Section 210.3
Coastal Wetlands

Item 4.B

A. Definitions

1. **Coastal wetlands** include salt marshes and freshwater or brackish wetlands contiguous to salt marshes or physiographical features. Areas of open water within coastal wetlands are considered a part of the wetland. In addition, coastal wetlands also include freshwater and/or brackish wetlands that are directly associated with non-tidal coastal ponds and freshwater or brackish wetlands that occur on a barrier beach or are separated from tidal waters by a barrier beach.

2. **Salt marshes** are areas regularly inundated by salt water through either natural or artificial water courses and where one or more of the following species predominate: smooth cordgrass (*Spartina alterniflora*), salt meadow grass (*Spartina patens*), spike grass (*Distichlis spicata*), black rush (*Juncus gerardi*), saltworts (*Salicornia* spp.), sea lavender (*Limonium carolinianum*), saltmarsh bulrush (*Scirpus* spp.), high tide bush (*Iva frutescens*).

3. **Contiguous freshwater wetlands** are those wetlands which border directly on salt marshes or brackish wetlands or physiographical features and which, except for size limitations, meet the definition of bog, marsh, swamp, or pond under the Rhode Island Freshwater Wetlands Act (R.I.G.L. § 2-1-18 *et seq.*). All contiguous freshwater wetlands are protected under the CRMP, regardless of their size.

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4. **Brackish wetlands** are those wetlands which border directly on salt marshes and where one or more of the following species predominate: tall reed (*Phragmites communis*), tall cordgrass (*Spartina pectinata*), broadleaf cattail (*Typha latifolia*), narrowleaf cattail (*Typha angustifolia*), spike rush (*eleocharis rostellata*), chairmaker's rush (*Scirpus americana*), creeping bentgrass (*Agrostis palustris*) sweet grass (*Hierochloe odorata*), wild rye (*elymus virginicus*).

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5. **High salt marsh** is defined as that portion of the salt marsh that typically is flooded by spring, moon, or other flooding tides but otherwise is not flooded on a daily basis. The vegetative composition of high salt marsh typically consists of one or more of the following: salt meadow grass (*Spartina patens*); spike grass (*Distichlis spicata*); black rush (*Juncus gerardi*); tall reed (*Phragmites communis*); Sea Lavender (*Limonium carolinianum*); tall cordgrass (*Spartina pectinata*); saltmarsh bulrushes (*Scirpus* spp.); and high tide bush (*Iva frutescens*).

6. **Low salt marsh** is defined as that portion of the salt marsh that is flooded daily. The vegetative composition of the low salt marsh typically consists predominantly of smooth cordgrass (*Spartina alterniflora*).

7. Alterations to coastal wetlands are defined in Section 300.12.

B. Findings

1. Coastal wetlands are important for a variety of reasons. They provide food and shelter for large populations of juvenile fish and are nurseries for several species of fish. The mud flats and creeks associated with many coastal wetlands are rich in shellfish, particularly soft-shelled clams. Coastal wetlands also provide important habitat for shore birds and waterfowl, and many are among the most scenic features of the Rhode Island shore. Coastal wetlands are effective in slowing erosion along protected shores.

2. Much of the original acreage of coastal wetlands in Rhode Island has been destroyed, and the pressures to fill coastal wetlands continue. Downtown Providence, much of Quonset, and many other low-lying coastal communities are built on what was once coastal wetland. We do not know how much coastal wetland has been destroyed by development, but some 10 percent of our coastal wetlands of 40 acres or more is reported to have been filled between 1955 and 1964. Since coastal wetlands are found in sheltered waters, they frequently coincide with attractive sites for marinas and waterfront homes. The pressures to fill or otherwise alter coastal wetlands therefore remain. According to a 1975 survey, there are some 3,700 acres of salt marsh in the state, of which some 10 percent were fringe marshes less than five yards wide. Approximately 90 percent of the state's salt marshes abut Type 1 and 2 waters.

