

# Final Evaluation Findings

## Rhode Island Coastal Resources Management Program

September 2019 to October 2024

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## Table of Contents

<b>Summary of Findings</b>	<b>1</b>
<b>Program Review Procedures</b>	<b>5</b>
<b>Evaluation Findings</b>	<b>7</b>
Program Administration	7
Overview .....	7
CRMC Staff .....	7
Enforcement.....	11
Rhode Island Coastal Resources Management Program’s Council .....	12
Permitting .....	15
Grants Management and Financial Administration.....	17
Public Access	18
Rights-of-Way.....	20
Offshore Wind Energy Development	23
Coastal Resilience	27
Evaluation Metrics	32
<b>Conclusion</b>	<b>44</b>
<b>Appendix A - Response to Written Comments</b>	<b>45</b>
<b>Appendix B: Reporting on Previous Evaluation Findings</b>	<b>139</b>
Status of 2020 Necessary Actions and Recommendations for Rhode Island Coastal Management Program	139

## Summary of Findings

Section 312 of the Coastal Zone Management Act (CZMA) requires the National Oceanic and Atmospheric Administration (NOAA) to conduct periodic evaluations of the performance of states and territories with federally approved coastal management programs. This evaluation examined the operation and management of the Rhode Island Coastal Resources Management Program (“Program”), as administered by the designated lead agency, the Rhode Island Coastal Resources Management Council, for the period from September 2019 to October 2024. The Rhode Island Coastal Resources Management Council consists of state employees, executive leadership, and a politically appointed, ten-member Council. The evaluation focused on the following target areas: program administration, public access, offshore wind energy development, and coastal resilience.

NOAA will consider these findings in making future financial award decisions concerning the Rhode Island Coastal Resources Management Program. The evaluation reached these conclusions:

**Accomplishment 1:** The Rhode Island Coastal Resources Management Program has been successful in navigating a number of retirements by sharing institutional knowledge through activities such as training and shadowing, hiring new staff, and cross-training staff to integrate critical program expertise across functional areas in a strategic way that positions the Program to address ongoing and emerging coastal management issues.

**Accomplishment 2:** The Rhode Island Coastal Resources Management Program, in coordination with other state agencies, put forward a rule package and provided testimony and other administrative support to increase administrative penalties for violations. The penalties for violations were enacted by the Rhode Island Legislature in 2021. Increased penalties for Rhode Island Coastal Resources Management Council violations are now more consistent with fines imposed by other state agencies and can more effectively deter violations and better support coastal resource protection, public health, and public safety.

**Accomplishment 3:** The Rhode Island Coastal Resources Management Program has advanced public access goals in the state through informational campaigns, needs assessments, data collections, and other actions that will enhance access opportunities for all Rhode Islanders.

**Accomplishment 4:** The Rhode Island Coastal Resources Management Program designated thirteen rights-of-way during the evaluation period and has partnered with the Rhode Island Attorney General’s office to remove right-of-way obstructions at two Program-designated rights-of-way. The Program also works with communities and various groups to monitor Program-designated rights-of-way so that appropriate action can be taken when possible violations are identified.

**Accomplishment 5:** The Rhode Island Coastal Resources Management Program's efforts to engage with community leaders to identify barriers to public shoreline access advance solutions for increased public access opportunities to the state's coastal resources.

**Accomplishment 6:** The Rhode Island Coastal Resources Management Program remains a national leader in ocean planning, stakeholder engagement, and Coastal Zone Management Act federal consistency and leads the careful review and negotiation of offshore wind energy projects with the U.S. Department of the Interior's Bureau of Ocean Energy Management and developers. The state's offshore wind energy policies set clear expectations and criteria for developers and facilitate a transparent and clear federal consistency process.

**Accomplishment 7:** Notwithstanding the dissatisfaction of the Fishermen's Advisory Board, the Rhode Island Coastal Resources Management Program meaningfully engages with the commercial and recreational fishing sectors on the offshore wind energy development review process and is working toward restoring their participation in the offshore energy process with clear expectations on areas of influence.

**Accomplishment 8:** The Rhode Island Coastal Resources Management Program serves as a key partner in advancing coastal resilience projects throughout the state's coastal zone. Specifically, the development and promotion of hazard planning tools and habitat restoration partnerships are two key areas where the Program provides leadership and contributes to partnerships for coastal resilience.

**Necessary Action 1:** The Rhode Island Coastal Resources Management Program, in coordination with the Office of the Governor and the Rhode Island Legislature, must ensure that additional members are appointed to the Council to achieve the legislatively mandated membership of 10 Council members as soon as possible after the 2025 legislative session begins. It is essential that a quorum is maintained and the Rhode Island Coastal Resources Management Program conducts a regular and full schedule of Council and subcommittee meetings in order to implement Rhode Island's approved coastal management program.

**Necessary Action 2:** The Rhode Island Coastal Resources Management Program must continue to conduct continuing education for new and existing Council members to ensure that Council members are well informed of matters before them and procedural integrity is improved and maintained.

**Necessary Action 3:** The Rhode Island Coastal Resources Management Program must develop a new permit database and web interface that can process permit applications and online payments, serve as a platform for interagency collaboration and review, and track enforcement issues by September 30, 2026.

**Necessary Action 4:** The Rhode Island Coastal Resources Management Program must improve grants management practices to include:

- 1) implementing a financial management system that can accurately track personnel expenses charged to different funding streams of their annual operations awards from NOAA's Office for Coastal Management within six months of issuance of the final findings;
- 2) ensuring on an ongoing basis that all semiannual and final performance and financial reports are complete and submitted to NOAA through the eRA grants management system by their respective due date;<sup>1</sup> and
- 3) ensuring all special award conditions are satisfied by their respective due dates or requesting an extension at least 30 days before the due date if there is a warranted need to extend the due date.

**Recommendation 1:** Recognizing that the creation of new permanent staff positions is a challenge, NOAA's Office for Coastal Management recommends that the Rhode Island Coastal Resources Management Program evaluate current and future staffing needs and consider the feasibility of different and creative models of oversight, partnership, and contracting that can help expand program capacity beyond hiring new full-time employees, particularly for positions unique to the Program's mission. NOAA's Office for Coastal Management has identified three specific areas in which it recommends that the Program's executive leadership consider prioritizing its efforts:

- 1) establishment of a dedicated federal consistency coordinator position;
- 2) program management approaches for the aquaculture program such that permitting and promotion program functions are separated to remove perceived conflicts of interest; and
- 3) the Program's capacity to meet the current, ongoing, and anticipated scientific and technical needs and informational and analytic capabilities needed for offshore energy development.

**Recommendation 2:** NOAA's Office for Coastal Management recommends that the Rhode Island Coastal Resources Management Program work with legal counsel to ensure that Program staff have the timely and in-person support needed to address the breadth of activities and high volume of work they conduct, particularly for activities and tasks that are controversial.

**Recommendation 3:** NOAA's Office for Coastal Management recommends that the Rhode Island Coastal Resources Management Program be more proactive in identifying members of the public to serve on the Council. In particular, NOAA's Office for Coastal Management encourages the Program to expand the geographic representation on the Council and to consider a variety of backgrounds, education, and professional areas of expertise when identifying potential members of the public to serve on the Council.

**Recommendation 4:** NOAA's Office for Coastal Management recommends that the Rhode Island Coastal Resources Management Program inform Rhode Island's executive branch (i.e., the Office of the Governor and the Department of Administration) and the Rhode Island

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<sup>1</sup> The state will meet this portion of the necessary action when all reports are submitted on time over a 30-month period.

legislature of the importance of developing and implementing the permitting database and its expected benefits and efficiencies.

**Recommendation 5:** NOAA's Office for Coastal Management recommends that the Rhode Island Coastal Resources Management Program invest in information technology upgrades that will improve the Program's ability to serve the people of Rhode Island and improve coordination and collaboration with other state agencies.

**Recommendation 6:** NOAA's Office for Coastal Management recommends that the Rhode Island Coastal Resources Management Program expedite, where possible, the review processes for state-designated rights-of-way currently under consideration while also moving forward with the review of additional rights-of-way that are ready to progress in the designation process.

**Recommendation 7:** NOAA's Office for Coastal Management encourages the Rhode Island Coastal Resources Management Program to continue to explore opportunities for collaboration with the Rhode Island Department of Environmental Management and the University of Rhode Island to expand STORMTOOLS inland, so state government can provide a comprehensive tool (or group of tools) that delivers an understanding of flooding risk across the state and allows state government to find efficiencies and strategies to sustain this important planning tool. Having a seamless flood risk tool for coastal and inland areas will benefit the regulated community that works in both jurisdictions.

**Recommendation 8:** NOAA's Office for Coastal Management recommends that the Rhode Island Coastal Resources Management Program develop a long-range plan to build on the success of habitat restoration and conservation efforts as existing funding sources expire. Areas to consider include prioritizing projects, integrating habitat priorities into agency programs, sustaining administrative support, addressing staffing needs, and continuing coordination with the Rhode Island Infrastructure Bank and other partners.

## **Conclusion**

This evaluation concludes that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program, adhering to the terms of the federal financial assistance awards, and addressing coastal management needs identified in section 303(2)(A) through (K) of the Coastal Zone Management Act.

## Program Review Procedures

The National Oceanic and Atmospheric Administration (NOAA) evaluated the Rhode Island Coastal Resources Management Program in fiscal year 2025. The evaluation team consisted of Michael Migliori, evaluation team lead; Allison Castellan, site liaison; and North Regional Director Betsy Nicholson, all from NOAA's Office for Coastal Management, and Erin Wilson, federal consistency coordinator, from the Maine Coastal Program. The support of Rhode Island Coastal Resources Management Program staff members was crucial in conducting the evaluation, and this support is gratefully acknowledged.

NOAA sent a notification of the scheduled evaluation to Jeffrey M. Willis, executive director of the Rhode Island Coastal Resources Management Council, on June 17, 2024. A copy of this letter was also sent to Raymond C. Coia, council chair. NOAA published a notice of "Intent to Evaluate" in the *Federal Register* on August 22, 2024 (89 Fed. Reg. 67935), and notified members of Rhode Island's congressional delegation. The Rhode Island Coastal Resources Management Program posted a notice of the public meeting with an opportunity to comment on the Rhode Island Coastal Resources Management Council's website<sup>2</sup> on August 29, 2024, and also distributed the notice by email to the list of addresses used for all Council meetings.

The evaluation process included a review of relevant documents and a survey of stakeholders, which helped identify the following target areas for the evaluation: program administration, public access, offshore wind energy development, and climate resilience. The NOAA evaluation team conducted a site visit and held meetings with Program staff and Council members and held group discussions with stakeholders, partners, and program staff members about the target areas.

In addition, NOAA held a public meeting on Tuesday, October 15, 2024, at 6 p.m. Eastern Time at the Rhode Island Department of Administration, One Capitol Hill, 2nd Floor, Conference Room A, Providence, Rhode Island, to provide an opportunity for members of the public to express their opinions about the implementation of the program. Thirteen members of the public provided oral testimony at the public meeting. All members of the public participating in the meeting in-person were provided the opportunity to speak. Consistent with the Rhode Island Coastal Resources Management Program's procedures, members of the public could access the meeting online for listening, but only those who attended in-person had the opportunity to provide testimony.

Stakeholders and members of the public were also given the opportunity to provide written comments. The written comments received and NOAA's responses to those comments are included in Appendix A. NOAA then developed draft evaluation findings that were provided to the Rhode Island Coastal Resources Management Program's executive leadership for review, and the Program's comments were considered in drafting the final evaluation findings.

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<sup>2</sup> [http://www.crmc.ri.gov/news/2024\\_1011\\_fedeval.html](http://www.crmc.ri.gov/news/2024_1011_fedeval.html).

Final evaluation findings for all coastal management programs highlight the program's accomplishments in the target areas and include two types of findings that may require action by the program:

**Necessary Actions** address programmatic requirements of the Coastal Zone Management Act or its implementing regulations (15 C.F.R. part 923), and of the coastal management program approved by NOAA, and of the terms of any grant or cooperative agreement funded under the Coastal Zone Management Act. Necessary actions must be carried out by the date specified. Failure to address necessary actions may result in a future finding of nonadherence and the invoking of interim sanctions, as specified in Coastal Zone Management Act Section 312(c).

**Recommendations** are actions that NOAA's Office for Coastal Management believes would improve the program but are not mandatory. The state or territory is expected to have considered the recommendations by the time of the next evaluation or the dates specified.



## Evaluation Findings

### Program Administration

#### *Overview*

The Rhode Island Coastal Resources Management Program,<sup>3</sup> administered by the State of Rhode Island through the Coastal Resources Management Council (CRMC), consists of a ten-member, governor-appointed council, professional staff, and a governor-appointed executive director. The CRMC's enabling legislation requires that its representation include members from coastal communities, state and local government officials, the general public, and the director of the Department of Environmental Management, who serves *ex officio*.

