RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING

COASTAL RESOURCES MANAGEMENT COUNCIL

Title of Rule: Rules and Regulations Governing the Protection and Management of Freshwater Wetlands in the Vicinity of the Coast

Rule Identifier: 650-RICR-20-00-9

Rulemaking Action: Proposed Adoption

Important Dates:
Date of Public Notice: 09/27/2021
Hearing Date: 10/12/2021
End of Public Comment: 10/27/2021

Authority for this Rulemaking:
R.I. Gen. Laws § §§ 46-23-6 and 2-1-18 through 2-1-20.1

Summary of Rulemaking Action:
The CRMC proposes to adopt new freshwater wetlands in the vicinity of the coast rules in accordance with R.I. Gen. Laws §§ 46-23-6 and 2-1-18 through 2-1-20.1 to strengthen the protection of freshwater wetlands in the vicinity of the coast and to provide clarity, predictability and streamlining of the regulatory framework. These new rules will replace the existing rules (650-RICR-20-00-2), which will be repealed upon adoption and implementation of the new rules. In addition, the CRMC has closely coordinated with the Department of Environmental Management (DEM) on the development of these new freshwater wetland rules for consistency of rule application throughout the state. The statutory amendments requiring these new rules were enacted in response to the recommendations of a Legislative Task Force established by the Regulatory Reform Act (R.I. Gen. Laws § 42-64.13-10) and as described in the Final Report, dated December 2014, Rhode Island Division of Planning.

The following is a brief summary of the new proposed rules 650-RICR-20-00-9:1. § 9.4 incorporates new and revised definitions of certain terms including, but not limited to, freshwater wetlands, jurisdictional area, buffer and buffer zone.2. § 9.5.1 clarifies the applicability rule by identifying landscape features that are not considered freshwater wetlands.3. § 9.5.2 describes the additional areas that will fall under the CRMC's jurisdiction consistent with the expansion of the authority prescribed in the amended state law.4. § 9.6 modifies the list of exempt activities by adding new exemptions and clarifying the language of existing exemptions within the existing rules.5. §§ 9.7.1(A) and (B) of the rules specify freshwater wetlands and buffer protection standards the latter of which are new. The buffer standards reflect a tiered protection with buffer zone widths specified between 25 feet and 200 feet for

the different freshwater wetland resources being protected. This section also includes rules addressing the creation of new buffer on existing disturbed properties and a procedure for infill lots.6. § 9.7.1(C) specifies construction setback requirements.7. § 9.7.2 presents the review criteria pertaining to the review of applications for proposed projects or activities.8. § 9.7.3 establishes a new variance procedure for applicants proposing projects or activities that do not meet certain protection standards (§§ 9.7.1(A) to (F)).9. § 9.8.9 simplifies the application fee schedule.10. § 9.10 establishes a new process for the issuance of general permits.

11. § 9.13 is organized to more clearly present rules applicable to farming and ranching activities.12. § 9.16 includes a municipal petition process as required by the amended state law.13. § 9.19 discusses the relationship of the new rules to existing applications and the municipal approval process.14. § 9.20 specifies a 180-day phase in period before the new rules would take effect.15. § 9.23 provides additional detail, including tables, to identify the applicable buffer zone designations.16. § 9.24 includes a map which is used to distinguish buffer zone requirements by the designation of regions.17. Other changes in wording for clarity and consistency have been made throughout the rules.

Additional Information and Comments:
All interested parties are invited to request additional information or submit written or oral comments concerning the proposed adoption until October 27, 2021 by contacting the appropriate party at the address listed below:

James Boyd
Coastal Resources Management Council
Stedman Government Center
4808 Tower Hill Road
Wakefield, RI 02879
jboyd@crmc.ri.gov

Public Hearing:
A public hearing, in accordance with R.I. Gen. Laws § 42-35-2.8, to consider the proposed adoption shall be held on October 12, 2021 at 6:00 pm at Department of Administration, Conference Room A, 1 Capitol Hill, Providence, RI 02908 at which time and place all persons interested therein will be heard. The seating capacity of the room will be enforced and therefore the number of persons participating in the hearing may be limited at any given time by the hearing officer, in order to comply with safety and fire codes.

The place of the public hearing is accessible to individuals who are handicapped. If communication assistance (readers/interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call 401-783-3370 or RI Relay

711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

Regulatory Analysis Summary and Supporting Documentation:
In the development of the proposed rules consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) whether there will be significant economic impact on small business. The CRMC and DEM have determined that that the benefits of the proposed rules justify the costs of the proposed rules, and that the proposed rules will achieve the objectives of the authorizing statute in a cost effective manner and with greater net benefits than other regulatory alternatives.

For full regulatory analysis or supporting documentation see agency contact person above.