

ADDENDUM



Addendum to the Office of Ocean and Coastal Resource Management's July 1996 Program Change Guidance (November 2013)

NOAA Office of Ocean and Coastal Resource Management
www.coastalmanagement.noaa.gov

The Office of Ocean and Coastal Resource Management (OCRM) has issued an addendum to OCRM's July 1996 Program Change Guidance (Guidance) regarding public notice requirements for the coastal states. The addendum is at the end of this notice. (To access these documents, see www.coastalmanagement.noaa.gov/consistency/FC_policy_guidance.html.)

OCRM issued its July 1996 Program Change Guidance to clarify information and procedural requirements for program change requests by state coastal management programs pursuant to the Coastal Zone Management Act (CZMA) and its implementing regulations. The CZMA program change regulations, 15 C.F.R. part 923, subpart H, were last revised in 1996. The Guidance was intended, among other things, to reduce information and paperwork burdens on states and OCRM. However, the Guidance addressing public notice requirements for Routine Program Changes (RPCs) (15 C.F.R. § 923.84(b)(2)) results in an *increased* paperwork burden on states and OCRM. Specifically, the Guidance prevents states from relying solely on electronic notification for their public notices reasoning that "many people and organizations do not yet have access to the Internet or other means of electronic transfer." (See OCRM Program Change Guidance, pp. 9-11 (July 1996)). This Guidance is now outdated due to improvements in technology, increased Internet access, and much less reliance on newspapers (and other "hard-copy" forms) for notices.

The 1996 Guidance was authorized by the President's Office of Management and Budget (OMB) under the Paperwork Reduction Act, and OMB re-certifies the paperwork burdens of the Guidance on an annual basis. However, the Guidance is not considered a regulation but rather guides states, agencies, and OCRM in complying with the CZMA and its implementing regulations. Therefore, OCRM retains the ability to suspend or change part of the Guidance when circumstances present unintended consequences and where such deviations from, or changes to, the Guidance are still consistent with the CZMA and its regulations. In this instance, OCRM has issued this addendum to improve OCRM's compliance with the Paperwork Reduction Act by eliminating the non-electronic requirement for RPC public notices, which will save states and OCRM time and resources. The addendum will decrease the burden on states and OCRM, resolve current confusion among states over what type of publication satisfies the public notice requirements, and continue to satisfy the regulatory requirements of 15 C.F.R. § 923.84(b)(2).

The addendum supersedes Section III(A)(4) and (B) (starting with the 4th paragraph) of the July 1996 Program Change Guidance.

The current language in the July 1996 Program Change Guidance:

III.A.

4. *A copy of the state CMP's public notice of the submittal to OCRM. This notice must be distributed to the general public and affected parties, including local governments, other state agencies, and regional offices of relevant federal agencies (or the agency's headquarters if it does not maintain a regional office), as well as a listing of individuals notified of the RPC. The public notice must be published at the same time or before (but not after) the state submits the program change package to OCRM. Electronic notification may be used, but may not be the exclusive method of notification (many people and organizations do not yet have access to the Internet or other means of electronic transfer).*

The public notice must:

- a. *Describe the nature of the program change and identify any enforceable policies to be added to the CMP.*
- b. *Indicate that the state considers the change to be an RPC and has requested OCRM's concurrence in that determination; and*
- c. *Indicate that any comments on whether or not the action does or does not constitute an RPC may be submitted to OCRM within three weeks of the date of issuance of the notice.*

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III.B. (4th paragraph)

When OCRM concurs with the state CMP's RPC request, the state CMP must then provide notice to the general public and affected parties, including local governments, other state agencies, and relevant federal agencies. This notice shall:

1. *Indicate the date on which the state CMP received concurrence from OCRM and that the action constitutes an RPC;*
2. *Reference the earlier public notice for a description of the content of the RPC action; and*
3. *Indicate if federal consistency applies as of the date of the new notice.*

Until the state CMP publishes this notice the provisions of this change cannot be used for federal consistency purposes.

Addendum to OCRM's July 1996 Program Change Guidance

To supersede Section III(A)(4):

III. Routine Program Changes

A. Information Requirements

4. A copy of the state CMP's public notice of the submittal to OCRM. This notice must be distributed to the general public and affected parties, including local governments, other state agencies, and regional offices of relevant federal agencies (or the agency's headquarters if it does not maintain a regional office), as well as to individuals otherwise notified of the RPC. The public notice must be published at the same time or before (but not after) the state submits the program change package to OCRM. States can meet the requirement for public notice by publishing the notice on the state's coastal program website in a manner that is clearly identified and email, or mail, the public notice to the regional offices of relevant federal agencies (or the agency's headquarters if it does not maintain a regional office) and affected local governments, state agencies and individuals otherwise notified of the RPC. In addition to the website notice and the direct email or mail notices, states are encouraged to send notices to any coastal management email lists or listserve they use and states may also publish the notice in any state bulletin or newspaper.

The public notice must:

1. Describe the nature of the program change and identify any enforceable policies to be added to the CMP;
2. Indicate that the state considers the change to be an RPC and has requested OCRM's concurrence in that determination; and
3. Indicate that any comments on whether or not the action does or does not constitute an RPC may be submitted to OCRM within three weeks of the date of issuance of the notice.

To supersede Section III(B):

B. The RPC Process (*starting with the 4th paragraph*)

When OCRM concurs with the state CMP's RPC request, the state CMP must then provide notice to the general public and affected parties, including local governments, other state agencies, and regional offices of relevant federal agencies (or the agency's headquarters if it does not maintain a regional office), as well as to individuals otherwise notified of the RPC. States can meet the requirement for public notice by publishing the notice on the state's coastal program website in a manner that is clearly identified and email, or mail, the public notice to the regional offices of relevant federal agencies (or the agency's headquarters if it does not maintain a regional office) and affected local governments, state agencies and individuals otherwise notified of the RPC. In addition to the website notice and the direct email or mail notices, states are encouraged to send notices to any coastal management email lists or listserve they use and states may also publish the notice in any state bulletin or newspaper.

The public notice must:

1. Indicate the date on which the state CMP received concurrence from OCRM and that the action constitutes an RPC;
2. Reference the earlier public notice for a description of the content of the RPC action; and
3. Indicate if federal consistency applies as of the date of the new notice.

Until the state CMP publishes this notice the provisions of this change cannot be used for federal consistency purposes.