The activities of the Rhode Island Coastal Resources Management Program are governed by management procedures (650-RICR-10-00-1); the Red Book, as amended (650-RICR-20-00-01);<sup>4</sup> several special area management plans; and various state regulations concerning coastal management (e.g., stormwater).<sup>5</sup>

#### *CRMC Staff*

The Rhode Island Coastal Resources Management Program is administered by approximately 30 staff members that carry out the day-to-day work of the Program. The staff is organized into four functional areas: administration, policy and planning, permitting, and enforcement. The staff's work includes reviewing permits and permit applications, making recommendations to the CRMC, drafting policy, providing technical and planning assistance on a variety of coastal management issues, and managing the Program's budget.

The NOAA evaluation team repeatedly heard expressions of praise from the evaluation participants for CRMC staff and their professionalism in executing their duties. They are well-respected and valued for their work in coastal management, receiving high praise for their responsiveness, knowledge, and accessibility.

The CRMC staff continues to excel at defining their role as regulator and policymaker, forging strong partnerships with others who have complementary skill sets and missions. These

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<sup>3</sup> Naming convention throughout this document:

*Rhode Island Coastal Resources Management Program* refers to the state program, including enforceable policies, approved by the U.S. Secretary of Commerce under the Coastal Zone Management Act (CZMA).

*Coastal Resources Management Council* refers to the professional staff and the 10-member body appointed by the governor who implement the federally approved Rhode Island Coastal Resources Management Program.

*CRMC staff* refers to the state employees that have administrative, policy and planning, permitting, and enforcement responsibilities and provide support and recommendations to the Council.

*CRMC executive leadership* refers to the executive director and deputy director.

<sup>4</sup> "a collection of policies and regulations developed and adopted necessary to manage the coastal resources of the state and to provide for the integration and coordination of the protection of natural resources, the promotion of reasonable coastal-dependent economic growth, and the improved protection of life and property from coastal hazards...." 1.1.1A Authority and Purpose

<sup>5</sup> <http://www.crmc.ri.gov/regulations.html>

partnerships include nonprofits (e.g., Save the Bay), universities (e.g., University of Rhode Island, Rhode Island Sea Grant, Coastal Resource Center, and Roger Williams University's Marine Affairs Institute), and other state government entities (e.g., Rhode Island Department of Environmental Management, including the Narragansett Bay National Estuarine Research Reserve).

Several staff retired shortly after the 2020 evaluation findings were issued, which included the executive director and several other senior staff, such as a supervising environmental scientist, dredging coordinator, aquaculture coordinator, and geologist. In addition, there was turnover because of staff leaving for other employment opportunities. The deputy director was confirmed by the Rhode Island Senate to the executive director position. A senior enforcement lead was promoted to deputy director. New staff hires include three policy analysts (including experts on offshore wind energy projects and public access), a geologist, enforcement staff, a hearing officer, and an aquaculture coordinator. A long-term environmental scientist was also promoted to fill the vacant supervising environmental scientist position.

The addition of the hearing officer position is of particular note as it addresses a requirement of Rhode Island law (§ 46-23-20.1.) and a necessary action from NOAA's 2010 evaluation:

**Necessary Action (2010):** The CRMC must separate the functions of the CRMC administrative hearing officer from the functions of the CRMC legal counsel by December 1, 2010, so that no single person conducts or is responsible for both functions. The intent of this action is to prevent a real or perceived conflict of interest and to ensure that the CRMC staff members have access to legal counsel in preparation for, and at, hearings.

Although the Rhode Island Coastal Resources Management Program previously addressed the necessary action by having counsel serve as the hearing officer, this new hearing officer position provides a longer-term solution that further avoids any perceived conflict of interest.

At the time of the 2010 evaluation, the same legal counsel served as both legal representation for the CRMC and as the hearing officer for appeals of CRMC administrative fines. And at the time of the 2020 evaluation, the CRMC's attorney no longer served as the hearing officer; the CRMC, itself, served in this role. The new hearing officer will reduce the backlog of Administrative Fine Appeal hearings and allow for contested cases to be heard by the hearing officer rather than an *ad hoc* CRMC subcommittee.

The CRMC staff continued to develop its "Knowledge Drive" database for staff. This growing database includes information, both archival and current, on a number of topics such as staff policy memos, staff meeting agenda and notes, internal staff training presentations, administrative documents, etc.<sup>6</sup> The Knowledge Drive has become a valuable tool for staff,

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<sup>6</sup> This addresses a recommendation from the previous evaluation. See Appendix B for additional information.

regardless of their tenure, and serves as a clearinghouse and archival resource. This repository of knowledge is complemented by the new perspectives, experiences, and skills brought by newly onboarded staff. The combination of experience and fresh perspectives can serve CRMC staff well as they continue to address the coastal management needs of the state, adapt to new issues, and consider engagement in new opportunities.

**Accomplishment 1:** The Rhode Island Coastal Resources Management Program has been successful in navigating the challenges of a number of retirements by sharing institutional knowledge through activities such as training and shadowing, hiring new staff, and cross-training staff to integrate critical program expertise across functional areas in a strategic way that positions the Program to address ongoing and emerging coastal management issues.

Despite the hiring of new staff, the Program's workload and responsibilities have increased significantly with the need to respond to the growth of the offshore wind energy and aquaculture industries, address impacts from increased erosion and sea level rise, and manage issues that arise from increased demand for public access, among others. Many of these needs will continue to increase. Additional capacity is critical to complete the work of the Rhode Island Coastal Resources Management Program. While additional employees are needed to complete state government tasks (such as federal consistency, permit issuance, and enforcement actions), there are opportunities to explore other staffing solutions as well. This could include state-funded contractors; fellowships and workforce development programs; partnerships with universities, including possible legal support through law school programs; and regulated communities willing to help support independent contractors to facilitate a permit review process. Additional approaches include shared staff positions with other state agencies, reciprocal relationships or agreements with other agencies (mutual support for shared responsibilities, such as coordinated monitoring for aquaculture), and staff positions being written into external grant opportunities.

The evaluation team heard several options for how the Rhode Island Coastal Resources Management Program could increase capacity to implement the offshore wind energy program. In addition to new program staff, the offshore wind energy companies are able to provide funding to the CRMC to contract for third-party expertise that can inform the necessary work of the CRMC in offshore wind development.

Staffing levels in the aquaculture program have not kept pace with the scope and growth of the Rhode Island Coastal Resources Management Program. The various functions of the Program, including review and permitting,<sup>7</sup> enforcement, education and promotion,<sup>8</sup> and administrative actions, are conducted by one individual. There is the appearance of a conflict of interest with the same individual issuing permits and promoting aquaculture. There could be opportunities to partner with other organizations with aquaculture education and research missions to support the aquaculture promotion mission of the CRMC and thereby reduce the appearance of a conflict of interest. Support in administrative areas would allow the Council's program

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<sup>7</sup> RI CRMC Redbook Section K Aquaculture, 1. Policy.

<sup>8</sup> RI CRMC Redbook Section K Aquaculture, 5. Standards (15).

coordinator to increase aquaculture review and permitting actions. Additional enforcement capacity within the CRMC would also support the aquaculture program.

**Recommendation 1:** Recognizing that the creation of new permanent staff positions is a challenge, NOAA's Office for Coastal Management recommends that the Rhode Island Coastal Resources Management Program evaluate current and future staffing needs and consider the feasibility of different and creative models of oversight, partnership, and contracting beyond hiring new full-time employees that can help expand program capacity, particularly for positions unique to the program's mission. NOAA's Office for Coastal Management has identified three specific areas in which it recommends that the Program's executive leadership consider prioritizing its efforts:

- 1) establishment of a dedicated federal consistency coordinator position;
- 2) program management approaches for the aquaculture program such that program functions of permitting and promotion are separated to remove perceived conflicts of interest; and
- 3) the Program's capacity to meet the current, ongoing, and anticipated scientific and technical needs and informational and analytic capabilities for offshore energy development.

#### *Legal Advisory Services*

CRMC retains outside legal counsel to provide legal services for both the CRMC and Rhode Island Coastal Resources Management Program staff. The CRMC annual budget request includes funding for legal services. Additional funding for legal services is included in the annual operations award provided by NOAA's Office for Coastal Management under the Coastal Zone Management Act.

In response to a necessary action from the 2010 evaluation findings, the support from counsel improved through "office hours" and regular on-site visits to CRMC offices in South Kingston (see 2020 evaluation findings for additional information). Since the shift to more telework and remote-working capability, the in-person visits from counsel to CRMC headquarters has decreased in frequency and regularity. The importance of in-person engagement and consultation between CRMC staff and counsel demands increased, more frequent, and more predictable presence of counsel at CRMC headquarters when staff are present.

As discussed in previous evaluation findings, there is the appearance of a conflict of interest in having outside legal counsel support the Coastal Resource Management Council. Working with outside counsel, the agency had already established safeguards (i.e., a different attorney from the same firm representing those where there is a conflict), but some sectors of the public still noted concerns about a possible conflict of interest with the present arrangement.

NOAA's Office for Coastal Management recommends increasing the legal services available to staff using existing counsel. Recognizing the cost of additional legal services, NOAA's Office for Coastal Management recommends that the Rhode Island Coastal Resources Management

Program also consider additional ways to acquire these services. Other approaches could include coordinating legal fellowships with university law programs. For example, the Rhode Island Coastal Resources Management Program's agreement with Roger Williams University School of Law to support rights-of-way research could be expanded. Regardless of approaches, NOAA's Office for Coastal Management urges the CRMC to continue to keep legal counsel and hearing officer functions separate.

**Recommendation 2:** NOAA's Office for Coastal Management recommends that the Rhode Island Coastal Resources Management Program work with legal counsel to ensure that Program staff have the timely and in-person support needed to address the breadth of activities and high volume of work they conduct, particularly for activities and tasks that are controversial.

### *Enforcement*

At the time of the previous evaluation, the chairperson or executive director had statutory authority to assess an administrative penalty of not more than twenty-five hundred dollars for each violation (R.I. Gen. Laws § 46-23.7.1(1)). After the CRMC issued a cease-and-desist order, both the CRMC and the executive director were authorized to assess additional penalties of not more than five hundred dollars for each day during which the violation continued. However, the maximum penalty that could be imposed in the aggregate was ten thousand dollars.

As described in the agency's budget request for fiscal year 2022, the recommended fines would increase general revenue for the protection of Rhode Island's coastal resources.<sup>9</sup> The penalties had not been changed since 2004 and were so low that some violators absorbed any fines issued as a "cost of doing business." In 2021, the Rhode Island legislature updated these administrative penalties. Effective July 1, 2021, Rhode Island law authorizes the Council's chairperson or executive director to assess an administrative penalty of not more than ten thousand dollars for each and to assess additional penalties of not more than one thousand dollars for each day during which this violation continues after receipt of a cease-and-desist order from the CRMC pursuant to § 46-23-7(a), but in no event shall the penalties in aggregate exceed fifty thousand dollars. R.I. Gen. Laws § 46-23-7.1.

**Accomplishment 2:** The Rhode Island Coastal Resources Management Program, in coordination with other state agencies, put forward a rule package and provided testimony and other administrative support to increase administrative penalties for violations. The penalties for violations were enacted by the Rhode Island legislature in 2021. Increased penalties for Rhode Island Coastal Resources Management Council violations are now more consistent with fines imposed by other state agencies and can more effectively deter violations and better support coastal resource protection, public health, and public safety.

Enforcement staffing levels have varied during the evaluation period. As part of the Program's 2021 budget process, the CRMC's budget request included a proposed increase of one full-time

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<sup>9</sup>[https://omb.ri.gov/sites/g/files/xkgbur751/files/documents/Prior-Year-Budgets/Operating-Budget-2022/ExecutiveSummary/0\\_Complete-FY-2022-Executive-Summary.pdf](https://omb.ri.gov/sites/g/files/xkgbur751/files/documents/Prior-Year-Budgets/Operating-Budget-2022/ExecutiveSummary/0_Complete-FY-2022-Executive-Summary.pdf)

employee classified as an environmental scientist (to be assigned to enforcement). That request was not approved. At the time of the budget request, there were two full-time enforcement positions, both of which were filled. In 2022, an existing administrative position was revised into an environmental scientist position. The position was filled in the Program's enforcement unit, bringing the enforcement staffing level to three full-time positions. In early 2023, the enforcement lead was also promoted to acting deputy director and later made permanent deputy director, so only two enforcement staff remain for the Program.

At the time of the evaluation site visit in October 2024, the environmental scientist III position vacated by the now deputy director was still vacant. This enforcement position has been advertised and is expected to be occupied shortly. When filled, there will be three full-time enforcement staff for the program (two environmental scientist III and one environmental scientist II positions). This increased capacity will enhance the CRMC enforcement program, but there are growing enforcement needs for which additional capacity will be warranted (see the public access section below).

