 Legislative Session	7/1/2016
Minor technical change.	379.364		2016 Legislative Session	7/1/2016
Minor technical change.	379.365	3	2016 Legislative Session	7/1/2016
Minor technical change.	379.3671		2016 Legislative Session	7/1/2016
Minor technical change.	379.3751		2016 Legislative Session	7/1/2016
Minor technical change.	379.3752		2016 Legislative Session	7/1/2016
Minor technical change.	379.401		2016 Legislative Session	7/1/2016
Minor technical change.	379.407		2016 Legislative Session	7/1/2016
Minor technical change.	379.409		2016 Legislative Session	7/1/2016
Minor technical change.	379.411		2016 Legislative Session	7/1/2016
Minor technical change.	379.4115	alla Editoria	2016 Legislative Session	7/1/2016
Minor technical change.	380.05		2016 Legislative Session	7/1/2016
Minor technical change.	380.055		2016 Legislative Session	7/1/2016
Minor technical change.	380.0552		2016 Legislative Session	7/1/2016
Minor technical change.	380.0555		2016 Legislative Session	7/1/2016
Minor technical change.	380.06		2016 Legislative Session	7/1/2016
Minor technical change.	380.0651		2016 Legislative Session	7/1/2016
Minor technical change.	380.115		2016 Legislative Session	7/1/2016
Minor technical change.	380.508		2016 Legislative Session	7/1/2016
Minor technical change.	380.510	X ²	2016 Legislative Session	7/1/2016
Minor technical change.	403.061		2016 Legislative Session	7/1/2016
Minor technical change.	403.0623		2016 Legislative Session	7/1/2016
Minor technical change.	403.067		2016 Legislative Session	7/1/2016
Minor technical change.	403.1838		2016 Legislative Session	7/1/2016
Minor technical change.	403.201		2016 Legislative Session	7/1/2016
Minor technical change.	403.413	*	2016 Legislative Session	7/1/2016
Minor technical change.	403.5363	**	2016 Legislative Session	7/1/2016
Minor technical change.	403.7046		2016 Legislative Session	7/1/2016
Minor technical change.	403.73		2016 Legislative Session	7/1/2016
Minor technical change.	403.814		2016 Legislative Session	7/1/2016
Minor technical change.	403.8141	· · · · · · · · · · · · · · · · · · ·	2016 Legislative Session	7/1/2016
	403.8532		2016 Legislative Session	7/1/2016
Minor technical change.	403.861			7/1/2016
Minor technical change.	553.79		2016 Legislative Session	7/1/2016
Minor technical change.	582.01		2016 Legislative Session	
Minor technical change.	582.02		2016 Legislative Session	7/1/2016
Minor technical change.	582.16		2016 Legislative Session	7/1/2016
Minor technical change.			2016 Legislative Session	7/1/2016
Minor technical change.	582.20		2016 Legislative Session	7/1/2016
Minor technical change.	582.29	<u> </u>	2016 Legislative Session	7 /1/2016

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**Was modified from 570.0741, F.S., and does not contain enforceable policies

