



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

FEB 25 2019

Janice E. Castro
Director, Division of Coastal Resources Management
CNMI Bureau of Environmental and Coastal Quality
Caller Box 10007 | Saipan, MP 96950

Dear Ms. Castro,

Thank you for your September 18, 2018 request for approval of changes to the Commonwealth of the Northern Marianas Coastal Management Program (received on October 3, 2018).¹ You requested that the changes be approved 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)*.

Based on our review of the submission, we concur that the changes are RPCs and we approve the incorporation of the changes as part of the federally approved Commonwealth of the Northern Marianas Coastal Management Program. Please note that any changes to enforceable policies of the program can only be used for CZMA Federal Consistency review purposes after notice of this approval is published pursuant to 15 C.F.R. § 923.84(b)(4).² Please include in the public notice the list of changes provided in this letter, and send a copy of the notice to the Office for Coastal Management for our records.

CHANGES APPROVED

See the enclosed list of the changes incorporated into the Commonwealth of the Northern Marianas Coastal Management Program Coastal Management Program.

¹ In accordance with the 30-day decision timeframe established in Section 306(e) of the CZMA, the original due date for a decision on the request was November 2, 2018. The decision was extended on December 2, 2018 to January 25, 2019. Between December 22, 2018 and January 25, 2019, most functions of the Office for Coastal Management ceased during the government-wide federal shutdown due to the lack of appropriations. Although the shutdown ended on January 25, 2019, normal business operations did not resume until Monday, January 28, 2019.

² See also the Office for Coastal Management's *Addendum to the July 1996 Program Change Guidance* (November 2013), <https://coast.noaa.gov/czm/consistency/policy/>.

QUALIFICATIONS AND CLARIFICATIONS

As a standard qualification applying to all program changes, 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. No referenced policy may be applied for federal consistency unless that policy has been separately reviewed and approved as an enforceable policy by the Office for Coastal Management.

During the review of the submission, an error was found regarding the enforceable policies listed in the submission. It was noted that the table in the submission summarizing the changes had not been revised in accordance with numerous changes that were agreed to in the review of drafts of the submission. The correct listing of enforceable policies is included in the narrative portion of the submission. The enforceable policies in the Table of Approved Changes is based on this list.

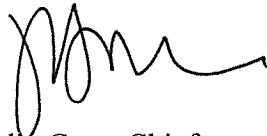
Minor discrepancies were also found between the rules for administering CNMI's CZMA federal consistency review authorities in Part 1500 with the federal rules at 15 CFR 930. See the reference to "probable coastal zone effects" at 15-10-1510 which is different from the "reasonably foreseeable effects" threshold in the federal rules. As a general qualification the federal rules are controlling where there are any discrepancies between the federal and CNMI rules.

PUBLIC AND FEDERAL AGENCY COMMENTS

No comments were received on this request

Thank you for your cooperation in this review. Please contact Robbie Green at (670) 234-0005, if you have any questions. For future correspondence regarding these program changes, please refer to the file number assigned to this action, CNMI-2018-3.

Sincerely,



Joelle Gore, Chief
Stewardship Division

Enclosure(s): Table of Approved Changes

**Table of Changes to the CNMI Coastal Management Program
Approved by the Office for Coastal Management, February 25, 2019
CNMI-2018-3**

Changes marked with an asterisk (*) do not contain enforceable policies that can be used for Federal Consistency.

Name/Description of State or Local Law/Regulation/Policy/Program Authority	State/Local Legal Citation	Date Adopted by State	Date Effective in State
NMIAC § 15-10-005 Authority*	Clarify “authority” of regulations in terms of reorganization and authority to establish rules and regulations.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-020 Definitions	<p>Updates and additional definitions include replacing “median high water mark” with “high tide line;”clarifies wetland definition using the U.S. Army Corps’ criteria with the exception of a “federal nexus” requirement, defining “coastal high hazard area” as FEMA zones V and VE, including consideration of adverse impacts to air quality as detailed in enabling legislation at 2 CMC § 1511(13), incorporating CEQ definition of “cumulative impact”, and specifying requirements for “authorized representatives” in permit application management.</p> <p>*DCRM acknowledges the definition of “effect” at 15-10-020(dd) is intended for local application only and that for federal consistency review purposes the OCM definition at 16 U.S.C. § 1456(g) is controlling.</p>	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-025 Conflicts with Regulations of Other CNMI Government Agencies*	Clarifies citation for Saipan Zoning Code and measurement of shoreline from high tide line.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-101 Types of Permits and When Permits are Required*	Clarifies early planning / consultation required for projects proposed in flood zones or projects proposing hardening shorelines, and consideration of best management practices for stormwater control required in high priority watershed areas.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-105 APC Permits for Minor and Other Developments	Articulates policy avoid, minimize, and mitigate negative impacts in areas of particular concern.	Jan. 28, 2018	Feb. 8, 2018

