

AWCRSA Summary Response to Comments
July, 2005

Introduction

The AWCRSA Public hearing Draft has been revised to respond to comments and is being submitted as a Final Draft Plan Amendment. To the best of our knowledge the document is complete and complies with 11 AAC 114. There are however a number of outstanding issues that will need to be resolved during the formal review and preparation of final finding as conclusions conducted by DNR. These issues are summarized below.

General

The comments received on the AWCRSA Public Hearing Draft ranged widely and reflected an equally widely ranging understanding of the revised ACMP. In many cases they were in direct conflict. Our general approach in these instances was to default to the OPMP suggestions. In other cases the comment was too vague to be useful. In these cases we went with the comment that provided specific guidance or suggestions.

Finally, there were cases where an agency recommended a change but did not require it. For the most part, these types of comment could not be incorporated. An example of this is the thoughtful recommendations from DGGS. While the comments are specific enough to be incorporated, they would require a complete rewrite of relevant sections. With the limited budget, it is barely possible to address required changes, so these types of revisions could not be made.

Mapping

It is not possible to make changes to the maps as part of the Draft Plan Amendment. However, for the most part, the issues raised were examples of where reviewers could not locate information, not that the information was not depicted on the maps.

For example, reviewers were not able to locate the coastal district boundary. The boundary is clearly depicted on the Resource inventory Supplemental Maps, May 3003 (CZM1 – CZM 8). We have addressed this and similar issues by more carefully cross-referencing the appropriate map series.

Another issue is the depiction of the designations. It is not possible to add these to the maps as part of the Draft Plan Amendment. However, using OPMP suggestions we have improved the descriptions in a manner that should suffice.

Proper and Improper Uses

OPMP indicated a required change, but then qualified it with “if applicable”.

OPMP REQUIRED CHANGES: *If applicable, clarify that policies allow or disallow specific uses or activities within a designated area, as permitted by 11 AAC 114.270(g). The following is suggested language to achieve this requirement.*

“Specific land or water uses and activities that will be allowed or not allowed within a designated area are identified in enforceable policies chapter”.

The AWCRSA does not wish to unconditionally disallow any uses or activities within designated areas, therefore the required change is not applicable. We believe this section of the plan is clear as written and does not require additional clarification.

Enforceable Policies

An additional five policies were removed in response to comments. The AWCRSA plan now contains a total of 14 enforceable policies.

Adequately Addressed

The “adequately addressed” issue remains the single most difficult issue to resolve. It is also the issue where agencies most often have conflicting positions. The most recent guidance from OPMP suggests that the agency must actually have regulations (as opposed to the general authority to regulate) in place to preempt a district from writing an enforceable policy. We have used this as a guideline in trying to grapple with the “adequately addressed” issue.

The next challenge is to be so fluent with the body of environmental law as to be able to identify overlaps. Districts have asked for assistance with this from the time that the regulations were proposed. The issue has continually been deferred, arguably because it is easier to conduct the analysis at this level of detail, on a policy by policy review. A few of the reviewers were helpful in this regard, providing specific citations and analysis of coverage. Where this level of information was provided, we have tried to use it. However, general statements and opinions, those offered outside the agency’s area of expertise and those in direct conflict with other reviewers will need to be resolved by DNR.

Resource Inventory Support

In some cases OPMP made the statement that the information is there but needs to be presented in another manner. We believe that this is a subjective opinion. As long as the information is present and located in the enforceable policy cross-reference table, we do not believe that additional revisions are necessary.

Model Policies

A number of reviewers were clearly not familiar with the model policies and questioned the enforceability of policies that were drafted using these examples. We are retaining those policies unchanged as we have not received any guidance from OPMP that would suggest that these types of policies are no longer approvable.

Advisory Policies

OPMP's option to include the advisory policies in text boxes is preferable to the AWCRSA and will be done at final printing. In the interim we will put clearly visible notations in the document. The reason for this is that text boxes present significant challenges for formatting in WORD that need to be continually readjusted each time the document is revised. Once the document is converted to a layout program, text boxes can easily be added, but it is not cost-effective to convert the document into a layout program at each phase of the review.

Designations

Natural Hazards

While OPMP had some concerns for the natural hazard designations, DGGS disagreed. The AWCRSA has followed the guidance of the DGGS reviewer.

"the arguments presented for defining the whole AWCRSA as a Natural Hazard area are strong. The policies appear to be well written and backed up by data in the resource section. p. 52 rewrite text to make it clearer that the natural hazard area is not defined based on seismic hazards alone."

Recreational Use and Subsistence Use

AWCRSA has followed the OPMP guidance to improve the descriptions.

Important Habitats

These are depicted on the Supplemental Maps, May 2003 (CZM1 – CZM-8) and we have revised the text to make this reference.

History of Prehistory

The SHPO supports keeping the locations confidential. We have revised the text to indicate that applicant must contact the SHPO.