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		Enforcement Mechanism(s)		Date
A **		[the law(s) and mechanism(s) used by the state to	Date Adopted by	Effective in
Description of changes to Florida Statutes	State Legal Citation	implement and enforce the section of the statute	State	State
Minor technical change.	597.010	implement and emoree the section of the statute		
whior technical change.	397.010		2016 Legislative Session	7/1/2016
DEL EGED (DEDE VIED	· · · · · · · · · · · · · · · · · · ·			
DELETED/REPEALED:				
Repealed	259.041*		2015 Legislative Session	7/1/2015
Repealed	259.02*	Official Committee	2015 Legislative Session	7/1/2015
Repealed	334.14*		2015 Legislative Session	7/1/2015
Repealed	373.245		2015 Legislative Session	7/1/2015
Repealed	379.403		2015 Legislative Session	7/1/2015
Repealed	582.03		2015 Legislative Session	7/1/2015
Repealed	582.04		2015 Legislative Session	7/1/2015
Repealed	582.05		2015 Legislative Session	7/1/2015
Repealed	582.08		2015 Legislative Session	7/1/2015
Repealed	582.09		2015 Legislative Session	7/1/2015
Repealed	582.17		2015 Legislative Session	7/1/2015
Repealed	582.21		2015 Legislative Session	7/1/2015
Repealed	582.22		2015 Legislative Session	7/1/2015
Repealed	582.23		2015 Legislative Session	7/1/2015
Repealed	582.24		2015 Legislative Session	7/1/2015
Repealed	582.25		2015 Legislative Session	7/1/2015
Repealed	582.26		2015 Legislative Session	7/1/2015
Repealed	582.331		2015 Legislative Session	7/1/2015
Repealed	582.34		2015 Legislative Session	7/1/2015
Repealed	582.35		2015 Legislative Session	7/1/2015
Repealed	582.36		2015 Legislative Session	7/1/2015
Repealed	582.37		2015 Legislative Session	7/1/2015
Repealed	582.38		2015 Legislative Session	7/1/2015
Repealed	582.39	N .	2015 Legislative Session	7/1/2015
Repealed	582.40		2015 Legislative Session	7/1/2015
Repealed	582.41		2015 Legislative Session	7/1/2015
Repealed	582.42		2015 Legislative Session	7/1/2015
Repealed	582.43		2015 Legislative Session	7/1/2015
Repealed	582.44		2015 Legislative Session	7/1/2015
Repealed	582.45		2015 Legislative Session	7/1/2015
Repealed	582.46		2015 Legislative Session	7/1/2015
Repealed	582.47		2015 Legislative Session	7/1/2015
Repealed	582.48		2015 Legislative Session	7/1/2015
Repealed	582.49		2015 Legislative Session	7/1/2015

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Multi-Year Review of Enforceable Policies of the Florida CMP September 2017

In 2014, Office for Coastal Management and FL CMP staff discussed the need for a comprehensive identification of enforceable policies within the FL CMP. Over the years of reviewing the state's annual submission of program changes, there has been much disagreement over which policies were identified as enforceable for CZMA review purposes. Numerous policies were identified as enforceable policies that OCM found not to meet the requirements for enforceable policies. The policies contained no standard that could be applied to determine whether an activity was consistent with those policies.

Although the state was required to identify enforceable policies in program change submissions, the determination of whether the program changes were approvable as enforceable policies did not resolve the question of whether the remaining sections of each chapter within the Florida Statutes were enforceable policies. In an effort to resolve those questions, the Office for Coastal Management and the FL CMP agreed that the FL CMP would submit several chapters of the Florida Statutes annually in their entirety for review to determine whether the policies within the chapters were enforceable. *See* Letter from Joelle Gore, OCM, to Kelly Samek, FL CMP, (June 18, 2014). These submissions were to be made regardless of whether there had been program changes to the chapters. Over the span of several years, all of the chapters of the Florida Statutes will have been reviewed to identify the enforceable policies within them for CZMA review purposes. In the meantime, the state will continue to submit all legislative changes on an annual basis but the Office for Coastal Management agreed to not question the enforceability of policies that are modified by the state legislature until those chapters are brought before the Office for Coastal Management for review in their entirety.

Multi-Year Review of Enforceable Polices of the Florida CMP Table of Enforceable Policies Identified as of September 2017

Chapter 161 (reviewed in 2015)	Beach and Shore Preservation
Section 161.021	Definitions.
Section 161.041	Permits required.
Section 161.042	Coastal construction and excavation in barrier beach inlets
Section 161.051	Coastal construction by persons, firms, corporations, or local authorities.
Section 161.052	Coastal construction and excavation; regulation.
Section 161.053	Coastal construction and excavation; regulation on county basis.
Section 161.0531	Development agreements.
Section 161.0535	Permits; fees, costs.