#### *Rhode Island Coastal Resources Management Program's Council*

The NOAA evaluation team heard numerous perspectives on both the CRMC council structure and how the State of Rhode Island can move forward with its federally approved coastal management program. Some stakeholders praised the open and transparent decision-making process afforded by the council structure. Those in support of the council structure noted no decision-making process is immune from politics, and any structure could lead to poor decisions from time to time. Supporters of the current council structure felt decisions by a representative, balanced council could help avoid potentially poor decisions that might occur if too much decision-making authority is held by one politically appointed executive director. On the other hand, many other stakeholders voiced concerns about the council structure. They believed that having politically appointed CRMC members that did not have a background in coastal management allowed politics to play too large a role in the decision-making process. Those stakeholders also asserted that having CRMC members without a background in coastal management required significant staff time to support and prepare the council for meetings and train them about various aspects of coastal management. This additional work places strain on staff who have many competing responsibilities. Critics also believed the current council structure led to more lengthy decision timelines (especially since there are currently three vacancies on the CRMC, which has created problems reaching quorum at some meetings).

NOAA's implementing regulations do not specify the structure or management of a state's federally approved coastal management program. There are numerous models for implementing a state's coastal management program. Some federally approved coastal management programs have politically appointed decision-making councils; others do not. NOAA's interest in the implementation of the Rhode Island Coastal Resources Management Program is in adherence with the Coastal Zone Management Act and its implementing regulations, such that the state manages, in coordination with NOAA's Office for Coastal Management, its coastal resources consistent with the federally approved Rhode Island Coastal

Resources Management Program. The purpose of this evaluation is to ensure the state is implementing its federally approved program, including its currently approved structure, consistent with the Coastal Zone Management Act.

NOAA understands that the Rhode Island Department of Administration (DOA) and the state legislature are considering alternatives to the current structure and management of the Rhode Island Coastal Resources Management Program. Separate from this evaluation, staff from NOAA's Office for Coastal Management met with DOA staff in October 2024 to discuss the various state coastal management program structures used across the country. As Rhode Island continues to consider if the state will propose a structural change to the state's coastal management program, NOAA will continue to engage with the state on possible organizational changes to the Rhode Island Coastal Resources Management Program to ensure the program continues to meet the Coastal Zone Management Act's coastal management program approval requirements and provide the excellent level of excellent coastal management that the Rhode Island Coastal Resources Management Program is known for. .

While the Coastal Zone Management Act and its implementing regulations provide Rhode Island with flexibility as to the structure and management of its coastal management program, NOAA recommends that Rhode Island work with NOAA, so NOAA has a fuller understanding of any proposed organizational changes. For example, NOAA's Office for Coastal Management should understand any proposed organizational change so that NOAA can determine if the Rhode Island Coastal Management Program would be weakened or may not meet program approval requirements. NOAA would likely ask Rhode Island preliminary questions like:

1. What are the reasons for the organization change?
2. What effects to the implementation of the Program would result from organizational change?
3. What does the current coastal program office (i.e., CRMC members and Rhode Island Coastal Resources Management Program staff) consider the pros and cons of the change?
4. Would the organizational change impact the Rhode Island Coastal Resources Management Program's ability to meet the Program approval requirements specified in Section 306 of the Coastal Zone Management Act and its implementing regulations at 15 CFR Part 923?

At the time of the evaluation site visit in October 2024, there were three vacant seats on the 10-seat council with two additional members planning to step down when their terms expired in January 2025. A quorum of six council members is required to vote on actions before the CRMC. The likelihood of CRMC meetings without the required quorum increases as the number of vacancies increases, thus delaying decision-making. If none of the existing or anticipated vacancies are filled, the CRMC will be unable to vote, which would delay decision-making until new members are appointed.

**Necessary Action 1:** The Rhode Island Coastal Resources Management Program, in coordination with the Office of the Governor and the Rhode Island legislature, must ensure that additional

members are appointed to the Council to achieve the legislatively mandated membership of 10 council members as soon as possible after the 2025 legislative session begins. It is essential that a quorum is maintained and the Rhode Island Coastal Resources Management Program conducts a regular and full schedule of Council and subcommittee meetings in order to implement Rhode Island's approved coastal management program.

The evaluation team heard there may be numerous barriers for serving on the Council, including not feeling "politically connected" enough to be considered, financial barriers, childcare support, and transportation costs. CRMC staff and executive leadership work with Rhode Islanders throughout the state's coastal zone and in the state's coastal communities, which provides a connection between Rhode Island citizens and the CRMC. Developing a process for soliciting "self-nomination" could help expand participation on the CRMC for those who feel they are not connected enough to receive nominations through the current process. NOAA's Office for Coastal Management encourages CRMC staff and executive leadership to work with the Office of the Governor to proactively identify candidates for the CRMC who are more closely representative of the relevant private and public sectors of the coastal zone and the demographics of the Rhode Island coast and ensure vacancies are filled in a timely manner.

State policy prohibits financial compensation to the members of the CRMC and the chairperson (23 § 46-23-5. Expenses of members), but members and the chairperson can receive reimbursement for actual expenses incurred in the performance of their duties. NOAA's Office for Coastal Management encourages CRMC staff to consider what sorts of expenses could be reimbursed such that financial, transportation, or other barriers to participation on the CRMC could be lowered, thus expanding opportunities for Rhode Islanders to participate on the CRMC.

**Recommendation 3:** NOAA's Office for Coastal Management recommends that the Rhode Island Coastal Resources Management Program be more proactive in identifying members of the public to serve on the Council. In particular, NOAA's Office for Coastal Management encourages the Program to expand the geographic representation on the Council and to consider a variety of backgrounds, education, and professional areas of expertise when identifying potential members of the public to serve on the Council.

During the evaluation period, the COVID-19 health emergency prevented the staff of the Rhode Island Coastal Resources Management Program from conducting in-person training for the CRMC. Ways in which Program staff supported ongoing education for the CRMC are documented in the response to previous evaluation findings in Appendix B. As membership to the CRMC changes regularly, NOAA's Office for Coastal Management expects the Program to continue reporting on training of new council members and continuing education for other members.

NOAA's Office for Coastal Management is aware that some of the more controversial decisions made by the CRMC appear to stem from procedural and transparency issues and it is essential that the CRMC and the Rhode Island Coastal Resources Management Program follow the



procedures. This includes decisions around the Champlin's Marina expansion on Great Salt Pond, Block Island.<sup>10</sup>

**Necessary Action 2:** The Rhode Island Coastal Resources Management Program must continue to conduct continuing education for new and existing council members to ensure that council members are well informed of matters before them and procedural integrity is improved and maintained.

A practical matter of access to CRMC meetings was raised as part of the evaluation visit. CRMC meetings are held in a state government building in Providence. Certain required security measures must be followed for public access to the building. As the CRMC meetings happen after regular business hours, security personnel for public access are not always available or at full capacity. To facilitate access to the building (and therefore the CRMC meetings), NOAA's Office for Coastal Management urges the CRMC to coordinate with building security to ensure that building security is available for all public CRMC meetings so that the public have access to meetings to observe and provide testimony. If public access continues to be a problem, the CRMC could consider other venues that meet accessibility, security, and meeting space needs and adopt technology that would allow for virtual participation.

### *Permitting*

During the evaluation, NOAA's Office for Coastal Management found that Program staff are responsive and work with permit applicants to address issues. However, the process for permitting has become increasingly unpredictable as the time needed for staff to support the CRMC and the backlog of items waiting to go before the CRMC continues to grow. This uncertainty and additional time create strain on the public-private relationships that have been a hallmark of the service provided by Program staff. Additional permitting staff would support decision-making by the CRMC and enhance the level of support that Program staff can provide for the permitting process.

The findings from the previous NOAA evaluation identified the development of an online permit database as a necessary action.

**Necessary Action (2020):** The Rhode Island Coastal Program must develop a new permit database and web interface that can process permit applications and online payments, serve as a platform for interagency review, and track enforcement issues by March 31, 2024. In addition, the coastal program should submit a plan for completing the digitization of all older permits so that the staff can easily access all past permits for current decision-making and respond efficiently to public information requests. The plan should be completed by March 31, 2024.

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<sup>10</sup> Champlin's Realty Associates v. the Coastal Resources Management Council, No. 2020-168-M.P. WC 11-615 No. 2020-169-M.P. WC 11-616, State of Rhode Island Supreme Court determined that CRMC did not have the authority to mediate with Champlin's Marina.

At the time of the previous evaluation, the NOAA evaluation team reported that the lack of a digital system to process permit applications with a public-facing interface “reduces the transparency of the permitting process, is inconvenient and time consuming for permit applicants and staff, and makes coordination with other state agencies less efficient and effective.”

Although progress is being made, the Program requested an extension to create a digital system to process permit applications, which NOAA’s Office for Coastal Management granted based on specific circumstances that caused delays and on demonstrated progress toward completing the necessary action.

The Coastal Resources Management Council partnered with the Rhode Island Department of Environmental Management (RIDEM), who was also pursuing database modernization at the same time, to develop a joint database that would create economies of scale and collaborative staff access that would save time and resources. A shared database would provide similar permitting experiences for applicants applying across multiple state agencies. In addition, the enterprise system would be supported by state information technology (IT) resources so there would no longer be a need for CRMC to contract out for private maintenance of an outdated system. While coordination among CRMC, RIDEM, state IT programs, and the governor’s office has resulted in a plan to implement this approach, overall progress on database development has been slow. At the time of the evaluation site visit in October 2024, RIDEM’s first module for agriculture permits had just launched, and the department expects to launch water permitting in the spring of 2025. Work on CRMC modules has not yet begun and more conversations are needed to determine what customizations are needed for CRMC-specific permitting processes. Also, the state legislature has not provided funding to complete the work. It is estimated that CRMC modules will require \$1.8M–\$2M to develop. There will also be ongoing licensing fees after the modules are developed for each user within the agency.

**Recommendation 4:** NOAA’s Office for Coastal Management recommends that the Rhode Island Coastal Resources Management Program inform Rhode Island’s executive branch (i.e., the Office of the Governor and the Department of Administration) and the Rhode Island legislature of the importance of developing and implementing the permitting database and its expected benefits and efficiencies.

The necessary action from the 2020 evaluation findings is retained as part of this evaluation finding. NOAA’s Office for Coastal Management is extending the deadline for the Rhode Island Coastal Resources Management Program to complete this necessary action to September 30, 2026. This additional time accounts for time to coordinate with RIDEM, to identify and acquire the resources to complete the action, and to develop and launch the new permitting application for CRMC.

**Necessary Action 3:** The Rhode Island Coastal Resources Management Program must develop a new permit database and web interface that can process permit applications and online

payments, serve as a platform for interagency collaboration and review, and track enforcement issues by September 30, 2026.

One additional online permitting item of note is that CRMC has implemented an online system for the state's Beach Vehicle Permit Program, which allows qualifying four-wheel drive vehicles to drive on beaches in accordance with state regulations. The new system can process applications electronically, although in-person inspection of vehicles at the CRMC office is still required. This additional provision for permitting applications improves service to the public.

#### *Grants Management and Financial Administration*

During the evaluation period, there were repeated issues with timely (and complete) submissions of performance and financial reports as required by the terms of the federal financial assistance agreements with NOAA's Office for Coastal Management. Also, the clearance of grant special award conditions (known as SACs) was not provided by the state by the required deadlines. The delays and incompleteness were due in part to staff transitions at CRMC and NOAA's transition to a new grants system that entailed a steep learning curve for both parties. NOAA's Office for Coastal Management has been working with CRMC staff to return performance and financial reporting to the semiannual schedule and help CRMC staff learn how to navigate the new grants system, but there are still a few delinquencies to resolve.

Good grants management is essential for accountability to the public, state agencies, federal regulators, and the legislature, and to adhere to the federal financial assistance agreements. Late submissions, if they continue to be a problem, can lead to extensive delays in NOAA's process for grant actions and possible access issues to ASAP, the Automated Standard Application for Payments, the U.S. Treasury system that allows federal awardees to draw down funds on their awards until delinquencies are resolved. Continued delinquencies could also lead to additional grant monitoring and restrictions.

In reviewing recent performance reports, NOAA's Office for Coastal Management became aware that CRMC was not appropriately tracking staff time charged to the Coastal Zone Management Act Section 309 (Coastal Zone Enhancement Program) task, and CRMC did not have a system in place for staff who are partially funded through both Coastal Zone Management Act Section 306 (Program Administration Grants) and Coastal Zone Management Act Section 309 to record staff time worked between the two types of CZMA funding. The CRMC must implement a financial management system that can accurately track staff time charged to different funding streams.

**Necessary Action 4:** The Rhode Island Coastal Resources Management Program must improve grants management practices to include:

- 1) implementing a financial management system that can accurately track personnel expenses charged to different funding streams of their annual operations awards from NOAA's Office for Coastal Management within six months of issuance of the final findings;

- 2) ensuring on an ongoing basis that all seminannual and final performance and financial reports are complete and submitted to NOAA through the eRA grants management system by their respective due date;<sup>11</sup> and
- 3) ensuring all special award conditions are satisfied by their respective due dates or requesting an extension at least 30 days before the due date if there is a warranted need to extend the due date.

