## CONCISE EXPLANATORY STATEMENT

**AGENCY:** Coastal Resources Management Council

**RULE IDENTIFIER**: 650-RICR-20-00-9

**RULE TITLE:** Rules and Regulations Governing the Protection and Management of Freshwater Wetlands in the Vicinity of the Coast

**REASON FOR RULEMAKING**: The CRMC has amended its Rules and Regulations Governing the Protection and Management of Freshwater Wetlands in the Vicinity of the Coast to implement changes required by state law governing freshwater wetlands that expanded the authority of CRMC and require the establishment of standards for freshwater wetland buffers and setbacks to strengthen wetlands protection and require enhanced coordination with municipalities in conjunction with the required phase out of duplicative local ordinances regarding freshwater wetlands. The proposed amendments make modifications to regulatory and permit processes to reduce regulatory burdens.

**ANY FINDINGS REQUIRED BY LAW AS A PREREQUISITE TO THE EFFECTIVENESS OF THE RULE:**

Pursuant to R.I. Gen. Laws § 2-1-20.1(c), the CRMC and the Department of Environmental Management are required to promulgate new standards for freshwater wetland buffers and setbacks within state rules and regulations pursuant to their respective authorities. The CRMC and the Department are required to develop the state standards for freshwater buffers and setbacks to be incorporated into the programs of both agencies. State regulations designating buffers are required to include a procedure that allows a municipality to petition the agency directors with jurisdiction to increase the size of the buffer within the designated jurisdictional area protecting one or more freshwater wetland resources.

**TESTIMONY AND COMMENTS:**

No testimony was offered at the CRMC public hearing held on October 19, 2021. The CRMC received two (2) written comments during the 30-day public comment period (September 27 through October 27, 2021). See attached comments and the CRMC "Response to Public Comments on Proposed Adoption of New CRMC Rules and

Regulations Governing the Protection and Management of Freshwater Wetlands in the Vicinity of the Coast (650-RICR-20-00-9)" document for discussion of comments.

**CHANGE TO TEXT OF THE RULE**: The new rules were adopted as presented in the September 27, 2021 public notice with the exception of the effective date of the rules in § 9.20 that was revised from January 15, 2022 to July 1, 2022.

**REGULATORY ANALYSIS**: In regard to the Regulatory Flexibility Analysis as required by R.I. Gen. Laws § 42-35.1-4, the CRMC made the finding that the regulations would have a potential adverse impact on certain small businesses. This is due to the change in state law that requires CRMC to regulate additional land area that may result in additional small businesses being subject to the Rules and incurring costs for permitting when they elect to undertake a new project or activity subject to the regulations. The CRMC determined it does not have the discretion to exempt the land area in the statutorily defined jurisdictional area from the regulations. The CRMC and RIDEM jointly prepared a Flexibility Analysis which discusses both the impacts to regulated small business as well as the benefits that may accrue to small businesses currently regulated due to changes in the permitting process that will reduce regulatory burdens. The Flexibility Analysis is available in the rulemaking file.