

Program Change Submission
To
State of Florida Coastal Management Program

Request for Concurrence

April 2025

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 2024 legislative session, two new sections were added, and 13 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 has concluded 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 339 and 377 of the Florida Statutes (F.S.) are being proposed as enforceable policies. FCMP is also submitting revisions to 13 sections of existing enforceable policies in Chapters 163, 253, 258, 373, 379, 380, 381 and 403 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, 253, 258, 339, 373, 377, 379, 380, 381 and 403 of the Florida Statutes as program changes to the FCMP. New sections 339.28201 and 377.708, F.S., and revised language in existing sections 163.3184, 253.04, 258.39, 373.4131, 373.4134, 379.233, 380.0552, 380.0666, 381.0061, 381.0065, 403.064, 403.121 and 403.413, 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. FCMP will continue to submit annual program change submissions to keep the program up to date using the current format.

The program changes for 2024 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 163.3184, F.S., was amended to clarify the process for local governments to amend their comprehensive plans and when proposed comprehensive plan amendments are deemed withdrawn. Adherence to the approved comprehensive plan is a component of the state environmental resource authorization, therefore the allowed actions in the comprehensive plan could determine if federal environmental permits could be issued.

Chapter 253, F.S.

Section 253.04, F.S., was amended to include section 258.3991, F.S., designating the Nature Coast Aquatic Preserve, to the aquatic preserve statutes specified in this section. Within the statutes referenced in this section, a person operating a vessel outside a lawfully marked channel in a careless manner resulting in seagrass scarring commits a noncriminal infraction. Including newer aquatic preserve statutes into relevant sections of existing statutes referencing actions in aquatic preserves is essential for the enforcement of protections and requirements for actions within more recently designated aquatic preserves.

Chapter 258, F.S.

Section 258.39, F.S., was amended to add the Kristin Jacobs Coral Reef Ecosystem Conservation Area within the boundaries of aquatic preserve areas. The boundaries of the area consist of the sovereignty submerged lands and waters of the state offshore of Broward, Martin, Miami-Dade, and Palm Beach Counties from the St. Lucie Inlet to the northern boundary of the Biscayne National Park. Existing protections and requirements for actions within aquatic preserves apply to the new area, and restrictions for USACE permits that would apply to submerged lands within aquatic preserves would also apply to submerged lands within the boundaries of the Kristin Jacobs Coral Reef Ecosystem Conservation Area Aquatic Preserve.

Chapter 339, F.S.

Section 339.28201, F.S., establishes within the Florida Department of Transportation a Local Agency Program for the purpose of providing assistance to subrecipient agencies to develop, design, and construct transportation facilities using funds allocated by federal agencies to the Florida Department of Transportation which

are then suballocated by the department. All federally funded transportation projects must be fully consistent with the state's approved coastal management program.

Chapter 373, F.S.

Section 373.4131, F.S., was amended to add specific permitting conditions for stormwater systems that discharge to waters of the state, with increased protection for impaired waters. The section is utilized in the issuance and enforcement of the Environmental Resource Permit and the corresponding federal permit, if applicable.

Section 373.4134, F.S., defines the term "applicant" to mean a governmental entity or private sector entity that seeks to purchase water quality enhancement areas for the purpose of achieving net improvements or satisfying environmental resource permit performance standards. 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 377, F.S.

Section 377.708, F.S., prohibits construction or expansion of offshore wind energy facilities, and wind turbines or wind energy facilities on real property within 1 mile of coastline, the Atlantic Intracoastal Waterway, Gulf Intracoastal Waterway, on waters of this state or any submerged lands. Federal agencies cannot build, expand, permit or fund offshore wind energy facilities, and wind turbines or wind energy facilities on real property in the prohibited areas.

Chapter 379, F.S.

Section 379.233, F.S., was amended to state that it is unlawful for any person, firm, or corporation to intentionally release, organize the release of, or intentionally cause to be released any balloons inflated with a gas that is lighter than air except for any of the purposes specified in the section. Federal entities cannot release any balloons or fund any projects where balloons are released for any other purposes than those specified in this section.