### *Information Technology*

The CRMC has implemented new technologies so that staff members can continue to perform their responsibilities and be responsive in the modern era of hybrid and virtual collaborative work environments. When staff telework, calls received at the CRMC offices cannot be forwarded to those staff without a government-issued cell phone. This can result in delays in responding to members of the public, including inquiries from permit applicants. Additionally, this has created undue burden on administrative staff and added to the backlog of work due to delays. The CRMC should consider investing in technology such as Voice over Internet Protocol (VoIP), which would allow staff to answer and make calls from their work computers when working off-site. CRMC staff noted challenges collaborating with the Rhode Island Department of Environmental Management due to being unable to access the department's SharePoint documents. The Rhode Island Coastal Resources Management Program's executive leaders and administrative staff could explore the feasibility of establishing memoranda of understanding or other mechanisms with other state agencies to coordinate their information technology software and platforms and support systems. This could result in economies of scale and increased opportunity for collaboration across state agencies that CRMC works with.

**Recommendation 5:** NOAA's Office for Coastal Management recommends that the Rhode Island Coastal Resources Management Program invest in information technology upgrades that will improve the Program's ability to better serve the people of Rhode Island and improve coordination and collaboration with other state agencies.

### **Public Access**

In addition to being a state Constitutional right,<sup>12</sup> public access to the state's coast and coastal resources is integral to the well-being of the Rhode Island public, including economic, recreational, and ecosystem services benefits. Public access is both tangible and intangible—and the staff of the Rhode Island Coastal Resources Management Program play an important role in supporting this.

A number of recent Rhode Island state legislative actions have aimed to improve public access to the Rhode Island shoreline, including the Lateral Access Law (R.I. Gen. Laws § 46-23-26) and the Shoreline Access Disclosure Law (H7376A, 2024). The Lateral Access Law generally allows public access to ten feet above the "wrack line" (i.e., the area of shoreline where organic

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<sup>11</sup> The state will meet this portion of the necessary action when all reports are submitted on time over a 30-month period.

<sup>12</sup> Article I, Sections 16 and 17 of the Rhode Island Constitution.

material and other debris is deposited at high tide). The Shoreline Access Disclosure Law requires property sellers to notify buyers of rights-of-way and permits that affect the public's shoreline access rights over the property. The intent of the Shoreline Access Disclosure Law is to reduce conflicts between members of the public and property owners by educating new owners. CRMC's executive director was a member of the Special Legislative Commission to Study and Provide Recommendations on the Issues Relating to Lateral Access Along the Rhode Island Shoreline, which was created upon the passage of Rhode Island House Bill H5469. The Rhode Island Coastal Resources Management Program's staff have conducted information campaigns for the public and law enforcement on both laws. The program also coordinated with the Rhode Island Attorney General and Rhode Island Department of Environmental Management on blocked rights-of-way and the enforcement process for the Lateral Access Law.

Despite CRMC information campaigns regarding lateral access, there remains confusion among some members of the public due in part to ongoing court challenges to the Lateral Access Law. A future issue may lie in attempts to more narrowly define what people can do along the shoreline.

During this evaluation period, the CRMC identified public access as a program priority and directed substantial funding and staff time into addressing the matter of public access to coastal resources. The 2021–2025 Coastal Zone Management Act Section 309 Assessment and Strategy elevated public access to a high priority in response to public comments and increased activity and activism for shoreline access points. CRMC has worked with partners on development and maintenance of various studies, tools, and planning efforts to support public access needs. Other efforts are in the early stages of development and implementation and build on previous efforts.

- *Shoreline Access Needs Assessment*, done in partnership with Rhode Island Sea Grant and facilitated by the Narragansett Bay National Estuarine Research Reserve and Impact by Design, Inc., and funded through a NOAA Office for Coastal Management Project of Special Merit, conducted a public shoreline access needs assessment to understand the access needs and barriers to access. Several recommendations developed from this needs assessment are informing the development of the Public Shoreline Access Management Plan (PSAMP, see below) that if implemented would advance the goal of shoreline access for all Rhode Islanders.
- *Sustained and Equitable Access to Rhode Island's Coast in a Changing Climate (SEA-C)*, is part of a collaborative pilot research study in Bristol County supported through a Sea Grant planning grant. The study includes a GIS inventory of access points, which also identifies barriers to access that could be impacted by sea level rise, such as proximity to hardened shorelines. The Coastal Resources Management Council collaborated with Sea Grant (lead entity), and the SEA-C results are informing the Public Shoreline Access Management Plan (PSAMP, see below).

- *Public Shoreline Access Management Plan (PSAMP)* will help to ensure all Rhode Islanders are able to access and enjoy the state's shoreline and public access is resilient to future storms and sea level rise. This plan will also ensure Rhode Islanders know their rights to access coastal areas, understand the roles of and connections between their state and town governments, and feel more connected to the coast.
- *Shoreline Adaptation Inventory and Design (SAID)* program created an inventory of completed and potential shoreline adaptation projects that would address the impacts of coastal storms, sea level rise, and stormwater such as erosion, flooding, and loss of habitats and shoreline public access. The program was funded through a National Coastal Resilience Fund grant from the National Fish and Wildlife Foundation. Partners included the Coastal Resources Management Council, University of Rhode Island Coastal Resources Center, Rhode Island Sea Grant, Save the Bay, and Roger Williams University.

**Accomplishment 3:** The Rhode Island Coastal Resources Management Program has advanced public access goals in the state through informational campaigns, needs assessments, data collections, and other actions that will enhance access opportunities for all Rhode Islanders.

#### *Rights-of-Way*

The Coastal Resources Management Council has a goal of identifying and designating one right-of-way per mile of shoreline (on average). CRMC staff are working with counsel to identify areas with intentionally blocked rights-of-way as well as encouraging local adoption of rights-of-way. CRMC has recently trended toward designating entire parcels as rights-of-way rather than just access paths to increase accessibility. The Program does not have capacity to monitor designated rights-of-way. The Program relies on partners, such as Save the Bay, to ensure rights-of-way established by the organization Clean Ocean Access<sup>13</sup> continue to serve the public even after the nonprofit organization is dissolved.

CRMC is finding funding opportunities to add capacity and increase access, including funding of a limited-term municipal liaison position<sup>14</sup> and acquiring property at Winnapaug Pond. The municipal liaison will work closely with partners on the development of the Public Shoreline Access Management Plan. The acquisition preserves five acres of land at the site of a former water park along an ecologically sensitive barrier peninsula in Westerly via a conservation easement. The project plan also includes future habitat restoration activities and public access enhancements that will improve community resilience.

Several evaluation participants remarked that limited parking at some public access sites hinders members of the public from having shoreline access. Lower levels of parking availability can have greater impacts on nonresidents of the community in which the access exists. As such, rights-of-way tend to better serve those who live nearby. This can create a conflict between

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<sup>13</sup> Clean Ocean Access was a nonprofit that advocated for a clean ocean and access for everyone. The organization was dissolved in January 2024.

<sup>14</sup> The position is with The Nature Conservancy (TNC), funded through a cooperative agreement between CRMC and TNC.

coastal community residents and nonresidents; when there are efforts to increase parking, these actions may be taken to court to limit access. In an attempt to help address this issue, the Program's current Coastal Zone Management Act Section 309 public access strategy (2021–2025) includes proposed actions to identify state-owned parcels near rights-of-ways that could provide parking opportunities and to work with municipalities to expand parking and signage for public rights-of-way.

Additionally, municipal efforts to identify and maintain rights-of-way are often thwarted by nearby property owners removing public access signage, creating unauthorized barriers, and making visitors feel unwelcome, such as through vandalism, menacing, and violence. The Community Leaders Advisory Group has worked with CRMC staff to identify public access needs. Members of the advisory group provided personal stories about the importance of coastal access for income, recreation, education, and other purposes. The evaluation team also heard testimony from members of the advisory group of incidents of harassment and intimidation when attempting to access rights-of-way. This sharing of experiences brought into focus for the evaluation team the personal and collective impacts of restricted or limited access. The evaluation team acknowledges that these can be difficult stories to share and appreciates the advisory group's participation in the evaluation process.

**Accomplishment 4:** The Rhode Island Coastal Resources Management Program designated thirteen rights-of-way during the evaluation period and has partnered with the Rhode Island Attorney General's Office to remove right-of-way obstructions at two Program-designated rights-of-way. The Program also works with communities and various groups to monitor Program-designated rights-of-way so that appropriate action can be taken when possible violations are identified.

**Accomplishment 5:** The Rhode Island Coastal Resources Management Program's efforts to engage with community leaders to identify barriers to public shoreline access advances solutions for increased public access opportunities to the state's coastal resources.

The review and approval process for establishing additional CRMC-designated rights-of-way has halted as the CRMC works to reach a resolution on the contested designation of rights-of-way at the extension of Spring Avenue in Westerly and at the Buttonwoods Beach Association in Warwick. As these litigation and administrative processes progress, the CRMC has not advanced on other potential rights-of-way that are still under review. The lack of progress means CRMC receives regular Access to Public Records Act (APRA) requests. The CRMC's attorney noted that once these two efforts are finished, there are four projects in Westerly that will be ready for designation. NOAA's Office for Coastal Management encourages the CRMC to advance other potential rights-of-way that are awaiting CRMC designation.

**Recommendation 6:** NOAA's Office for Coastal Management recommends that the Rhode Island Coastal Resources Management Program expedite, where possible, the review processes for state-designated rights-of-way currently under consideration while also moving forward

with the review of additional rights-of-way that are ready to progress in the designation process.



## Offshore Wind Energy Development

The Rhode Island Coastal Resources Management Program's role in offshore wind energy projects has shifted as the focus of development projects has moved to federal waters. The Program's actions and accomplishments with the Block Island Wind Farm were documented in the previous evaluation findings. The permitting and regulatory role that the Coastal Resources Management Council had for the Block Island project in state waters is not applicable to the projects in federal waters. The Program's role as it relates to these projects is conducting reviews under Section 307 of the Coastal Zone Management Act and NOAA's federal consistency regulations, which are found at 15 CFR Part 930.

Section 307 (federal consistency) of the Coastal Zone Management Act gives states a role in reviewing federal actions and federal agency decision-making for activities that have reasonably foreseeable effects on the uses or resources of a state's coastal zone. The federal consistency provision is a powerful tool that state programs use to manage coastal activities and resources and to facilitate cooperation and coordination with federal agencies. Generally, federal consistency requires that federal actions, within and outside the coastal zone, which have reasonably foreseeable effects on any coastal use (land or water) or natural resource of the coastal zone be consistent with the enforceable policies of a state's federally approved coastal management program. Federal agency activities must be consistent to the maximum extent practicable with the enforceable policies of a state coastal management program, and license and permit and financial assistance activities must be fully consistent.

The Rhode Island Coastal Resources Management Program reviews federal license and permit activities and outer continental shelf plans, under 15 CFR Part 930, Subparts D and E, as they pertain to offshore energy development projects.<sup>15</sup> The CRMC has a NOAA-approved Geographic Location Description in federal waters that encompasses the state's study area for the Rhode Island Ocean Special Area Management Plan (Ocean SAMP), which includes federal waters of Block Island Sound and Rhode Island Sound and some portions of the Atlantic Ocean. This allows the state to review federal authorizations for offshore wind projects in federal waters within this defined geographic area for consistency with the state's enforceable policies. Developers must certify that their proposed offshore wind activities would be consistent with the state's enforceable policies. If the Rhode Island Coastal Resources Management Council agrees that the proposed activities would be consistent with the state's policies, the CRMC issues a concurrence. If not, CRMC can issue an objection. If there are conditions under which a proposed activity would be able to be considered consistent with the state's policies, then CRMC can issue a conditional concurrence. The Rhode Island Coastal Resources Management Program has reviewed several offshore wind projects in federal waters, and the CRMC has concurred with these projects and has not issued an objection.

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<sup>15</sup> <https://coast.noaa.gov/data/czm/consistency/media/ri.pdf>

The Rhode Island Coastal Resources Management Program has been a national leader and pioneer in working with partners to plan for and inform decision-making for offshore wind energy projects off its coast in both state and federal waters. The Rhode Island Coastal Resources Management Council's prior work in marine spatial planning and public engagement for the Ocean SAMP, as well as expansion of the state's Geographic Location Description offshore, positioned the state to be the first in the nation to plan for offshore wind energy and apply its CZMA federal consistency review authority to offshore wind projects in federal waters.

Offshore wind developers remarked that they would not have successfully advanced multiple utility scale wind farm projects without such a responsive agency, noting that positive and professional working relationships and the dedication and availability of CRMC staff and leadership have been the key to success.

During this evaluation period, Rhode Island Coastal Resources Management Council staff issued federal consistency decisions for five offshore wind energy generation projects (South Fork Wind, December 2021; Revolution Wind, May 2023; Sunrise Wind, September 2023; New England Wind, October 2023; and SouthCoast Wind, December 2023), four of which had overlapping timelines. Federal consistency for Vineyard Wind was completed in February 2019, during the previous evaluation period, and federal consistency review for Bay State Wind has not started.<sup>16</sup>

Even with CRMC's heavy workload of four separate, concurrent, complicated offshore wind energy development federal consistency reviews, the Rhode Island Coastal Resources Management Program only has one dedicated policy staff member and two engineers who focus on offshore wind energy development projects, yet the agency continues to be known for its integrity, transparency, science-based approach, and respect for timeliness of the federal process. The volume of work in the past five years is unprecedented. The lengthy documents (600 p.) prepared by engineering and consulting companies as part of the U.S. Department of the Interior's Bureau of Ocean Energy Management (BOEM) permitting process under the Outer Continental Shelf Lands Act required substantial effort to provide the requisite CRMC review while simultaneously supporting a public engagement process to solicit input from stakeholders and coordinate with other state agencies.