NMIAC § 15-10-110 Temporary Permits for Emergency Repairs*	No change.		
NMIAC § 15-10-115 APC, Multiple APC, and Major Siting Permits*	Clarifies thresholds for permit requirements.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-120 Exceptions from CRM Permit Requirements*	Clarifies exceptions to CRM permit requirements.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-201 CRM Permit Process – Introduction*	Clarifies Open Government Act application to CRM Agency Board meetings and enables interagency pre-application meetings on request.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-205 Permit Application Procedures*	Clarifies permit application procedures including enabling digital submission of permit applications and attachments, specifies signatory and representative authorization requirements, allows for “De Minimis Fee Waiver” requests and review procedures for APC application fees, and implements incentivized fee reductions for marine sports and major siting applications.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-206 Permit Application Contents*	Added text from former version of NMIAC § 15-10-205 regarding permit requirements to simplify application content requirements.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-207*	Clarifies certification of completeness procedures.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-210 Notice of Application*	No change.		
NMIAC § 15-10-215 Review of Application*	Clarifies approval process in event of deadlocked CRM Agency Board regarding major siting permit decision(s).	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-220 CRM Permit Hearing*	Provides DCRM Director discretion to require applicants physically post notice of public hearings and allows for additional information requests if new matters are raised at public hearings.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-225 Filing of Documents*	Codifies policy that permit applications must contain sufficient level of detail to support review of potential environmental effects and must avoid “piecemeal” development by having “independent utility.”	Jan. 28, 2018	Feb. 8, 2018

NMIAC § 15-10-230 Decision on the CRM Application*	Clarifies requirements of unanimity and procedures for denial /refusal for the CRM Agency Board and unifies notice of publication requirements so notice is given every 14 days for all permits.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-235 Appeal of the CRM Permit Decision*	Changed avenue for appeals from CRM Appeals Board to Superior Court.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-240 Commonwealth Superior Court*	Modifies process pertaining to review for final decisions of the CRM Appeals Board.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-301 General Standards for all CRM Permits	Modifies review standard to require that applicant show by a fair preponderance of the evidence that the project will not have a significant adverse impact on the coastal environment or its resources. *DCRM acknowledges that the standard for review for actions undertaken by federal agencies is actions that “may have reasonably foreseeable effects”.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-303 Standards to Avoid Adverse Impacts	Moved text from NMIAC § 15-10-301 to emphasize requirement that DCRM and Agency Officials base permit issuance decisions on standards to avoid adverse impacts as enabled by the CNMI’s Coastal Resources Management Act of 1983, 2 CMC §§ 1500 et seq.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-305 General Criteria for CRM Permits	Clarifies expectations of cumulative impact analysis, articulates implementation of the mitigation hierarchy to avoid, minimize, and mitigate negative impacts of projects, and requires DCRM Director and Agency Board to consider the adequacy of buffers in environmentally sensitive areas, considering current conditions and future projections where this data is available. SUBSECTION (e) IS NOT RECOGNIZED AS AN ENFORCEABLE POLICY FOR CZMA REVIEW PURPOSES.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-310 Specific Criteria: Areas of Particular Concern; Generally*	Enables CRM Agency Officials to incorporate conditions into APC permits to address specific resource management concerns at the discretion of the DCRM Director.	Jan. 28, 2018	Feb. 8, 2018

NMIAC § 15-10-311 Specific Criteria; Areas of Particular Concern; Impact Avoidance, Minimization, and Mitigation Required	Articulates requirements for impact avoidance, minimization, and mitigation.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-315 Specific Criteria; Areas of Particular Concern; Lagoon and Reef	Includes sustainable commercial marine sports operation as a high priority use within the Lagoon and Reef APC and removes “seaweed” from “seagrass” management definition.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-320 Specific Criteria; Areas of Particular Concern; Managaha and Anjota	Includes sustainable commercial marine sports operation as a high priority use within the Lagoon and Reef APC and removes “seaweed” from “seagrass” management definition.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-325 Specific Criteria; Areas of Particular Concern; Coral Reefs	Includes coral enhancement or mitigation projects as “moderate” use priority for coral reef APC.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-330 Specific Criteria; Areas of Particular Concern; Wetlands and Mangroves	Clarifies wetland definition using Army Corps criteria with the exception of “federal nexus” requirement, and specifies application of the regional supplement for wetland delineations. Codifies use of Rapid Assessment Methodology for wetland valuation and wetland buffer policies articulated in the 1990 Comprehensive Saipan Wetlands Management Plan and the 2017 wetlands buffers policy brief.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-335 Specific Criteria; Areas of Particular Concern; Shorelines	Updates shorelines management standards to require consideration of effects of onshore and nearshore activities on shoreline morphology and vegetation and mandates that where possible, soft stabilization measures should be implemented over “hard” shoreline stabilization or armoring. Encourages use of floating, non-permanent socks or boardwalks and projects resulting in enhancement of existing structures within management standards.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-340 Specific Criteria; Areas of Particular Concern; Ports and Industrial	No change.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-345 Specific Criteria; Areas of Particular Concern;	Updates definition of “high hazard flood zones” (changed from “coastal flood zone”) to include FEMA zones V and VE, defined	Jan. 28, 2018	Feb. 8, 2018