Chapter 380, F.S.

Section 380.0552, F.S., was amended to provide that, for purposes of hurricane evacuation clearance time, the City of Key West Area of Critical State Concern, shall be included in the hurricane evacuation study and is subject to the evacuation requirements of the subsection. Hurricane evacuation clearance time determined by the study affects the County's comprehensive plan and how much development can occur. Adherence to the approved comprehensive plan is a component of the state environmental resource authorization, the allowed actions in the comprehensive plan could determine if federal environmental permitting could be issued.

Section 380.0666, F.S., authorizes the land authority for affordable housing homeownership units to require compliance with income requirements at the time of conveyance and states that if the units receive state or federal funding and that state or federal funding program requires a priority lien position over the original land authority's perpetual deed restriction, the original land authority funding or contribution may be subordinate to a first purchase money mortgage and the state or federal funding lien. Any proposed affordable housing homeownership unit that receives federal funds or resources is subject to a consistency review.

Chapter 381, F.S

Section 381.0061, F.S., was amended to exclude administrative action or fines for violations to statutes 381.0065, 381.00666 or part III of chapter 489, F.S., and excludes onsite sewage treatment and disposal systems from fines for a violation of chapter 386. Clear and precise guidelines for administrative action or the imposition of fines are necessary for the enforcement of water quality standards in the coastal zone.

Section 381.0065, F.S., was amended to add that the department shall conduct enforcement activities in accordance with part I of chapter 403 and that all references to part I of chapter 386 in this section relate solely to nuisances involving improperly built or maintained septic tanks or other onsite sewage treatment and disposal systems, untreated or improperly treated or transported waste from onsite sewage treatment and disposal systems. Onsite sewage treatment and disposal systems are present at federal facilities and accurate and detailed guidelines for administrative procedures or penalty enforcement are essential for Florida's management of the coastal zone.

Chapter 403, F.S.

Section 403.064, F.S., was amended to include surface water discharge and land application as methods to dispose of effluent or a portion thereof. Federal agencies must ensure that any federal actions, permits, funding or projects within Florida's coastal zone are consistent with the state's policies governing the disposal of effluent.

Section 403.121, F.S., was amended to add specific statutory sections and rules; ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, part III of chapter 489 to the judicial and administrative remedies available for violations of this chapter. Clear and specific statutory sections and rules are vital for the enforcement of federal activities, funding and permitting in the coastal zone.

Section 403.413, F.S., was amended to add the intentional release of balloons to definitions in the Florida Litter Law. Clear and specific statutory sections and rules are vital for the enforcement of federal activities, funding and permitting in the coastal zone.

Table of Changes

Statutory Change	Change in 2024	Meaning of Change
Chapter 161, F.S., Beach and Shore Preservation	None	N/A