Some CRMC staff were identified to have worked 60 to 80-hour weeks during project reviews. Moving forward, a continued insufficient staffing level and strain felt by staff places the state of Rhode Island at a disadvantage in being asked to manage and analyze a significant amount of information and material required to complete additional federal consistency reviews (i.e., Bay State Wind) and support an 11-state compensatory mitigation group (additional information below), data collection, ongoing monitoring, and decommissioning, among other activities. The CRMC experienced and accomplished policy staff and engineers, but additional skills and areas

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<sup>16</sup> The Bay State project has paused and future development is subject to conditions of a Presidential Memo of January 20, 2025 (Temporary Withdrawal of All Areas on the Outer Continental Shelf from Offshore Wind Leasing and Review of the Federal Government's Leasing and Permitting Practices for Wind Projects).

of expertise are needed to review and monitor these multifaceted projects and include economics, fisheries, geology, oceanography, and stakeholder engagement, among others.

As described in the administration section above, options to meet these needs could include additional staff positions as well as contracting opportunities. State statute allows CRMC to contract a third party, when appropriate, to assist with expert and outside consultants, including offshore wind review (RIGL 46-23 *et. seq.*). Ørsted, the one developer that the evaluation team met with as part of the evaluation, stated that it would be willing to fund CRMC contractor support to bring in outside expertise as long as it creates efficiencies and includes close oversight to ensure neutrality with the third party selected.

Partners continue to point to the leadership and work of CRMC staff on the Ocean SAMP. The successful construction of Block Island Wind within state waters set a high bar for an inclusive and transparent process for planning and siting offshore wind energy projects. Since offshore wind projects have now been proposed and constructed in federal waters, the CRMC has had to navigate the federal permitting process with the Bureau of Ocean Energy Management and the developers. The CRMC's role has also shifted from regulator of in state-waters to providing their federal consistency review and decision of whether the offshore wind developer applicant's Construction and Operations Plan under the Outer Continental Shelf Lands Act is consistent with the state's enforceable coastal policies.

The CRMC staff continue to have much to offer other state colleagues from the East and West Coasts, Gulf of America, and Pacific Islands who are in various stages of the offshore energy development process. The staff has demonstrated a continued willingness to share their experience and expertise in this type of federal consistency review with other state and territorial coastal management programs through information exchanges organized by the Coastal States Organization's Offshore Energy and Infrastructure Work Group.<sup>17</sup>

**Accomplishment 6:** The Rhode Island Coastal Resources Management Program remains a national leader in ocean planning, stakeholder engagement, Coastal Zone Management Act federal consistency, and careful review and negotiation with the U.S. Department of the Interior's Bureau of Ocean Energy Management and developers on the planning and siting of offshore wind energy projects. The state's offshore wind energy policies set clear expectations and criteria for developers and facilitated a transparent and clear federal consistency process.

#### *The Fishermen's Advisory Board*

The Ocean Special Area Management Plan established the Fishermen's Advisory Board as one of two advisory bodies to provide input and advice to CRMC on decisions within the Ocean SAMP planning area. These advisory boards were developed to ensure key stakeholder groups

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<sup>17</sup> The Coastal States Organization is an organization that advocates for the nation's coastal states, commonwealths, and territories on federal legislative, administrative, and policy issues relating to coastal, Great Lakes, and ocean management.

had a seat at the table to advise the Council in ocean planning decisions, including offshore wind energy development.

The Rhode Island Coastal Resources Management Council engaged with the Fishermen's Advisory Board during federal consistency reviews of the federal offshore wind projects, meeting numerous times during the reviews. The meetings allowed CRMC staff to keep the Board informed of the federal consistency review process and details about the offshore wind energy projects. The meetings also provided the Board with the opportunity to share their concerns, ask questions, and advise the Council in its federal consistency determination. The Council, informed by the advice of its advisory boards and public comment during Council meetings, issued its federal consistency decision.

Although not required as part of the federal consistency process nor for a state's federal consistency decision, the Rhode Island Coastal Resources Management Council also worked with the offshore wind energy developer and the Fishermen's Advisory Board on a compensation agreement for fishermen to mitigate the impacts of the installation, operation, and decommission of wind turbines on fishing activities.

However, the Fishermen's Advisory Board did not believe that the compensation packages for the various projects were sufficient. The Board also expressed frustration with the fast timeline associated with the offshore wind development process, the low capacity of CRMC staff to keep pace, and the lower level of influence through the federal consistency review of projects in federal waters compared to the Board's experience with the Rhode Island Coastal Resources Management Council's permitting process for the Block Island project in state waters. As a result of this dissatisfaction over the compensation packages and frustration with the review process for wind projects in federal waters, all members of the Fishermen's Advisory Board resigned (see Appendix A for public comments from former members of the Fishermen's Advisory Board and responses from NOAA's Office for Coastal Management). Despite the disbanding of the Fishermen's Advisory Board, the evaluation team heard sincere appreciation from some commercial and recreational angler organizations that the CRMC continues to prioritize communicating with fishermen about the status of offshore wind energy projects and is "doing their best" for Rhode Island. The evaluation team recognizes that this may not be the perspective of all members of these communities.

Despite all this, the CRMC continues to work with fishing groups to bring forward their interests and concerns. Rhode Island Coastal Resources Management Council executive leadership and staff have demonstrated an understanding of the importance of meaningful engagement with the commercial and recreational fisheries sectors. The evaluation team received feedback from some in those sectors that they appreciate the CRMC staff's consideration of a new path forward for engagement. CRMC staff have worked to educate fishermen on the federal consistency process and fish-compensation agreements as well as on the roles of developers and third-party administrators.

A written complaint submitted for this evaluation and expressed by several evaluation participants, especially fishermen, was that the Council “surpassed the assembly”<sup>18</sup> on the South Fork offshore wind energy project ruling, which included construction of wind turbines on Cox’s Ledge, a well-known fishing area that was described as a “fishing area of particular importance” in the state’s Ocean SAMP (530.4.2.5). The area within the South Fork Wind project was excised from a larger lease area that Ørsted formerly held. The smaller South Fork wind area, which encompasses Cox’s Ledge, left limited options to be able to adjust the turbine array to avoid siting turbines on the important fishing area. The Fishermen’s Advisory Board had articulated their concern about impacts to Cox’s Ledge during many meetings. The Council issued a conditional concurrence for the South Fork project, conditioning the project to include no more than 12 turbine foundations (up to 15 were originally proposed) to minimize anticipated impacts to the glacial moraine on the project site, which provides complex habitats that support commercial and recreational marine species on Cox’s Ledge.<sup>19</sup> Fishermen expressed frustration with the decision and suggested the Coastal Resources Management Council staff did not have the proper capacity to do their jobs.

Rhode Island’s experience in the federal consistency review process to create and implement a compensatory mitigation process across multiple offshore wind energy projects has been influential to a multistate effort to coordinate financial compensation for economic losses from offshore wind development. The intent of this effort is to design and develop an offshore wind energy–related comprehensive fisheries compensatory mitigation fund and associated claims processes to serve states, the fishing community, and offshore wind developers working on projects in the water along the East Coast of the United States.

**Accomplishment 7:** Notwithstanding the dissatisfaction of the Fishermen’s Advisory Board, the Rhode Island Coastal Resources Management Program meaningfully engages with the commercial and recreational fishing sectors on the offshore wind energy development review process and is working toward restoring their participation in the offshore energy process with clear expectations on areas of influence.

## Coastal Resilience

The Coastal Resources Management Council has served as a leader and key partner on the topic of coastal resilience throughout the state’s coastal zone. This subsection describes the various tools, projects, and partnerships that the program is advancing to promote resilience.

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<sup>18</sup> The evaluation team was not aware of a specific explanation for this term although it was mentioned several times. The CRMC executive director provided an explanation of the series of events and CRMC’s actions in response within an editorial published by Eco Rhode Island News on January 3, 2025. Available: <https://ecori.org/crmc-responds-to-risaa-opinion-piece-on-south-fork-wind-project/>

<sup>19</sup> [http://www.crmc.ri.gov/windenergy/dwsouthfork/SFWF\\_FedConsistencyDecision\\_20210701.pdf](http://www.crmc.ri.gov/windenergy/dwsouthfork/SFWF_FedConsistencyDecision_20210701.pdf)

### *Habitat Restoration*

The availability of new funding sources over the past few years has allowed the Rhode Island Coastal Resources Management Council to make advances in the area of habitat restoration with the goal of increasing the state's coastal resilience. The state's capacity to identify and successfully compete for grant opportunities and implement habitat restoration projects has been enhanced through a partnership between the Rhode Island Coastal Resources Management Council and the Rhode Island Department of Environmental Management. Independently, the Rhode Island Coastal Resources Management Council does not have the capacity to support multiple projects involving habitat acquisition and restoration. For example, the Rhode Island Coastal Resources Management Council has partnered with the Narragansett Bay National Estuarine Research Reserve (Research Reserve), part of the Rhode Island Department of Environmental Management, to support positions that will help pursue funding for habitat conservation and restoration projects that will advance the mission of both agencies. In turn, the hired Research Reserve staff has successfully applied on behalf of the Rhode Island Coastal Resources Management Council and the Research Reserve for habitat conservation and restoration projects, such as the acquisition of the water park property in Westerly. This arrangement has been most beneficial to the Rhode Island Coastal Resources Management Council, as the agency likely would not have had the capacity to support or execute these funds given the limited staff resources within the agency. As these funding streams come to an end, the Rhode Island Coastal Resources Management Council should work with the Research Reserve to strategically consider how it can sustain the progress made on specific projects and staff capacity, identify alternative funding streams, and set clear expectations for the roles of the Rhode Island Coastal Resources Management Council and Rhode Island Department of Environmental Management in this habitat restoration work.

Another area where the Rhode Island Coastal Resources Management Council and Rhode Island Department of Environmental Management partner on habitat restoration and resilience projects is through the state's Ocean Climate Adaptation and Resilience (OSCAR) Fund. The fund is jointly administered by the Rhode Island Infrastructure Bank, Rhode Island Department of Environmental Management, and the Rhode Island Coastal Resources Management Council. The OSCAR program provides financial assistance in the form of grants for adaptation and resilience projects that protect or enhance coastal or riverine habitats. The program is limited to projects on public lands, including lands that provide public access to shorelines and riverbanks. The Rhode Island Coastal Resources Management Council and Rhode Island Department of Environmental Management solicited project proposals in spring 2024 for \$4 million in available state funding that will be awarded on a competitive basis.<sup>20</sup>

An additional example of CRMC's leadership in coastal resilience through habitat work is a partnership between CRMC, the City of East Providence, and The Nature Conservancy to create two different types of hybrid shorelines with the aim of understanding how different structures might slow erosion rates in the area's steep coastal bluffs. This was part of a

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<sup>20</sup> Successful projects will be announced in 2025.

larger regional project in New England designed to analyze different nature-based infrastructure solutions for erosion control. The project was funded through the National Coastal Resilience Fund program, a partnership between NOAA's Office for Coastal Management and the National Fish and Wildlife Foundation.

### *Coastal Resilience Planning Tools*

During this evaluation period, the Rhode Island Coastal Resources Management Council has developed and promoted the use of new coastal resilience planning tools. The Rhode Island Coastal Resources Management Council has been adept at making data accessible to the public and to state staff to inform decisions. As a result, there is a level of transparency of data analysis and decision-making in Rhode Island that does not exist in places where data is not readily available through tools and coordinated planning with agency staff.

STORMTOOLS is a mapping application for storm inundation, with and without sea level rise, for varying return-period storms that covers all of Rhode Island's coastal waters. Although developed during the last evaluation period in partnership with the University of Rhode Island, the Rhode Island Coastal Resources Management Program maintains the tool through a contract with the University. Rhode Islanders can use this tool to consider different storm inundation and sea level rise scenarios to better understand their risk. Flooding estimates can be used to support coastal planning activities and engineering design with consideration of sea level rise and flooding resilience. The NOAA evaluation team heard from many participants that STORMTOOLS continues to serve as a highly valued and leveraged tool that is used to inform decision making in the state's coastal zone. Using STORMTOOLS, staff from the CRMC coordinate with the private and public sectors to explore nonstructural resilience solutions as part of the permitting process. Permit applicants expressed appreciation for CRMC staff efforts to conduct pre-application meetings and communicate openly, which helps with predictability in navigating the permitting process.

