

CONCISE EXPLANATORY STATEMENT

In accordance with the Administrative Procedures Act, Section § 42-35-2.6 of the General Laws of Rhode Island, following is a concise explanatory statement:

AGENCY: Department of Environmental Management (RIDEM)

DIVISION: *Office of Water Resources*

RULE IDENTIFIER: 250-RICR-150-15-3

RULE TITLE: RULES AND REGULATIONS GOVERNING THE ADMINISTRATION AND ENFORCEMENT OF THE FRESHWATER WETLANDS ACT

REASON FOR RULEMAKING: To re-file the rules implementing changes to state law governing freshwater wetlands to achieve a new effective date of July 1, 2022. The rules, renumbered as Part 3, are otherwise the same as the Part 2 rules which were previously filed with the Secretary of State, are pending and which will be superseded by the proposed Part 3 rules. The rules reflect RIDEM's expanded authority, the required establishment of standards for freshwater wetland buffers and setbacks to strengthen wetlands protection and required enhanced coordination with municipalities in conjunction with the required phase out of duplicative local ordinances.

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

R.I.G.L. § 2-1-18. Declaration of intent. ...*Whereas freshwater wetlands, buffers, and floodplains, are increasingly threatened by random and frequently undesirable projects for drainage, excavation, filling, encroachment, or other forms of disturbance or destruction, and that a review of scientific literature indicates that aspects of existing state standards to protect these areas need to be strengthened; and ...*

TESTIMONY, COMMENTS AND OBJECTIONS: A public hearing was held at on December 6, 2021 at 11:00 am at RIDEM in Providence. Three members of the public attended but none chose to provide oral or written testimony. No written comments were submitted on the proposed rulemaking action.

CHANGE TO TEXT OF THE RULE: No changes were made to the text of the proposed rules referenced as 250-RICR-150-15-3.

REGULATORY ANALYSIS:

Regarding the Regulatory Flexibility Analysis as required by RIGL § 42-35.1-4), RIDEM finds that the change in effective date does not have an adverse impact on small businesses but rather is beneficial in providing more time for potential applicants to adjust their plans for projects to the new rules as appropriate. RIDEM notes that as part of its prior rulemaking subject to a public notice issued November 23, 2020, it previously made the finding that the Rules overall would have a potential adverse impact on certain small businesses. This is due to the change in state law that requires RIDEM to regulate additional land area which will result in newly regulated small businesses incurring costs for permitting when they elect to undertake a new project or activity subject to the rules. RIDEM prepared a Flexibility Analysis which discusses both the impacts to newly 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 remains applicable to this rulemaking action and is available in the rulemaking file.