<p>Chapter 163, Part II, F.S., Growth Policy; County and Municipal Planning; Land Development Regulation</p>	<p>New: 163.081 163.082 163.083 163.084 163.085 163.086 163.087 163.3210</p> <p>Amended: 163.3184</p>	<p>163.081, F.S., provides requirements for financing qualifying improvements to residential property.</p> <p>163.082, F.S., provides requirements for financing qualifying improvements to commercial property.</p> <p>163.083, F.S., sets parameters for the registration of qualifying improvement contractors.</p> <p>163.084, F.S., provides guidelines for program administrators for financing qualifying improvement programs.</p> <p>163.085, F.S., establishes standards for advertisement and solicitation for financing qualifying improvement programs.</p> <p>163.086, F.S., provides requirements for unenforceable financing agreements for financing qualifying improvements programs.</p> <p>163.087, F.S., provides reporting criteria for financing qualifying improvements programs.</p> <p>163.3184, F.S., clarifies the process for local governments to amend their comprehensive plans and when proposed comprehensive plan amendments are deemed withdrawn.</p> <p>163.3210, F.S., provides that a resilience facility is a permitted use in all commercial, industrial, and manufacturing land use categories in a local government comprehensive plan and all commercial, industrial and manufacturing districts, and prohibits a local government from amending its comprehensive plan, land use map, zoning districts, or land development regulations in a manner which might conflict with a resilience facility's classification as a permitted and allowable use.</p>
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Chapter 186, F.S., State and Regional Planning	None	N/A
Chapter 252, F.S., Emergency Management	None	N/A
Chapter 253, F.S., State Lands	Amended: 253.04	253.04, F.S., is amended to include s. 258.3991, F.S., designating the Nature Coast Aquatic Preserve, to the aquatic preserve statutes specified in this section. Within the statutes referenced in this section, a person operating a vessel outside a lawfully marked channel in a careless manner resulting in seagrass scarring commits a noncriminal infraction.
Chapter 258, F.S., State Parks and Preserves	Amended: 258.39	258.39, F.S., adds the Kristin Jacobs Coral Reef Ecosystem Conservation Area within the boundaries of aquatic preserve areas.
Chapter 259, F.S., Land Acquisitions for Conservation and Preservation	None	N/A
Chapter 260, F.S., Florida Greenways and Trails Act	New: 260.0145	260.0145, F.S., creates the Local Trail Management Grant Program to assist local governments with costs associated with the operation and maintenance of trails within the Florida Greenways and Trails System.
Chapter 267, F.S., Historical Resources	New: 267.0724	267.0724, F.S., requires the Department of State to partner with the Florida African American Heritage Preservation Network to preserve the history, culture, and contributions of Florida's black and African-American residents.
Chapter 288, F.S., Commercial Developments and Capital Improvements	New: 288.036 288.102	288.036, F.S., creates the Office of Ocean Economy to connect the state's ocean and coastal resources to economic development strategies that grow, enhance, or contribute to the ocean economy. 288.102, F.S., creates the Supply Chain Innovation Grant Program within the Department of Commerce to fund proposed projects that support supply chain innovation from applications from specified ports, railroads, airports, and logistic centers.

Chapter 334, F.S., Transportation Administration	New: 334.61	334.61, F.S., requires a governmental entity to conduct a traffic study to address any potential adverse impacts of any project that will repurpose one or more existing traffic lanes.
Chapter 339, F.S., Transportation Finance and Planning	New: 339.28201	339.28201, F.S., establishes within the Department of Transportation a Local Agency Program for the purpose of providing assistance to subrecipient agencies to develop, design, and construct transportation facilities using federal funds allocated to the department.
Chapter 373, F.S., Water Resources	Amended: 373.4131 373.4134	373.4131, F.S., adds specific permitting conditions for stormwater systems that discharge to waters of the state, with increased protection for impaired waters. 373.4134, F.S., defines the term “applicant” to mean a governmental entity or private sector entity that seeks to purchase water quality enhancement areas for the purpose of achieving net improvements or satisfying environmental resource permit performance standards.
Chapter 375, F.S., Outdoor Recreation and Conservation Lands	None	N/A
Chapter 376, F.S., Pollutant Discharge Prevention and Removal	None	N/A
Chapter 377, F.S., Energy Resources	New: 377.708	377.708, F.S., prohibits construction or expansion of offshore wind energy facilities, and wind turbines or wind energy facilities on real property within 1 mile of coastline, the Atlantic Intracoastal Waterway, Gulf Intracoastal Waterway, on waters of this state or any submerged lands.

Chapter 379, F.S., Fish and Wildlife Conservation	New: 379.40411 Amended: 379.233	379.40411, F.S., provides that a person is not subject to any administrative, civil, or criminal penalty for taking a bear with lethal force in specified situations. 379.223, F.S., exempts persons 6 years of age or younger and removes the fine for the unlawful release of balloons inflated with a gas that is lighter than air except for any of the purposes specified in the section.
Chapter 380, F.S., Land and Water Management	New: 380.095 Amended: 380.0552 380.0666	380.095, F.S., dedicates revenues from the gaming compact between the Seminole Tribe of Florida and the State of Florida to acquire and manage conservation lands, and to make significant investments in resilience efforts and clean water infrastructure. 380.0552, F.S., includes, for purposes of hurricane evacuation clearance time, the City of Key West Area of Critical State Concern, in the hurricane evacuation study and existing evacuation requirements. 380.0666, F.S., authorizes the land authority for affordable housing homeownership units to require compliance with income requirements at the time of conveyance.