A more sophisticated tool developed by CRMC in collaboration with the University of Rhode Island is the Coastal Environmental Risk Index (CERI). The index uses modeling tools to predict storm surge, wave energy, and erosion and can conduct analyses for specific structures. CERI is an online GIS-based tool that is fully compatible with flood map databases, including FEMA maps. This framework can be used by local and state planners to objectively evaluate different policy options managing coastal resources in light of various hazards.

In 2022, new rules regarding freshwater wetlands promulgated by the Rhode Island Department of Environmental Management (250-RICR-150-15-3) went into effect. Shortly thereafter, the Rhode Island Department of Environmental Management began issuing Freshwater Wetlands General Permits. There is an opportunity for the department and CRMC to expand upon STORMTOOLS and codevelop an inland module that considers freshwater wetlands and works with the existing coastal component to create a comprehensive flooding tool for the state. As described on the STORMTOOLS webpage:

The overarching goal of this project will be to generate flood risk maps for inland areas of the state that explicitly consider the change in extreme precipitation and seamlessly integrate [*sic*] with the coastal flood maps that include SLR [sea level rise]. This project will provide a single, interactive mapping system that covers the entire state and allows consistent permitting guidelines for all state agencies and ultimately the communities that explicitly represent the impacts of climate change on flooding.<sup>21</sup>

This would provide a consistent interface and experience to the regulated community and offer efficiencies and potential cost share. NOAA's Office for Coastal Management encourages CRMC to explore opportunities with the Rhode Island Department of Environmental Management and the University of Rhode Island to create a seamless permitting system for the state that uses shared datasets and incorporates building codes and standards as well as future shifts in coastal hazards.

**Recommendation 7:** NOAA's Office for Coastal Management encourages the Rhode Island Coastal Resources Management Program to continue to explore opportunities to collaborate with the Rhode Island Department of Environmental Management and the University of Rhode Island to expand STORMTOOLS inland, so the state government can provide a comprehensive tool (or group of tools) that provides an understanding of flooding risk across the state, and to find efficiencies and strategies to sustain this important planning tool. Having a seamless flood risk tool for coastal and inland areas will benefit the regulated community that works in both jurisdictions.

A key, new development regarding these coastal resilience tools during this evaluation period has been the Rhode Island Coastal Resource Management Program's Coastal Hazard Analysis (CHA) worksheet and online viewer. This tool was incorporated into the permitting process, alongside STORMTOOLS and other planning tools and applications. The CHA Worksheet only provides guidelines; it is not regulatory, but it does seek to ensure applicants are starting the permitting process informed. The primary purpose and use of the CHA Worksheet and Viewer are to notify applicants of potential coastal hazards, including sea-level rise, storm surge, and associated flooding and erosion that should be considered when planning shoreline development. The CMRC's goal for this tool is to increase understanding and awareness of these potential hazards among the development community (property owners, builders, realtors, financial institutions, and insurers) with the hope of guiding development and investment away from vulnerable areas. While the analysis is required for projects meeting specific thresholds, the CMRC encourages all applicants to consider using the CHA process to assess future risks to their proposed projects.

Despite the staff's success of promoting STORMTOOLS and CERI and piloting various green infrastructure projects with partners, in instances where actors choose to ignore the permitting process and do not engage with the Rhode Island Coastal Resources

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<sup>21</sup> <https://stormtools-mainpage-crc-uri.hub.arcgis.com/pages/inland-stormtools>



Management Council in the planning and permitting of coastal structures, violations of the state's coastal regulations can have serious impacts to the environment and properties. This, in turn, provides a new circumstance for scrutiny from the public in how the Council addresses a controversial and consequential issue.

In or around 2022 or 2023, the Quidnessett Country Club built a 600-foot-long, 20-foot-high rock revetment along the coastline of the golf course. The Country Club did not seek a permit for this action as required under state law. The development occurred in Type 1 waters (conservation waters), and structures such as the one constructed by Quidnessett Country Club would not be permitted in that area. Upon awareness of the new structure, the Rhode Island Coastal Resources Management Council's enforcement staff investigated and subsequently served Quidnessett Country Club with a notice of violation and fines. Rather than adjudicate the violation through the enforcement process, Quidnessett Country Club petitioned the Council for rulemaking to change the shoreline classification from Type 1 to Type 2 (low-intensity use). On January 28, 2025, the Council denied the Country Club's request to reclassify the shoreline, and the issue is now back with CRMC enforcement staff to address the notice of violation.

The Quidnessett Country Club's rock revetment was a topic of high interest during the evaluation site visit. Given NOAA's role in the federal-state partnership, NOAA's Office for Coastal Management cannot provide a preferred outcome or otherwise intervene in the state's process for resolving this conflict. In all decision-making processes, NOAA's Office for Coastal Management encourages the CRMC to follow established management procedures (650-RICR-10-00-1) and the Coastal Resources Management Program, as amended (i.e., Red Book 650-RICR-20-00-01), and to consider the precedent that would be set by approving an action or rule change.

**Accomplishment 8:** The Rhode Island Coastal Resources Management Program serves as a key partner in advancing coastal resilience projects throughout the state's coastal zone. Specifically, the development and promotion of hazard planning tools and partnership in habitat restoration are two key areas where the Program provides leadership and contributes to partnerships for coastal resilience.

**Recommendation 8:** NOAA's Office for Coastal Management recommends that the Rhode Island Coastal Resources Management Program develop a long-range plan to build on the success of habitat restoration and conservation efforts as existing funding sources expire. Areas to consider include prioritizing projects, integrating habitat priorities into agency programs, sustaining administrative support, addressing staffing needs, and continuing coordination with the Rhode Island Infrastructure Bank and other partners.

## Evaluation Metrics

Beginning in 2012, state coastal management programs began tracking their success in addressing three evaluation metrics specific to their programs. The evaluation metrics include a five-year target and provide a quantitative reference for each program about how well it is meeting the goals and objectives it has identified as important to the program. Reporting on the 2012–2017 evaluation metrics was included in the previous evaluation findings. In 2018, coastal programs began a new five-year period (2018–2023) and set targets specific to their programs for the coastal hazards performance measure and two additional performance measures from the Coastal Zone Management Performance Measurement System. A new set of evaluation metrics has been developed for the next five-year period (2023–2028) for which only the first year of reporting is available. The evaluation period covers a portion of the second and third cycles of evaluation performance measures.

### Evaluation Metrics 2018–2023

**Metric 1:** Number of Public Access Sites Created (Rights of Way Designations & those Created through Coastal Zone Management (CZM) Requirements)

Goal: Improve shoreline access opportunities for the public with a specific long-term goal of one designated public right-of-way for each mile of shoreline. (From NOAA data/publications the shoreline miles for Rhode Island are 384.)

Objective: By 2023, (1) increase public access through rights-of-way designation process; and, (2) dedication of public access easements to the state through regulatory processes.

Strategy: A CRMC public ROW designation clarifies the status of a public ROW and provides shoregoers with clear and legally defined pathways to the shore. The designation of public ROWs also ensures the preservation and protection of these access sites for subsequent generations of Rhode Islanders. The CRMC carries on a continuous process of discovery and designation of ROWs using a standing ROW subcommittee. To reach the above objective, the ROW subcommittee may designate potential ROWs that have been previously identified and are currently under review (but do not carry the public imprimatur), or designate newly discovered potential ROW sites that come under the subcommittee's review during the five-year reporting period. Detailed information for this metric can be found at <http://www.crmc.ri.gov/publicaccess.html>

Another avenue available to the CRMC is its regulatory tool that is used to offset the impacts of development on public access to and along the shoreline. The agency can require that a legal document be recorded that provides for public access across that property as a condition of the coastal development Assent (permit). This legal document is most often in the form of an easement for a perpendicular or lateral public access easement, or both, and is held by the state on behalf of the CRMC for at least the life of the Assent.

Lastly, the agency of late has been significantly involved in the critical management of developing new access opportunities with the non-profit groups Clean Ocean Access and Save the Bay. With staff

leadership, we provide direction on how to create paths for dedicated use and/or easement of access sites.

Performance Measure: From 2018 to 2023, number of public access sites created through acquisition or easement (i.e., number of rights-of-way designated) with CZM funding or staff or through CZM regulatory requirements.

Target: Between 2018 and 2023 nine (9) new public access sites created through acquisition or easement with assistance from CZM funding or staff or created through CZM regulatory requirements.

Totals:

Year 1: 3 new public access sites (Shoreham pathway, Gotham Greens, and Shoreham public dinghy dock)

Year 2: 0 new public access sites

Year 3: 0 new public access sites

Year 4: 2 new public access sites (Public Street in Providence and Middletown)

Year 5: 5 new public access sites (Portsmouth: Beach Street at Cedar Avenue, Cedar Avenue, Fountain Avenue, East Power Street, and Cory's Land)

Total: 10 new public access sites created through acquisition or easement with assistance from CZM funding or staff or created through CZM regulatory requirements.

Discussion: The program has exceeded its target of nine new public access sites created through acquisition or easement with assistance from CZM funding or staff or created through CZM regulatory requirements. As noted in the evaluation findings and documented through an accomplishment, the Rhode Island Coastal Resources Management Council has prioritized public access as part of their Coastal Zone Management Act section 309 Assessments and Strategy.

## **Metric 2: Coastal Habitat Restoration**

**Goal:** Coastal habitats whose ecological function has been degraded or destroyed by human intervention have been restored.

**Objective:** By 2023, increase the acres of coastal habitat under restoration with assistance from CZM funding or staff.

**Strategy:** Coastal and estuarine habitats provide a variety of ecological services in Rhode Island, supporting fisheries, tourism, and recreation and improving the resiliency of the shoreline to coastal hazards. Restoring destroyed or degraded habitats is a state priority, as reflected in RIGL §46-23.1-5. Restoration may include activities such as restoring altered hydrology or topography, re-vegetation, control of invasive species, removal of barriers to species migration or improvement of substrate quality in sub-tidal habitats. The CRMC coordinates and oversees the State Coastal and Estuarine Habitat Restoration Trust Fund, through which state funds are awarded for habitat restoration planning, design, engineering, construction and monitoring projects. Entities eligible to receive these funds include cities and towns, any committee, board, or commission chartered by a city or town, nonprofit corporations, civic groups, educational institutions and state agencies. The CRMC also coordinates the RI Habitat Restoration Team, a group of restoration practitioners and representatives from various agencies and organizations that meet regularly to share resources and technical expertise. Additional detailed information regarding the coastal habitat restoration metric can be found in the annual Habitat Restoration Trust Fund Report at <http://www.crmc.ri.gov/habitatrestoration.html>

**Performance Measure:** From 2018 to 2023, the number of acres of coastal habitat under restoration with assistance from CZM funding or staff.

**Target:** Between 2018 and 2023, 250 acres of coastal habitat under restoration with assistance from CZM funding or staff.

**Totals:**

Year 1: 35 acres restored (Quonochontaug Pond Restoration Project)

Year 2: 40 acres restored (Goosewing Beach, Hundred Acre Cove, Kickemuit River, Third Beach Middletown, and Walker Farm)

Year 3: 3,133 acres restored (Third Beach, Pawcatuck River restoration, Woonasquatucket River restoration, Mattatuxet River restoration at Shady Lea, Common Fence Point salt marsh restoration, and Ninigret and Quonochontaug salt marsh restoration)

Year 4: 3,229 acres restored (Third Beach, Pawtucket River aquatic connectivity, Mattatuxet River barrier removal, Ten Mile River, Woonasquatucket, Common Fence Point)

Year 5: 434 acres restored (Galilee Salt Marsh restoration, Matunuck tidal wetland restoration, Hunts Mill dam removal, Ten Mile River dam removal, Rodman Mill dam removal, and Woonasquatucket Habitat Improvement, and Ninigret and Quonochontaug salt marsh restoration)

Total: 6,871 acres of coastal habitat under restoration with assistance from CZM funding or staff

**Discussion:** The Rhode Island Coastal Resources Management Program has exceeded its target for this measure. Habitat restoration is done in partnership with other state agencies, private entities, and non-profit organizations. In addition to state funds that have supported restoration work through the Coastal and Estuarine Habitat Restoration Trust Fund, during this five-year period, the Program had success in

applying to grant competitions. As the certainty of this funding source is unknown, it is difficult to include all planned projects in a metric target.

### **Metric 3: Coastal Hazards**

**Goal:** Develop and Implement policies and plans and/or assist in developing policies and plans with other state and municipal programs to reduce future damage from coastal hazards.

**Objective:** By 2023, develop and/or revise state and local-level policies and plans and complete projects to reduce future damage from coastal hazards.

**Strategy:** With the Beach SAMP adopted by the CRMC (late 2018) its vision is to provide guidance and tools for home/land-owners, and state and local decision makers to prepare and plan for, absorb, recover from, and successfully adapt to the impacts of coastal storms, erosion, and sea level rise. The analysis required to be performed by an applicant subject to CRMC regulation is intended to help applicants recognize and minimize risks to protect their investments for the design life of their project.

Additionally, because CRMC's responsibility is to ensure that decisions made concerning Rhode Island's coastline are well thought-out and based on the best available science, this metric will aid the agency in understanding how best to improve its regulatory programs to ensure its constituents are being provided easily-understood guidance (with tools) to help them adapt to the impacts of coastal storms, erosion, and sea level rise.

