

Program Change Submission

To

State of Florida Coastal Management Program

Request for Concurrence

August 2024

Submitted by: Office of Resilience and Coastal Protection
Florida Department of Environmental Protection
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Table of Contents

Introduction	1
Analysis of Changes	1
Table of Changes	3
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 of the water management districts, throughout the state of Florida. In the 2023 legislative session, two new sections were added, and one section was 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 373 and 380 of the Florida Statutes (F.S.) are being proposed as enforceable policies. FCMP is also submitting revisions to one section of an existing enforceable policy in Chapter 403 of the Florida Statutes in this Program Change submission. One of these changes affects the special management areas of the FCMP, but these changes do not substantially change the FCMP in the other management program areas: uses subject to management, 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 252, 267, 334, 339, 373, 380 and 403 of the Florida Statutes as program changes to the FCMP. New sections 373.469 and 380.0553, F.S., and revised language in existing section 403.086, 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 2023 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 373, F.S.

Section 373.469, F.S., establishes a phased, comprehensive, and innovative protection program to protect and restore surface water resources and achieve and maintain compliance with water quality standards in the Indian River Lagoon. The Indian River Lagoon Protection Program consists of the Banana River Lagoon Basin Management Action Plan, Central Indian River Lagoon Basin Management Action Plan, North Indian River Lagoon Basin Management Action Plan, and Mosquito Lagoon Reasonable Assurance Plan. Basin management action plans (BMAPs) are legally enforceable frameworks for water quality restoration that contain a comprehensive set of solutions, such as permit limits on wastewater facilities, urban and agricultural best management practices, and conservation programs designed to achieve pollutant reductions established by a total maximum daily load. Federal agency activity in this area must be consistent with the principles and plans of the legally enforceable BMAPs.

Chapter 380, F.S.

Section 380.0553, F.S., expands the existing Areas of Critical State Concern by designating the Brevard Barrier Island Area. The statute outlines the boundaries development standards which may include, but are not limited to, revisions of the local comprehensive plan, adoption of new land development regulations, updated density requirements and special permitting requirements. Federal actions in this area must be consistent with these principles. This designation also results in a change to the special management areas, one of the management program areas, of the FCMP.

Chapter 403, F.S.

Section 403.086, F.S., determines sewage facilities may not dispose any wastes into the tributary waters of listed specific waterbodies, or any waterbody determined not to be attaining nutrient or nutrient-related standards without providing advanced waste treatment. Federal sewage disposal facilities must adhere to these standards when disposing of any waste.

Table of Changes

Statutory Change	Change in 2023	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	None	N/A
Chapter 186, F.S., State and Regional Planning	None	N/A
Chapter 252, F.S., Emergency Management	New: 252.391	252.391 encourages each local governmental entity to develop an emergency financial plan for major natural disasters that may impact its jurisdiction.
Chapter 253, F.S., State Lands	None	N/A
Chapter 258, F.S., State Parks and Preserves	None	N/A
Chapter 259, F.S., Land Acquisitions for Conservation and Preservation	None	N/A
Chapter 260, F.S., Florida Greenways and Trails Act	None	N/A

Chapter 267, F.S., Historical Resources	New: 267.0722, 267.21, 267.22	<p>267.0722 creates within the Division of Historical Resources of the Department of State the Florida Museum of Black History Task Force for the purpose of providing recommendations to the division for the planning, construction, operation, and administration of a Florida Museum of Black History.</p> <p>267.21 creates the Historic Cemeteries Program within the division and provides program duties and responsibilities.</p> <p>267.22 creates the Historic Cemeteries Program Advisory Council within the division to provide guidance and recommendations to the division regarding the duties and responsibilities of the Historic Cemeteries Program created under s. 267.21.</p>
Chapter 288, F.S., Commercial Developments and Capital Improvements	None	N/A
Chapter 334, F.S., Transportation Administration	New: 334.066	334.066 establishes the Implementing Solutions from Transportation Research and Evaluating Emerging Technologies Living Lab (I-STREET) within the University of Florida, provides for minimum responsibilities, and creates and advisory board.
Chapter 339, F.S., Transportation Finance and Planning	New: 339.651 339.84	<p>339.651 Requires the Department of Transportation to specifically address in its transportation plans movement and storage of construction aggregate materials essential for building roadways and fund projects that provide increased capacity and enhanced capabilities to move and store construction aggregate.</p> <p>339.84 allows for \$5 million to be allocated from the State Transportation Trust Fund to the workforce development program to promote career paths in Florida's road and bridge industry, beginning in the 2023-2024 fiscal year and annually thereafter for 5 years.</p>

Chapter 373, F.S., Water Resources	New: 373.469	373.469 establishes a phased, comprehensive, and innovative protection program for this state to protect and restore surface water resources and achieve and maintain compliance with water quality standards in the Indian River Lagoon.
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	None	N/A
Chapter 379, F.S., Fish and Wildlife Conservation	None	N/A
Chapter 380, F.S., Land and Water Management	New: 380.0553, 380.0937	380.0553 designates the Brevard Barrier Island Area as an area of critical state concern. 380.0937 determines that a state-financed constructor may not commence construction of a potentially at-risk structure or infrastructure without conducting a SLIP study that meets the requirements to be established by the department.
Chapter 381, F.S., Public Health: General Provisions	None	N/A
Chapter 388, F.S., Mosquito Control	None	N/A

Chapter 403, F.S., Environmental Control	<p>New: 403.0674, 403.8721, 403.93344</p> <p>Amended: 403.086</p>	<p>403.0674 establishes a biosolids grant program within the Department of Environmental Protection.</p> <p>403.8721 determines that the department shall issue a license by reciprocity to any applicant who, at a minimum, meets all the requirements of the section.</p> <p>403.93344 establishes the Seagrass Restoration Technology Development Initiative within the department as a partnership between the program, Mote Marine Laboratory, and the University of Florida.</p> <p>403.086 determines sewage facilities may not dispose any wastes into the tributary waters of listed specific waterbodies, or any waterbody determined not to be attaining nutrient or nutrient-related standards without providing advanced waste treatment.</p>
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 2023 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 one of these changes affects the special management areas of the FCMP, but these changes do not substantially change the FCMP in the other management program areas: uses subject to management, 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 2023 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 2023 legislative session into the Florida Coastal Management Program. This includes incorporation of new sections 373.469 and 380.0553, F.S., and revised language in section 403.086, 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 one of these changes affects the special management areas of the FCMP, but these changes do not substantially change the FCMP in the other management program areas: uses subject to management, 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, 32399-2400, (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) 995-8770 (Voice).