



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
Silver Spring, Maryland 20910

MAR 18 2011

Mr. Matt Fleming, Director
Maryland Chesapeake and Coastal Program
MD Department of Natural Resources
Tawes State Office Building , E-2
580 Taylor Avenue
Annapolis, MD 21401

Dear Mr. Fleming:

Thank you for the Maryland Department of Natural Resources' November 19, 2010, request to incorporate the 2010 Enforceable Policy Update to the 1978 Approved Maryland Coastal Management Program including revisions to the policies in Chapter 3 of the original program. You requested that changes to the Maryland Coastal Management Program (CMP) described below be incorporated as a routine program change (RPC), pursuant to Coastal Zone Management Act (CZMA) regulations at 15 C.F.R. part 923, subpart H, and Office of Ocean and Coastal Resource Management (OCRM) Program Change Guidance (July 1996). OCRM received the request on November 19, 2010, and OCRM's decision deadline was extended until March 18, 2011. On March 9, 2011, the Maryland CMP submitted minor revisions to the proposed enforceable policies for the purpose of clarification, and withdrew the policy related to mosquito control.

Based on our review of your submission, we concur that the changes are an RPC and approve the incorporation of the changes as enforceable policies of the Maryland CMP with the exception of the Natural Gas Facilities policies and the withdrawn policy noted below. Federal Consistency will apply to the approved changes only after you publish notice of this approval pursuant to 15 C.F.R. § 923.84(b)(4). Please include in the public notice an electronic link to the approved changes and send a copy of the notice to OCRM.

CHANGES APPROVED

See enclosed list of the changes incorporated into the Maryland CMP.

QUALIFICATIONS ON APPROVED ENFORCEABLE POLICIES

Please note that the application of approved enforceable policies may be limited by the circumstances of the activity and authorization subject to review. Regardless of the approval of any of the policies, the federal preemption doctrine may limit their applicability. Also note that the approval of these policies does not authorize the State to apply local policies or ordinances in reviewing activities and authorizations since those policies and ordinances have not been incorporated into the Maryland CMP.



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NATURAL GAS FACILITIES POLICIES

OCRM is not, at this time, approving the *Section 4. Gas Facilities* policies (No.'s 1 and 2 under Section 4 that deal with the Maryland Coastal Facilities Review Act (CFRA) from the RPC submission (pages 43-44 of the submission)) due to lack of information concerning the interaction between some of these policies and the authority of the Federal Energy Regulatory Commission under the Natural Gas Act. (The "Oil Pollution and Tank Management" policies, No.'s 3-7 of Section 4 are approved.) OCRM will work with the Maryland Department of Natural Resources to expeditiously resolve these issues. In the meantime, CFRA and its implementing regulations, as previously approved by OCRM, will continue to serve as the enforceable policies for oil and natural gas facilities for the Maryland CMP, consistent with the qualification above on federal preemption.

WITHDRAWN SECTION

Maryland has withdrawn the policy related to Mosquito Control (MDA (B2) Md. Code Ann., Agric. Section 5-406; cited as "C.8.6" in the original RPC public notice) as noted in a March 9, 2010, letter from the State. This policy was withdrawn due to the lack of a clear, enforceable standard that could be applied via federal consistency.

PUBLIC AND FEDERAL AGENCY COMMENTS

OCRM received a comment letter from Christine H. Porter, Department of the Navy (on behalf of all Department of Defense (DoD) Agencies in the Mid-Atlantic), on December 10, 2010, which outlined specific concerns regarding the proposed RPC. OCRM participated in a series of meetings involving DoD, the Maryland CMP, its network partners, and other federal agencies to address the issues raised in DoD's comment letter. These meetings and discussions resulted in improved understanding between the parties, resolution of many of the issues, development of "views letters" by both parties articulating their positions and reasoning, and a commitment to develop a Memorandum of Understanding (MOU) between DoD and the Maryland CMP outlining the specific federal consistency procedures to be followed for the application of CMP enforceable policies to DOD activities. OCRM believes that the MOU will serve to improve transparency and efficiency in the administration of federal consistency in Maryland.

Thank you for your cooperation in this review. Please contact John Kuriawa at (410) 267-5668, if you have any questions.

Sincerely,


for John King, Chief
Coastal Programs Division

Enclosure: Policies Approved and Incorporated into the Maryland CMP.

Enclosure to OCRM's Approval of the Incorporation of Changes to
the MARYLAND COASTAL MANAGEMENT PROGRAM

Comprehensive List of State Enforceable Policies as Approved Through this Program Change	State Legal Citation	Date Effective for Federal Consistency
General Policies – Core Policies	A.1., 1-14	Date of public notice of OCRM's approval
General Policies – Water Quality	A.2., 1-11	Date of public notice of OCRM's approval
General Policies – Flood Hazards	A.3., 1-3	Date of public notice of OCRM's approval
Coastal Resources - The Chesapeake and Atlantic Coastal Bays Critical Area	B.1., 1-31	Date of public notice of OCRM's approval
Coastal Resources – Tidal Wetlands	B.2, 1	Date of public notice of OCRM's approval
Coastal Resources – Non-Tidal Wetlands	B.3, 1	Date of public notice of OCRM's approval
Coastal Resources – Forests	B.4, 1-6	Date of public notice of OCRM's approval
Coastal Resources – Historical and Archaeological Sites	B.5, 1-3	Date of public notice of OCRM's approval
Coastal Resources – Living Aquatic Resources	B.6, 1-14	Date of public notice of OCRM's approval
Coastal Uses – Mineral Extraction	C.1, 1-35	Date of public notice of OCRM's approval
Coastal Uses – Electrical Generation and Transmission	C.2, 1-5	Date of public notice of OCRM's approval
Coastal Uses – Tidal Shore Erosion Control	C.3, 1-7	Date of public notice of OCRM's approval
Coastal Uses – Oil Pollution and Tank Management	C.4, 3-7	Date of public notice of OCRM's approval
Coastal Uses – Dredging and Disposal of Dredged Material	C.5, 1-13	Date of public notice of OCRM's approval
Coastal Uses – Navigation	C.6, 1-6	Date of public notice of OCRM's approval
Coastal Uses – Transportation	C.7, 1-5	Date of public notice of OCRM's approval
Coastal Uses – Agriculture	C.8, 1-5	Date of public notice of OCRM's approval
Coastal Uses – Development	C.9, 1-12	Date of public notice of OCRM's approval
Coastal Uses – Sewage Treatment	C.10, 1-24	Date of public notice of OCRM's approval