What is anticipated however is that with each subsequent application review or with providing assistance to others staff may find that certain CRMC requirements could be better presented, revised or written to best accomplish the goals and objectives of the SAMP. These policy changes would be carried out through subsequent revisions to the Beach SAMP or other CRMC policies and regulations (i.e., the "Red Book"). In addition, CRMC may recognize the need to work with its partners to develop new or enhance existing tools or products to support implementation of the Beach SAMP (e.g., development of an App to allow easy-access to STORMTOOLS from smartphones is underway through a current PSM award). Finally, to aid other jurisdictions in addressing the impacts of coastal storms, erosion, and sea level rise, the CRMC provides municipal agencies with technical assistance in developing their Municipal Hazard Mitigation Plans.

During the five-year reporting cycle, CRMC anticipates developing a) five (5) state-level policies and plans; b) five (5) local-level policies and plans; c) one (1) project completed at the state-level; and d) zero projects completed at the local-level to reduce future damage from coastal hazards with assistance from CZM funding or staff.

**Performance Measure:** Between 2018–2023, number of a) state-level policies and plans; b) local-level policies and plans; c) projects completed at the state-level; and d) projects completed at the local-level to reduce future damage from coastal hazards with assistance from CZM funding or staff.

**Target:** Between 2018 and 2023, 11 a) state-level policies and plans; b) local-level policies and plans; c) projects completed at the state-level; and d) projects completed at the local-level to reduce future damage from coastal hazards with assistance from CZM funding or staff.

**Totals:**

Year 1: 1 policy/plan/projects (Grinnel's Beach, Tiverton, restoration project)

Year 2: 3 policy/plans/projects (Rose Larissa Park, East Providence, green infrastructure project; Shoreline Adaptation, Inventory, and Design Project; and Beach SAMP)

Year 3: 0 policy/plans/projects

Year 4: 0 policy/plans/projects

Year 5: 1 policy/plan/projects (Coastal Hazards Worksheet)

Total: 5 policies/plans or projects completed to reduce future damage from coastal hazards with assistance from CZM funding or staff.

Discussion: The Coastal Resources Management Program did not reach their target for this measure. It is noteworthy that the original target estimated zero projects completed at the local level but some of the activities counted were local.

## **Evaluation Metrics 2023–2028**

### **Metric 1: Number of Public Access Sites Created (Rights-of-Way Designations and Those Created Through Coastal Zone Management Requirements)**

Goal: Improve shoreline access opportunities for the public with a specific long-term goal of one designated public right-of-way for each mile of shoreline in accordance with the CRMC's Rights-of-Way Program. This goal has been included annually in the agency's "Designation of Public Right-of-Ways to the Tidal Areas of the State Progress Report" since as early as 2001. The shoreline miles for Rhode Island are 384 according to NOAA data and publications.

Objective: By 2028, (1) increase public access through a rights-of-way designation process and (2) dedicate public access easements to the state through the regulatory processes.

Strategy: A CRMC public rights-of-way (ROW) designation clarifies the status of a public ROW and provides shoregoers with clear and legally defined pathways to the shore. The designation of public ROWs also ensures the preservation and protection of these access sites for subsequent generations of Rhode Islanders. The CRMC carries on a continuous process of discovery and designation of ROWs using a standing ROW subcommittee. To reach the above objective, the ROW subcommittee may designate potential ROWs that have been previously identified and are currently under review (but do not carry the public imprimatur) or designate newly discovered potential ROW sites that come under the subcommittee's review during the five-year reporting period. Detailed information for this metric can be found at <http://www.crmc.ri.gov/publicaccess.html>.

The CRMC will continue a high level of effort in the ROW designation process. Since the onset of the COVID-19 pandemic, interest in maintaining existing and establishing new ROWs has increased significantly. The CRMC will continue to respond through the designation process. However, while the effort is high, complex and time-consuming investigations may conclude that a ROW does not exist.

Another approach available to the CRMC is the regulatory tool used to offset the impacts of development on public access to and along the shoreline. The agency can require that a legal document be recorded that provides for public access across a property as a condition of the coastal development assent (permit). This legal document is most often in the form of an easement for a perpendicular or lateral public-access easement, or both, and is held by the state on behalf of the CRMC for at least the life of the assent.

The CRMC will continue to be involved in the development of new access opportunities with Save the Bay. With staff leadership, the CRMC provides direction on how to create paths for dedicated use and/or easement of access sites.

The CRMC will investigate access opportunities for communities that are currently or have historically been underserved. Consideration shall be given to diversifying types of access in order to provide opportunities for different user groups that existing ROWs may not adequately provide.

Data from previous five years:

One new public access site created

2017: 0 public access sites created, 3 public access sites enhanced

2018: 4 public access sites created, 0 public access sites enhanced

2019: 0 public access sites created, 0 public access sites enhanced



2020: 0 public access sites created, 0 public access sites enhanced

2021: 0 public access sites created, 0 public access sites enhanced

2022: 1 public access site created, 0 public access sites enhanced

Performance Measure: From 2023 to 2028, number of potential ROWs designated by the ROW subcommittee with assistance from CZM funding or staff or created through CZM regulatory requirements.

Target: Between 2023 and 2028, five (5) ROWs designated by the ROW subcommittee with assistance from CZM funding or staff or created through CZM regulatory requirements.

Year 1 data: 0 ROWs designated

Discussion: As discussed in the findings document, there are delays in the rights-of-way designation process while the council subcommittee considers two projects that have litigation pending. The findings include a recommendation to the Program on finding ways to move forward with additional rights-of-way designations.

## **Metric 2: Coastal Habitat Restoration**

**Goal:** Coastal habitats whose ecological function has been degraded or destroyed by human intervention have been restored. This goal is highlighted in CRMC's 2021 Section 309 Program Assessment & Strategy report and the 2018 Rhode Island Coastal Wetland Restoration Strategy report. This goal is also embodied in the CRMC's enabling legislation (Rhode Island General Laws § 46-23-1(a)(2)), "...it shall be the policy of this state to preserve, protect, develop, and where possible, restore the coastal resources of the state for this and succeeding generations through comprehensive and coordinated long-range planning and management designed to produce the maximum benefit for society from these coastal resources; and that preservation and restoration of ecological systems shall be the primary guiding principle upon which environmental alteration of coastal resources will be measured, judged, and regulated."

**Objective:** By 2028, increase the acres of coastal habitat under restoration with assistance from CZM funding or staff.

**Strategy:** Coastal and estuarine habitats provide a variety of ecological services in Rhode Island, supporting fisheries, tourism, and recreation and improving the resiliency of the shoreline to coastal hazards. Restoring destroyed or degraded habitats is a state priority, as reflected in Rhode Island General Laws § 46-23.1-5. Restoration may include activities such as restoring altered hydrology or topography, revegetation, control of invasive species, removal of barriers to species migration or improvement of substrate quality in subtidal habitats. The CRMC coordinates and oversees the State Coastal and Estuarine Habitat Restoration Trust Fund (Fund), by which state funds are awarded for habitat restoration planning, design, engineering, construction and monitoring projects. Entities eligible to receive these funds include cities and towns; any committee, board, or commission chartered by a city or town; nonprofit corporations; civic groups; educational institutions; and state agencies. Now in its twentieth year, the Fund has awarded \$4,350,000 and leveraged over \$30,000,000. The CRMC will maintain this level of effort throughout the reporting period. The CRMC also coordinates the Rhode Island Habitat Restoration Team, a group of restoration practitioners and representatives from various agencies and organizations who meet regularly to share resources and technical expertise. Additional detailed information regarding the coastal habitat restoration metric can be found in the annual Habitat Restoration Trust Fund Report at <http://www.crmc.ri.gov/habitatrestoration.html>.

The CRMC will maintain a high level of effort for this objective to match or exceed the performance achieved during the 2018 to 2023 reporting period.

Data from previous five years (#8b):

2018: 37 acres

2019: 30 acres

2020: 40.3 acres

2021: 52.5 acres

2022: 52.5 acres

**Performance Measure:** From 2023 to 2028, the number of acres of coastal habitat under restoration with assistance from CZM funding or staff.

**Target:** Between 2023 and 2028, 250 acres of coastal habitat under restoration with assistance from CZM funding or staff.

This performance measure will be calculated in accordance with the CZMA Performance Measurement System's measure 8b.

Year 1 data: 6 acres

Discussion: As discussed in the habitat metric for the previous five years, the completion of habitat restoration projects can depend on numerous factors. The NOAA evaluation team is aware of habitat restoration projects underway that would contribute to this metric within this reporting period.

### **Metric 3: Coastal Hazards**

**Goal:** Develop and implement policies and plans and/or assist in developing policies and plans with other state and municipal programs to improve resilience and increase public awareness of coastal hazards. This goal is highlighted in CRMC's 2021 Section 309 Program Assessment & Strategy report.

**Objective:** By 2028, develop and/or revise state- and local-level policies and plans and complete projects to reduce future damage from coastal hazards.

**Strategy:** CRMC staff are sitting members of the Rhode Island State Interagency Hazard Mitigation Committee. The State of Rhode Island will be updating its State Hazard Mitigation Plan over the next five years. As a member of the State Interagency Hazard Mitigation Committee, CRMC will be actively involved in the process to ensure the plan addresses resilience by minimizing risk to coastal hazards such as storms, flooding, erosion, and sea level rise.

The State Hazard Mitigation Plan provides a foundation and starting point for the development of Local Hazard Mitigation Plans required to be developed and updated every five years by each municipality. The CRMC provides municipal agencies with technical assistance in developing their Local Municipal Hazard Mitigation Plans. CRMC's involvement in local hazard mitigation planning better ensures that coastal communities adopt and implement management practices to improve resilience and increase public awareness.

The CRMC will maintain a high level of effort for this objective to match or exceed the performance achieved during the 2018 to 2023 reporting period.

Data from previous five years (11a and 11b)

2018: no data available

2019: 0 state-level policies and plans, 0 local-level policies and plans

2020: 1 state-level policies and plans, 0 local-level policies and plans

2021: 0 state-level policies and plans, 0 local-level policies and plans

2022: 0 state-level policies and plans, 0 local-level policies and plans

**Performance Measure:** From 2023 to 2028, number of local-level policies and plans completed to reduce future damage from coastal hazards with assistance from CZM funding or staff.

**Target:** Between 2023 and 2028, provide staff assistance toward the completion of three (3) local-level policies and hazard mitigation plans with assistance.

The performance measure will be calculated using measure 11 (b) of the CZMA Performance Measures System.

**Strategy:** With the Beach SAMP adopted by the CRMC (late 2018) its vision is to provide guidance and tools for homeowners and landowners, and state and local decision-makers to prepare and plan for, absorb, recover from, and successfully adapt to the impacts of coastal storms, erosion, and sea level rise. The analysis required to be performed by an applicant subject to CRMC regulation is intended to help applicants recognize and minimize risks to protect their investments for the design life of their project.

Additionally, because CRMC's responsibility is to ensure that decisions made concerning Rhode Island's coastline are well thought-out and based on the best available science, this metric will aid the agency in understanding how best to improve its regulatory programs to ensure its constituents are being provided easily understood guidance (with tools) to help them adapt to the impacts of coastal storms, erosion, and sea level rise.

What is anticipated, however, is that with each subsequent application review or with providing assistance to others, staff may find that certain CRMC requirements could be better presented, revised, or written to best accomplish the goals and objectives of the SAMP. These policy changes would be carried out through subsequent revisions to the Beach SAMP or other CRMC policies and regulations (i.e., the "Red Book"). In addition, CRMC may recognize the need to work with its partners to develop new or enhance existing tools or products to support implementation of the Beach SAMP (e.g., development of an app to allow easy access to STORMTOOLS from smartphones is underway through a current PSM award). Finally, to aid other jurisdictions in addressing the impacts of coastal storms, erosion, and sea level rise, the CRMC provides municipal agencies with technical assistance in developing their Municipal Hazard Mitigation Plans.

During the five-year reporting cycle, CRMC anticipates developing a) five (5) state-level policies and plans; b) five (5) local-level policies and plans; c) one (1) project completed at the state-level; and d) zero projects completed at the local level to reduce future damage from coastal hazards with assistance from CZM funding or staff.

Performance Measure: Between 2018 and 2023, number of a) state-level policies and plans; b) local-level policies and plans; c) projects completed at the state level; and d) projects completed at the local level to reduce future damage from coastal hazards with assistance from CZM funding or staff.

Target: Between 2023 and 2028, 11 a) state-level policies and plans; b) local-level policies and plans; c) projects completed at the state level; and d) projects completed at the local level to reduce future damage from coastal hazards with assistance from CZM funding or staff.

Totals:

Year 1: 0 local-level policies/plans

Discussion: The Program did not meet their target in the previous reporting period, and they have not reported any completed actions for the first year in this five-year period. NOAA's Office for Coastal Management has documented several ways in which the Program is advancing resilience to coastal hazards.