3. Most of Rhode Island's wetlands are small and, when viewed in isolation, may appear to be of insignificant value. In order to better understand the value of individual salt marshes, the Council has sponsored research to investigate the feasibility of rating the relative value of individual coastal wetlands. Two years of research revealed that it is not possible to rate coastal wetlands if all ecological considerations are given equal weight. The study also showed that there is little if any correlation between the perceived scenic coastal wetland and its ecological characteristics.

4. Land uses and activities abutting coastal wetlands may have a strong impact upon the wetland itself. Nearby

drainage patterns which affect sedimentation processes and the salinity of waters may easily be altered, with detrimental effects. Wildlife must be protected from harassment. The construction of shoreline protection and the bulkheading and filling along the inland perimeter of a marsh prevents inland migration of wetland vegetation as sea level rises, thus resulting in the eventual permanent loss of the coastal wetland.

5. Coastal Buffer Zones (Section 150) abutting coastal wetlands provide protected upland areas where wetlands can migrate landward as sea levels rise.

6. Coastal wetlands provide denitrification (nitrogen reduction) zones that help to decrease the concentration of watershed sources of nitrogen in groundwater. Excessive nitrogen causes harmful water quality impacts to coastal waters resulting in low dissolved oxygen and excessive algae growth.

7. In light of continuing pressures to alter coastal wetlands, and in accordance with the Council's policy of "no net loss", avoidance and minimization of impacts and compensation for unavoidable losses are necessary tools for retaining and restoring Rhode Island's coastal wetlands.

C. Policies

1. The Council's goal is to preserve and, where possible, restore coastal wetlands and to preserve ecological functions. In addition, the Council acknowledges the important denitrification role coastal wetlands have in reducing excessive concentrations of groundwater nitrogen. Accordingly, the Council's goal is to preserve coastal wetlands to maintain and enhance their denitrification function.

2. The Council's goal is to offset past losses in coastal wetlands and unavoidable alterations to surviving coastal wetlands: (a) disturbed wetlands should be restored as directed by the Council or enhanced when possible; and (b) in areas selected on the basis of competent ecological study, the Council will encourage the building of new wetlands.

3. It is the Council's policy that alterations to coastal wetlands abutting Type 1 waters are prohibited except for minimal alterations associated with a Council-approved restoration activity. In Type 1 waters, structural shoreline protection may be permitted abutting salt marshes only when the primary purpose is to enhance the site as a conservation area or associated with a Council-approved restoration activity.

4. It is the Council's policy that alterations to coastal wetlands abutting Type 2 waters are prohibited except for minor disturbances associated with: (a) residential docks and walkways approved pursuant to the standards set forth in Section 300.4; (b) approved maintenance of structural shoreline protection facilities; or (c) Council-approved restoration activities.

5. Coastal wetlands designated for preservation adjacent to Type 3, 4, 5, and 6 waters are identified on maps available for inspection at the Council's offices and at the town halls of coastal cities and towns. In these designated wetlands only the alterations described in #4 above may be permitted. Dredging and filling in these designated coastal wetlands are prohibited. The maps of designated coastal wetlands serve to identify individual wetlands; in all cases precise boundaries shall be determined through a field inspection when proposals that could impact these features are being considered. In support of this goal, the Council supports a policy of "no net loss" of coastal wetland acreage and functions as a result of coastal development.

6. Coastal wetlands adjacent to Type 3, 4, 5, and 6 waters that are not designated for preservation may be altered if: (a) the alteration is made to accommodate a designated priority use for that water area; (b) the applicant has examined all reasonable alternatives and the Council has determined that the selected alternative is the most reasonable; and (c) only the minimum alteration necessary to support the priority use is made.

7. In consideration of rising sea levels, it is the Council's policy to preserve portions of upland areas adjacent to salt marshes and brackish wetlands to provide for future landward migration of these wetlands. Therefore, the Council shall require maximum buffer zone widths for projects abutting salt marshes and brackish wetlands. Further, the Council's policy is to limit the granting of buffer zone variances within upland areas that have existing topographic elevations less than five (5) feet above the topographic elevation of the inland edge of the abutting salt marsh or brackish wetland to allow for inland migration of these wetlands.