Section 161.101	State and local participation in authorized
	erosion control and beach restoration and nourishment projects.
Section 161.101	projects and studies relating to beach
	management and erosion control.
Section 161.131	Construction of ss. 161.011-161.212
Section 161.141	Property rights of state and private upland
	owners in beach restoration project areas.
Section 161.142	Declaration of public policy relating to
	improved navigation inlets.
Section 161.143	Inlet management; planning, prioritizing,
	funding, approving, and implementing
	projects.
Section 161.151	Definitions.
Section 161.161	Procedure for approval of projects.
Section 161.191	Vesting of title to lands.
Section 161.201	Preservation of common-law rights.
Section 161.211	Cancellation of resolution for
	nonperformance by board of trustees.
Section 161.212	Judicial review relating to permits and
	licenses.
Section 161.242	Harvesting of sea oats and sea grapes
	prohibited; possession prima facie evidence of
	violation.
Section 161.36	General powers of authority
Section 161.41	Construction of ss. 161.25 – 161.40.
Section 161.54	Definitions
Section 161.55	Requirements for activities or construction
	within the coastal building zone.
Section 161.56	Establishment of local enforcement.
Section 161.58	Vehicular traffic on coastal beaches.
Section 161.71	Definitions.
Chapter 258 (reviewed in 2015)	State Parks and Preserves
CHAPTEL 430 (ICVICWEU III 2013)	State Parks and Preserves

Section 258.008	Prohibited activities; penalties.
Section 258.037	Policy of division.
Section 258.08	Guide meridian and base parallel park
Section 238.00	located.
Section 258.10	Division of Recreation and Parks to supervise
Section 236.10	and maintain Rauscher Park.
Section 258.156	Savannas State Reserve.
Section 258.157	Prohibited acts in Savannas State Reserve.
Section 258.37	Definitions.
Section 258.39	Boundaries of preserves.
Section 258.391	Cockroach Bay Aquatic Preserve.
Section 258.391 Section 258.392	Gasparilla Sound – Charlotte Harbor Aquatic
Section 236.392	Preserve.
Section 258.3925	Lemon Bay Aquatic Preserve.
Section 258.393	Terra Ceia Aquatic Preserves wastewater or
	effluent discharge activities
Section 258.394	Guana River March Aquatic Preserve
Section 258.395	Big Bend Seagrasses Aquatic Preserve
Section 258.396	Boca Ciega Bay Aquatic Preserve
Section 258.397	Biscayne Bay Aquatic Preserve
Section 258.399	Oklawaha River Aquatic Preserve.
Section 258.40	Scope of preserves.
Section 258.41	Establishment of aquatic preserves.
Section 258.42	Maintenance of preserves.
Section 258.44	Effect of preserves.
Section 258.45	Provisions not superseded.
Section 258.501	Myakka River; wild and scenic segment.
Chapter 259 (originally submitted in 2016,	Land Acquisitions for Conservation or
withdrawn; resubmitted in 2017)	Recreation
Section 259.105	The Florida Forever Act
Chapter 260 (submitted in 2015; resubmitted in 2016)	Florida Greenways and Trails Act
This chapter contains no enforceable policies	
for CZMA review purposes.	
parkets	
Chapter 267 (submitted in 2017)	Historical Resources
Section 267.021	Definitions
Section 267.061	Historic properties; state policy,
	responsibilities.
Section 267.11	Designation of archaeological sites.
Section 267.115	Objects of historical or archaeological value.
Section 267.12	Research permits; procedure.
Section 267.13	Prohibited practices; penalties.
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Section 267.14	Legislative intent.
Chapter 334 (originally submitted in 2016, withdrawn; resubmitted in 2017)	Transportation Administration
This chapter contains no enforceable policies for CZMA review purposes.	
Chapter 339	Transportation Finance and Planning
Section 339.241	Florida Junkyard Control Law
Chapter 597 (submitted in 2017)	Aquaculture
Section 597.0015	Definitions
Section 597.003	Powers and duties of Department of Agriculture and Consumer Services.
Section 597.004	Aquaculture certificate or registration.
Section 597.0041	Prohibited acts; penalties.
Section 597.010	Shellfish regulation; leases.