



Virginia Coastal Zone MANAGEMENT PROGRAM

Virginia Coastal Zone Management Program Public Notice of Updates to the Enforceable Policies of the Program for which Federal Consistency will apply effective July 19, 2010.

Notice of intended action: This public notice is to inform interested parties that the Virginia Coastal Zone Management Program's enforceable policies have been updated and incorporated into the Program.

Purpose of the notice: The Coastal Zone Management Act (15 C.F.R. §923.80) requires states to formally incorporate any amendments, modifications, or other changes to approved management programs, including policies that the state uses or intends to use for Federal Consistency. The changes discussed here were previously made to the individual policies and are now formally incorporated into the Virginia Coastal Zone Management Program. These updates are considered to be Routine Program Changes, and therefore do not significantly affect (1) uses subject to management; (2) special management areas; (3) boundaries; (4) authorities and organization or (5) coordination, public involvement and national interest components of the Virginia Coastal Resources Management Program.

The National Oceanic and Atmospheric Administration has concurred with the revised provisions discussed below and has approved their incorporation into the Program. NOAA's approval letter of June 23, 2010 includes the specific code sections and denotes sections that were incorporated but do not contain enforceable policies. Federal consistency shall apply to the NOAA-approved enforceable policies effective July 19, 2010. A summary of the updates to the Virginia Coastal Zone Management Program is as follows:

- (1) **Fisheries and Habitat of the Tidal Waters Code of Virginia Title 28.2, Chapter 2 - General Provisions.** This program change revised the Commonwealth's enforceable policies in Code of Virginia Title 28.2, Chapter 2. The enforceable policies contained in Title 28.2, Chapter 2 authorize the Marine Resources Commission (Commission) to promulgate rules and regulations; manage the state's marine, shell and finfish resources; and require and issue licenses for the taking of saltwater fishery resources.
- (2) **Coastal Primary Sand Dunes and Beaches Code of Virginia Title 28.2, Chapter 14.** The enforceable policies for Coastal Primary Sand Dunes and Beaches remain the same as in the approved CMP. The Program Change incorporates updated statutory provisions and references implementing these continuing policies.
- (3) **Wetlands Code of Virginia Title 28.2, Chapter 13.** This program change incorporates recodifications giving new section numbers to the statutory provisions already approved by NOAA as part of the original program in 1986. The statute was originally found at former Va. Code 62.1-13.1 *et seq.* In 1992, the Virginia General Assembly recodified the wetlands statute at Va. Code 28.2-1300 *et seq.*, reorganizing the prior sections for easier use, greater precision and clarity.
- (4) **NPDES Program Clean Water Act Incorporation.** Pursuant to Section 307(f) of the Coastal Zone Management Act (CZMA), 16 U.S.C. § 1456 (f), and the Program Change Guidance issued in July 1996, by the Office of Ocean and Coastal Resource Management (OCRM) of the National Oceanic and Atmospheric Administration (NOAA), the Virginia Department of Environmental Quality (DEQ) gives notice of its incorporation into the Virginia Coastal Zone Management

Program (CZMP) of selected requirements for NPDES permits established by the Commonwealth of Virginia pursuant to the Clean Water Act (CWA).

- (5) **Wetlands Mitigation-Compensation Policy Virginia Administrative Code, 9VAC20-390-10 *et seq.*** The Commonwealth of Virginia has adopted an interpretive Wetlands Mitigation-Compensation Policy, codified in Virginia's regulations at 4VAC20-390-10 *et seq.* The Policy helps guide implementation of the enforceable policies by the Virginia Marine Resources Commission under the existing Wetlands Program component of the approved CZMP. The regulations for the Wetlands Mitigation-Compensation Policy were adopted in 1989 and amended in 2005. The policy guides implementation of a portion of the Wetlands Program.
- (6) **State Air Pollution Control Board Statutes and Regulations - Clean Air Act Incorporation.*** Pursuant to Section 307(f) of the Coastal Zone Management Act (CZMA), 16 U.S.C. § 1456(f), and the Program Change Guidance issued in July 1996 by the Office of Ocean and Coastal Resource Management (OCRM) of the National Oceanic and Atmospheric Administration (NOAA), the Commonwealth of Virginia gives notice of incorporation of Virginia's currently applicable enforceable policies found in Title 10.1, Chapter 13 (State Air Pollution Control Board) of the Code of Virginia and the State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution (selected chapters from 9 VAC 5) into the Virginia Coastal Zone Management Program (CMP).

The following sections were withdrawn to allow for further discussion and clarification of the intent of the Routine Program Change as originally submitted. Changes to these sections will be re-submitted to NOAA for consideration and approval at a later date:

Administration of Game, Inland Fisheries, and Boating Code of Virginia Title 29.1, Chapters 1, 3, 4, and 5. The originally submitted changes in Title 29.1, Chapter 1, concern the Commission of Game and Inland Fisheries and the division of its duties and authority to manage inland fisheries. Changes submitted in Chapter 3 address licenses, Chapter 4 changes concern permits and Chapter 5 addresses wildlife and fish laws.

To review documents: The text of these changes as well as an analysis of their implication to the Virginia Coastal Zone Management Program is available on the Virginia Coastal Zone Management Program's web site beginning Monday, July 19, 2010 at

<http://www.deq.virginia.gov/coastal/2010programchanges.html>

NOAA's approval letter of June 23, 2010 includes the specific code sections and denotes sections that were incorporated but do not contain enforceable policies this can be accessed at

<http://www.deq.virginia.gov/coastal/documents/2010progchangeacceptltr.pdf>

If you require paper copies of any of these documents, please contact the Virginia Coastal Zone Management Program through April Bahen at (804) 698-4005.