

PUBLIC NOTICE
New York State Department of State
Program Change

STATEWIDE — Pursuant to 15 CFR 923, the New York State Department of State (DOS) hereby gives notice that the National Oceanic and Atmospheric Administration's Office for Coastal Management (OCM) concurred on September 8, 2021 on the incorporation of the Village of Nyack Local Waterfront Revitalization Program (LWRP) amendment into New York State's Coastal Management Program as a Program Change. As of September 8, 2021, the enforceable policies identified in the Table of Approved Changes below shall be applicable in reviewing federal actions pursuant to the federal consistency requirements of the Coastal Zone Management Act (CZMA) and its implementing regulations found at 15 CFR part 930. DOS requested OCM's concurrence on this action on August 4, 2021, in a previous notice in the New York State Register, which further described the content of the action.

The Village of Nyack LWRP amendment was prepared in partnership with DOS and in accordance with the New York State Waterfront Revitalization of Coastal Areas and Inland Waterways Act and the New York State Coastal Management Program. The LWRP is a long-term management program for the waterfront resources of the Village along the Hudson River and is based on the policies of the New York State Coastal Management Program. The Village of Nyack LWRP amendment provides a detailed inventory and analysis of natural, historic and cultural resources in the Local Waterfront Revitalization Area in the Village, describes existing land and water uses, harbor management, and important economic activities, presents issues and opportunities for future development, and contains enforceable policies to be used for CZMA consistency review purposes.

Pursuant to the New York State Coastal Management Program and Article 42 of the New York State Executive Law, the Village of Nyack LWRP amendment was adopted by resolution by the Village of Nyack Board of Trustees on December 10, 2020 and approved by the New York State Secretary of State on May 12, 2021.

OCM's concurrence includes the following list of changes and qualifications:

Table of Approved Changes to the New York Coastal Management Program (NY-2021-2)

Legal citation	Title of policy, section, or other descriptor	Is the change new, revised, or deleted	Date effective in state	Enforceable policy	Enforceable mechanism citation
Not applicable	Village of Nyack, New York Local Waterfront Revitalization Program (LWRP)	Revised	05/12/2021	Yes (Section III only)	Executive Law, Article 42

Qualifications

As with previous approval of NY CMP LWRPs, the enforceable provisions of Section III are only the stated policies and sub-policies. The enforceable policies do not include the explanatory text that accompanies each policy. While the explanatory text may be advisory as to how activities can show consistency with the LWRP policies, the State may not use the explanatory text as a basis for issuing an objection under its CZMA authority. Please also note that for the review of federal actions pursuant to the CZMA, the requirements of the statute and implementing regulations at 15 CFR part 930 are controlling over any conflicting interpretation of the discussion of the CZMA federal consistency requirements within the Village of Nyack LWRP.

As a standard qualification applying to all program changes, states may not incorporate enforceable policies by reference. If an approved enforceable policy refers to another statute, regulation, policy, standard, guidance, or other such requirement or document, the referenced policy must be submitted to and approved by the Office for Coastal Management as an enforceable policy in order to be applied under the federal consistency review provisions of the CZMA. No referenced policy may be applied for CZMA federal consistency review purposes unless that policy has been separately reviewed and approved as an enforceable policy by the Office for Coastal Management.

The Village of Nyack Local Waterfront Revitalization Program amendment is available at: <https://dos.ny.gov/local-waterfront-revitalization-program>, the website of the New York State Department of State. If you have any questions, please contact Barbara Kendall, DOS Office of Planning, Development & Community Infrastructure, at Barbara.Kendall@dos.ny.gov.