<p>Chapter 381, F.S., Public Health: General Provisions</p>	<p>New: 381.4015, 381.4021, 381.814, 381.9855, 381.991</p> <p>Amended: 381.0061 381.0065</p>	<p>381.4015, F.S., creates the Health Care Innovation Council within the Department of Health to bring together subject matter experts in a public forum to explore and discuss innovations in technology, workforce, and service delivery models that can improve the quality and delivery of health care in this state.</p> <p>381.4021, F.S., requires an annual report and evaluation of the impact of the student loan repayment programs established in ss. 381.4019 and 381.402, F.S.</p> <p>381.814, F.S., creates the Sickle Cell Disease Research and Treatment Grant Program within the Department of Health to fund projects that improve the quality and accessibility of health care services for persons with sickle cell disease and advance research of sickle cell disease.</p> <p>381.9855, F.S., requires the Department of Health to implement the Dr. and Mrs. Alfonse and Kathleen Cinotti Health Care Screening and Services Grant Program to expand access to no-cost health care screenings or services for the public facilitated by nonprofit entities.</p> <p>381.991, F.S., creates the Andrew John Anderson Pediatric Rare Disease Grant Program within the Department of Health to advance research and cures for pediatric rare diseases.</p> <p>381.0061, F.S., excludes administrative action or fines for violations to ss. 381.0065, 381.00666 or part III of chapter 489, F.S., and excludes onsite sewage treatment and disposal systems from fines for a violation of chapter 386.</p> <p>381.0065, F.S., adds that the department shall conduct enforcement activities in accordance with part I of chapter 403 and that all references to part I of chapter 386 in this section relate solely to nuisances involving improperly built or maintained septic tanks or other onsite sewage treatment and disposal</p>
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		systems, untreated or improperly treated or transported waste from onsite sewage treatment and disposal systems.
Chapter 388, F.S., Mosquito Control	None	N/A
Chapter 403, F.S., Environmental Control	Amended: 403.064 403.121 403.413	<p>403.064, F.S., includes surface water discharge and land application as methods to dispose of effluent or a portion thereof.</p> <p>403.121, F.S., adds specific statutory sections and rules; ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, part III of chapter 489 to the judicial and administrative remedies available for violations of this chapter.</p> <p>403.413, F.S., adds the intentional release of balloons to definitions in the Florida Litter Law.</p>
Chapter 553, F.S., Building Construction Standards	New: 553.837 553.8991 553.9065	<p>553.837, F.S., requires a builder to warrant a newly constructed home for all construction defects of equipment, material, or workmanship furnished by the builder or any subcontractor or supplier resulting in a material violation of the Florida Building Code for a period of 1 year after the date of original conveyance of title to the initial owner or after the date of initial occupancy of the dwelling, whichever occurs first.</p> <p>553.8991, F.S., designates the “Resiliency and Safe Structures Act,” and prohibits local governments from prohibiting, restricting, or preventing the demolition of certain structures and buildings unless necessary for public safety; and from imposing certain restrictions, limitations, and regulations on replacement structures.</p> <p>553.9065, F.S., establishes that unvented attic and unvented enclosed rafter assemblies that are insulated and air sealed with a minimum of R-20 air-impermeable insulation meet certain requirements of the Florida Building Code, under specified circumstances.</p>

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 2024 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 OCM to approve the incorporation of the changes and modifications to these statutes adopted by the Florida Legislature during the 2024 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 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 2024 legislative session into the Florida Coastal Management Program. This includes incorporation of new sections 339.28201 and 377.708, F.S., and revised language in sections 163.3184, 253.04, 258.39, 373.4131, 373.4134, 379.233, 380.0552, 380.0666, 381.0061, 381.0065, 403.064, 403.121 and 403.413, 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 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. 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).