Coastal Hazards	steep slopes as slopes greater than 30%, and expanded management standards.		
NMIAC § 15-10-350 Height, Density, Setback, Coverage, and Parking Guidelines	Increased shoreline setbacks to reflect best available data on increasing sea levels and storm surge extents.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-401 Standards for APC Creation – Authority*	No change.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-405 Procedure*	Modifies procedure that CRM Agency Officials approve proposed creation or modification of Areas of Particular Concern.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-410 Procedure*	No change.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-415 New APC Standards and Use Priorities*	No change.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-501 Determination of a Major Siting*	No change.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-505 Specific Criteria for Major Sitings	Clarifies assessment of cumulative environmental impacts (projects shall be selected and developed in order to avoid and minimize primary, secondary, and cumulative environmental impacts) and specifies that full project proposals are required so that actions can be considered together for the purposes of cumulative impact analysis. Where data is available, current and future risks should be considered when assessing potential direct, indirect, and cumulative impacts. To limit avoidable impacts from coastal hazards, major siting proposals must meet or exceed flood hazard reduction standards as codified in NMIAC Chapter 155-10.2 Part 200.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-601 Use of Conditions in CRM Permits*	No change.	Jan. 28, 2018	Feb. 8, 2018

NMIAC § 15-10-605 Purpose and Scope*	No change.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-610 Mandatory Conditions	Modified to allow for the Director to extend or amend permits upon expiration with good cause. ONLY THE STANDARDS WITHIN SUBSECTION (e) ARE RECOGNIZED AS ENFORCEABLE POLICIES FOR CZMA REVIEW PURPOSES.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-615 Insurance Condition*	No change.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-701 CRM Permit Amendment*	Clarifies permit amendment procedure and increases threshold of “significant alternation” from \$5,000 to \$50,000 and adds reopener clause to allow for permit amendments or modifications if a new adverse impact is discovered.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-705 Transfer of Interest*	Clarifies transfer of interest notification procedures.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-801 Enforcement of CRM Permits: Purpose*	No change.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-805 Grounds for Action*	Clarifies grounds for action for violation of permit conditions, regulations, or material misstatement.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-810 Warning*	Clarifies applicability of enforcement authority when warnings are issued.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-815 Permit Enforcement Notice*	Provides additional detail regarding permit enforcement notice and response procedures.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-820 Enforcement Action and Suspension*	Allows DCRM Director to issue fines as well as suspensions.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-825 Permit Hearing Enforcement*	Clarifies permit enforcement hearing procedures and timeline.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-830 Remedies*	Enables implementation of “supplemental environmental projects” when proposed for the purposes of enforcement settlement agreements.	Jan. 28, 2018	Feb. 8, 2018

NMIAC § 15-10-901 Enforcement of CRM Standards and Policies: Purpose*	No change.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-905 Investigation*	Clarifies investigation responsibilities and procedures.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-910 Conditions Warranting Investigation*	No change.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-915 Warning*	No change.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-920 Enforcement*	No change.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-925 Determination of Fines and Penalties*	No change.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-930 Enforcement Hearing*	Clarifies ripeness for judicial review.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-935 Enforcement by Commonwealth Superior Court*	No change.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-935 Enforcement by Criminal Prosecutions*	No change.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-1001 Public Information and Education*	No change.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-1101 CRM Coastal Advisory Council: Creation*	No change.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-1105 Adopt Internal Procedures*	No change.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-1110 Advise CRM*	No change.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-1115 Conduct Meetings*	No change.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-1201 CRM Public Records: Retention*	Articulates procedures for CRM to retain and store documents, clarifying digital storage is acceptable.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-1205 Public Access to CRM Records*	Articulates procedures for and application of the Open Government Act to public information.	Jan. 28, 2018	Feb. 8, 2018

NMIAC § 15-10-1310 CRM Access to Records: Private Records*	No change.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-1310 CRM Access to Records: Public Records*	Articulates limits to public record requests in accordance with applicable federal requirements.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-1401 Computation of Time*	No change.	Jan. 28, 2018	Feb. 8, 2018
NMIAC § 15-10-1500 – Federal Consistency*	Updated to conform with federal regulations for reviews pursuant to the CZMA federal consistency requirements.	Jan. 28, 2018	Feb. 8, 2018