D. Prohibitions

1. Alterations to coastal wetlands abutting Type 1 waters are prohibited except for minimal alterations associated with a Council-approved restoration activity.

2. Alterations to coastal wetlands abutting Type 2 waters are prohibited except for minor disturbances associated

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with: (a) residential docks and walkways approved pursuant to the standards set forth in Section 300.4; (b) approved maintenance of structural shoreline protection facilities; or (c) Council-approved restoration activities.

3. The construction of commercial or industrial structures, and dredging and filling in coastal wetlands designated for preservation adjacent to Type 3, 4, 5, and 6 waters are prohibited.

4. Buffer zone variance relief beyond 50% pursuant to Standard E.2 below is prohibited.

E. Standards

1. All Council-approved alterations to coastal wetlands shall be carried out in accordance with Section 300.12.

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2. The Council shall limit buffer zone width variances to no more than 50% when the area for which variance relief is requested has existing topographic elevations that are less than five (5) feet above the existing topographic elevation of the inland edge of the abutting saltmarsh and brackish wetland. Variance relief beyond 50% within this area is prohibited. This standard shall apply to all projects that have salt marshes or brackish wetlands with and average width of 20 feet or more along the affected property. Further, this standard shall not apply to properties that have existing manmade shorelines abutting salt marshes of brackish wetlands.

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3. On barriers classified as moderately developed in Table 4, the following policies shall apply:

a) New development is prohibited on moderately developed barriers except where the primary purpose of the project is restoration, protection or improvement of the feature as a natural habitat for plants and wildlife or as allowed under paragraph (c) of this section;

b) Existing roads, bridges, utilities and shoreline protection facilities may be maintained only, in accordance with the requirements of Section 300.14;

c) Existing recreational structures may be altered, rehabilitated, expanded or developed (as defined in the glossary of the RICRMP) according to the following standards:

i) Any expansion of or development activities associated with existing recreational structures shall not occur within or extend into any flood zone designated as V on the most current Federal Insurance Rate Maps, or as established by the Federal Emergency Management Agency;

ii) All activity shall be confined to the existing footprint of disturbance; for the purposes of this section, the footprint of disturbance shall be defined as that area encompassed by the perimeter of the structural foundation and/or areas determined by the CRMC to be substantially altered due to associated structures, excluding dunes, wetlands and areas encompassed within pertinent setback and buffer zone requirements of this program;

iii) Any proposed expansion of existing recreational structures shall be limited to an area equal to 25% of the square footage of the ground floor area encompassed by the structural foundation of the existing building as of June 23, 1983; associated structures shall not be used in calculating existing area;

iv) The activity shall meet or exceed all relevant standards for the appropriate flood zone designation; and

v) All activities shall be subject to relevant setback and buffer zone requirements of this program, including accessory structures such as decks, porches, walls, boardwalks, swimming pools, roads, driveways, parking lots and other structures integral to or ancillary to the existing recreational structure.

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4. Alterations to undeveloped barriers are prohibited except where the primary purpose of the project is protection, maintenance, restoration or improvement of the feature as a natural habitat for native plants and wildlife. In no case shall structural shoreline protection facilities be used to preserve or enhance these areas as a natural habitat or to protect the shoreline feature.

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7. With the exception of boardwalks and snow fencing utilized to trap sand, all residential and non-water-dependent recreational, commercial, and industrial structures on undeveloped barriers physically destroyed 50 percent or more by storm-induced flooding, wave or wind damage may not be reconstructed regardless of the insurance coverage carried.

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8. Persons utilizing undeveloped beaches are required to observe the following rules:

(a) Destruction or removal of signs, snow fencing, or other sand-stabilizing devices is prohibited; camping is prohibited unless in vehicles equipped with a self-contained toilet.

(b) Vehicles are permitted only on marked roads or trails and on the beach. Vehicles that drive on the beach and designated unstabilized trails on undeveloped barriers shall abide by the policies

found in Section 210.1.

(c) Persons shall be at all times subject to applicable town ordinances and regulations restricting the use of private, state, or federal properties.