



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

Ms. Amber A. Westerbur  
Program Manager  
Minnesota Department of Natural Resources  
1568 Highway 2  
Two Harbors, MN 55616

**SEP - 9 2013**

Dear Ms. Westerbur:

Thank you for the Minnesota Department of Natural Resources' July 2, 2013, request that changes to the North Shore Management Plan (NSMP) and four statutes and rules from the Lake Superior Coastal Nonpoint Pollution Control Program (CNP) be incorporated into the Minnesota Lake Superior Coastal Program (MLSCP). You requested that the changes described below be incorporated as routine program changes (RPCs), 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 July 9, 2013, and OCRM's decision deadline was extended to September 10, 2013.

Based on our review of your submission, we concur, with the exceptions and qualifications described below, that the changes are RPCs and we approve the incorporation of the changes as enforceable and non-enforceable policies of the MLSCP. Federal Consistency will apply to the approved changes to enforceable policies only after you publish notice of this approval pursuant to 15 C.F.R. § 923.84(b)(4). Please include in the public notice the table of changes provided in this letter, and please send a copy of the notice to OCRM.

### **CHANGES APPROVED**

See enclosed table of the changes incorporated into the Minnesota Lake Superior Coastal Program. This table was prepared by the State of Minnesota. Changes marked with an asterisk (\*) are incorporated into the Minnesota Lake Superior Coastal Program, but do not contain enforceable policies that can be used for Federal Consistency. The enclosed table includes multiple dates when changes to some statutes were adopted by or became effective in the State; OCRM approves the most recent version of each statute included for which multiple dates are listed in the table.

### **QUALIFICATIONS**

States may not incorporate enforceable policies by reference. If an approved enforceable policy refers to another regulation, policy, standard, guidance, or other such requirement or document (hereinafter "referenced policy"), the referenced policy itself must be submitted to and approved by OCRM as an enforceable policy in order to be applied under the federal consistency review provisions of the CZMA. Therefore, no requirement or document referenced in the approved



enforceable policies may be applied for federal consistency unless that requirement or document has separately been approved by OCRM.

**CHANGES NOT APPROVED**

OCRM has not approved the section described below because this section would impose policies on federal agencies or federal lands. The CZMA does not authorize states to establish regulatory standards for federal lands or waters and, in fact, excludes federally controlled lands and waters from the state’s coastal zone. *See* 16 U.S.C. § 1453(1). Moreover, a state policy that purports to regulate or otherwise establish standards for federal agencies or federal lands or waters would not meet the CZMA’s definition of “enforceable policy,” which requires that state policies be legally binding under state law. *See* 16 U.S.C. § 1453(6a). Since Minnesota has no regulatory authority over federal agencies under the CZMA, the statute described below could not be legally binding under state law, as required by CZMA section 304(6a).

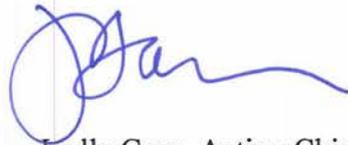
Minnesota statute 18C.60 “Phosphorous Turf Fertilizer Use Restrictions”, subdivision 1 “Definition”, defines “turf” to include “property owned by federal, state or local units of government”. OCRM does not approve this section as an enforceable policy.

**PUBLIC AND FEDERAL AGENCY COMMENTS**

OCRM received no comments on this RPC submission.

Thank you for your cooperation in this review. Please contact Jackie Rolleri at (301) 563-1179, if you have any questions.

Sincerely,



Joelle Gore, Acting Chief  
Coastal Programs Division

Enclosure(s): Policies Approved and Incorporated into the Minnesota Lake Superior Coastal Program