## Conclusion

For the reasons stated herein, I find that the State of Rhode Island is adhering to the programmatic requirements of the Coastal Zone Management Act and its implementing regulations in the operation of its approved Rhode Island Coastal Resources Management Program.

These evaluation findings contain four necessary actions that must be completed by the dates given and eight recommendations that must be considered before the next regularly scheduled program evaluation but are not mandatory at this time. Recommendations that must be repeated in subsequent evaluations may be elevated to necessary actions.

This is a programmatic evaluation of the Rhode Island Coastal Resources Management Program, which may have implications regarding the state's financial assistance awards or other penalties. However, it does not make any judgment about or replace any financial audits.

for

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Jeffrey L. Payne, PhD

Director, NOAA Office for Coastal Management

## Appendix A - Response to Written Comments

### Rhode Island Coastal Resources Management Program<sup>22</sup>

NOAA's Office for Coastal Management received forty-two written comments as part of the public comment period, which ended Friday, October 25, 2024. Comments are transcribed here and minimally edited for spelling and punctuation. All comments have been shared with the Rhode Island Coastal Resources Management Council in their entirety. Copies of the original comments received can be requested from NOAA's Office for Coastal Management.

NOAA's Office for Coastal Management thanks the members of the public who submitted written comments. Public participation is an important part of the Coastal Zone Management Act evaluation process (see 16 U.S.C. 1458(b)).

**A Note on Program Structure:** The NOAA evaluation team heard numerous perspectives on the structure of the Rhode Island Coastal Resources Management Council (CRMC), which consists of a council of appointed members ("council") and staff members ("CRMC staff"), and how the State of Rhode Island can move forward with its federally-approved coastal management program. Some stakeholders praised the open and transparent decision-making process afforded by the council structure. Those in support of the council structure noted no decision-making process is immune from politics and any structure could lead to poor decisions from time to time. Supporters of the current council structure felt decisions by a representative, balanced council can help avoid potentially poor decisions that could occur if too much decision-making authority is held by one politically appointed executive director. On the other hand, many other stakeholders voiced concerns about the current council structure. They believed having politically appointed council members that did not have a background in coastal management allowed politics to play too large a role in the decision-making process. They also asserted that having council members without a background in coastal management required significant staff time to support and prepare the council for meetings and train them about various aspects of coastal management. Detractors of the current CRMC structure also believed it led to more lengthy decision timelines (especially since there are currently three vacancies on the CRMC, which created problems reaching quorum at some meetings).

As discussed in the findings document, the Coastal Zone Management Act (CZMA) and NOAA's implementing regulations do not specify the structure or management of a state's federally-approved coastal management program. There are numerous models for implementing a state's coastal management program. Some federally-approved coastal management programs have politically-

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<sup>22</sup> Rhode Island Coastal Resources Management Program refers to the state program, including enforceable policies, approved by the U.S. Secretary of Commerce under the Coastal Zone Management Act (CZMA).

Coastal Resources Management Council refers to the professional staff and the 10-member body appointed by the Governor that implements the federally-approved Rhode Island Coastal Resources Management Program.

CRMC staff refers to the state employees that have administrative, policy and planning, permitting, and enforcement responsibilities and provide support and recommendations to the Council.

CRMC executive leadership refers to the executive director and deputy director.

appointed decision-making councils, others do not. NOAA's interest in the implementation of the Rhode Island Coastal Resources Management Program is in adherence with the CZMA and its implementing regulations, such that the state manages, in coordination with NOAA's Office for Coastal Management, its coastal resources consistent with the federally-approved Rhode Island Coastal Resources Management Program. The purpose of this evaluation is to ensure the state is implementing its federally-approved program, including its currently-approved structure, consistent with the CZMA.

NOAA understands that the Rhode Island Department of Administration (DOA) and state legislature are considering alternatives to the current structure and management of the Rhode Island Coastal Management Program. Separate from this evaluation, staff from NOAA's Office for Coastal Management met with DOA staff in October 2024 to discuss the various state coastal management program structures. As Rhode Island continues to consider if the state will propose a structural change to the state's coastal management program, NOAA will continue to engage with the state on possible organizational changes to the Rhode Island Coastal Resources Management Program to ensure the program continues to meet Coastal Zone Management Act coastal management program approval requirements and provides the level of excellent coastal management that the Rhode Island Coastal Resources Management Program is known for.



**Comment #1: Janice Arrigan**

Glacier Park in Westerly, Rhode Island, part of Westerly Land Trust open space, has an exclusive condominium complex, Champlin Woods Cottages, as its neighbor.

While volunteering to clean trash and trim branches on the hiking trails in Glacier Park, I took this picture. [attachment included: picture of a forested landscape that appears to show netting and pipes]

A fenced in-ground swimming pool with pipes running down the embankment into the protected open space. It would have been difficult to see if the leaves had not blown off the black netting covering the rocks and pipes. The swimming pool fence is on the Westerly Land Trust marker.

Have asked the Town of Westerly to find the approved Building and Zoning permit for the swimming pool. Champlin Woods Cottages, Kettle Close off Newbury Road.

A 1999 Coastal Resources Management Council map seems to classify the land in this area as either (1) Lands of Critical Concern or (2) Developed Beyond Carrying Capacity.

**Response from NOAA's Office for Coastal Management:**

This public comment has been shared with the Rhode Island Coastal Resources Management Program enforcement staff for its consideration.

**Comment #2: Laurie Behr**

As a long-time resident of coastal Rhode Island, I agree that the politically appointed council should be abolished or reformed to include specific engineering and science qualifications. The council could also be elected to take out the politics.

**Response from NOAA's Office for Coastal Management:**

As described in the introductory text of this appendix, there are various ways state coastal management programs can be structured. The purpose of this evaluation is to ensure that Rhode Island is implementing its federally-approved program, including its approved council structure, consistent with these requirements. NOAA finds that the State of Rhode Island is successfully implementing and enforcing its federally-approved coastal management program, adhering to the terms of the federal financial assistance awards, and addressing coastal management needs identified in section 303(2)(A) through (K) of the Coastal Zone Management Act.

The evaluation findings include a recommendation to be more proactive in identifying members of the public to serve on the council that are more representative of Rhode Island's coastal communities, including those with various education and professional areas of expertise.

**Comment #3: C [anonymous]**

This email concerns the evaluation of Rhode Island's Coastal Resources Management Council (CRMC) regarding their preservation and protection of the coastline. This agency is specifically charged with these tasks. They do not preserve and protect the coastline.

A case of clear cutting waterfront property was brought to CRMC's attention in May 2024. Numerous contacts to the agency were made through the summer with no updates being available. In August, it was indicated that someone had visited the site to assess the damage. But again, no update on the result of the visit as there were no notes. After contacting the agency in October, they stated that a site visit was made on September 5. They acknowledged that the vegetation along the coastal feature had been cut.

The resolution was to tell the people living there not to do it again and to let the plants revegetate. The vegetation has been cut down to the ground! It had been at least 3 feet tall and quite dense. It will take many, many years for the coast to look as it previously did with this resolution. At least mandating the planting of larger, established plants would make more sense to achieve the needed border. By administering just a mild reprimand (no fine was assessed), it doesn't reflect the severity of the resident's action. It definitely will not act as a deterrent if other neighbors want to clear-cut their waterfront property.

Rhode Island's CRMC, as it is functioning now, does not appear able to fulfill its task of preserving and protecting the coastline. There needs to be change.

**Response from NOAA's Office for Coastal Management:**

A specific response to the instance of vegetation clearance cannot be provided as the specific case/location was not indicated. The comment has been shared with the enforcement staff of the Rhode Island Coastal Resources Management Program for consideration.

NOAA is not involved in individual permitting or enforcement decisions of a state's coastal management program. NOAA evaluates overall program implementation and found the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program, adhering to the terms of the federal financial assistance awards, and addressing coastal management needs identified in section 303(2)(A) through (K) of the Coastal Zone Management Act.

#### Comment #4: The Committee for the Great Salt Pond

*Comments provided by Henry duPont, director of Legal Advocacy*

Thank you for holding a public hearing and accepting testimony with regard to the performance of the Rhode Island Coastal Resources Management Council (CRMC). It is good to know that there is a Federal Agency with some oversight over this state agency.

I provide comments today on behalf of The Committee for the Great Salt Pond, Block Island's premier environmental protection organization, with over 300 members, to provide our assessment on how the RI CRMC is meeting its obligations to the Federal Government under the Coastal Zone Management Act of 1972.

The RI CRMC has been a positive force for shoreline and estuarine protection since its creation in 1972 but sadly, since 2019, the administration of the Council by the 10 politically appointed volunteer Council Members has not been in the spirit of the Council's enabling legislation. This is because the Council Members:

- Are politically appointed volunteers who are appointed with no requirement for any coastal management experience or expertise
- In spite of the above, they have broad regulatory powers
- They often disregard their expert and hardworking CRMC Staff recommendations and approve development proposals which the Staff flags, as not meeting the minimum project approval requirements, in RI Coastal Management Plan (The Red Book)
- The Council Members and their actions are not accountable to anyone except by legal action (which is the only way to overturn their illegal decisions)
- They are often absent at council meetings which, without a quorum, cannot proceed with advancing permit applications before the CRMC, causing lengthy and unnecessary delays in the permitting process.

In short, the current configuration of the Council does not truly preserve, protect, develop, and restore our fragile coastal resources the way the CRMC enabling legislation originally envisioned or the Federal Coastal Zone Management Act requires.

Clearly CRMC reform is needed and a new State Agency, a "Department of Coastal Resource Management" administered by a cabinet level Director, in the Executive Branch, accountable directly to the Governor and subject to legislative oversight, similar to the RI Department of Environmental Management, would solve this problem.

The Committee for the Great Salt Pond has been at the forefront of CRMC reform and with good reason. It was the Committee which led the fight to get the CRMC to deny a massive marina expansion proposal in Block Island's Great Salt Pond, which would significantly impact on the environmental quality and restrict other uses of this priceless and fragile environmental resource. Our defense of the Great Salt Pond in opposing this project took over 19 years and cost over \$600,000 in funds we raised to pay for legal representation, expert witnesses, and court fees, to finally win the project's unanimous denial by the Council in 2014. But then, in 2020, the project inexplicably came back to life, with an assent granted by the Council, after secret deliberations, in closed door meetings, without any notice to the Town and the other project opposition groups. Mercifully this illegal action was finally overturned by a RI Supreme Court decision after an expensive two-year battle in 2022.

Reorganizing the CRMC into a true State Regulatory Agency with a Director, professional staff, and an advisory council will make an enormous difference in reforming the current regulatory process of protecting Rhode Island's unique and fragile coastline. Mercifully, a solution is at hand. There are two legislative bills languishing at the statehouse which will effectively make this change.

We urge you to find that the current structure of the CRMC is not fulfilling its mandate under the Coastal Zone Management Act of 1972, and to pressure the State to pass the RI House and State bills which are already on the docket, to affect these important reforms.

**Response from NOAA's Office for Coastal Management:**

As described in the introductory text of this appendix, the Rhode Island Department of Administration has reached out to NOAA for assistance in the state exploring possible organizational changes to CRMC. However, the purpose of this evaluation is not to recommend that the state adopt a particular structure for its coastal management program. This evaluation concludes that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program. NOAA's Office for Coastal Management identified numerous accomplishments that demonstrate ways in which the Rhode Island Coastal Resources Management Council is meeting or exceeding program requirements. There are some areas that the CRMC must address by the timeframes specified (see Executive Summary). Finally, areas where NOAA believes changes could improve program implementation are included as recommendations.

The evaluation findings document one necessary action on supporting the capacity and expertise of council members (Necessary Action 2) and one necessary action requiring action to fill council seats (Necessary Action 1). Additionally, there is one recommendation addressing the nomination process for council members that would seek to expand council membership to be more representative of Rhode Island's coastal communities (including a greater representation of experience and expertise) (Recommendation 3).

Further, the evaluation findings document the procedural questions associated with the expansion of Champlin's Marina and identify the importance of following established procedures for council operations and decision making.

**Comment #5: Meg Conley, resident of Saunderstown, Rhode Island**

I am writing this email today since I cannot make the in-person meeting this evening in Providence to discuss Rhode Island's Coastal Resources Management Council (CRMC).

As a lifelong Rhode Islander, I watch our coastal communities pretty closely. Having lived in Charlestown, Newport, Middletown, and now settled in Saunderstown, dedicated public access points have been a huge part of my life in regard to access to our beaches.

I think in the past 5 years since Covid, our access points and beach protection have been under threat more than ever, in addition to being neglected. The CRMC needs proper staff and funding in order to keep up with the numerous access points throughout the state.

There was a right-of-way (ROW) in Saunderstown, RI, next to Plum Point Beach Club, that has been completely overgrown and absorbed by the club. In my years living on Easton's Point in Middletown, many of the ROWs were overgrown and were under threat of being absorbed by abutting property owners.

If RI CRMC had proper funding and staff, they would be able to monitor our ROWs, assist with upkeep, and respond in a timely manner to residents or businesses who place illegal signage or fencing along our shores.

I believe the CRMC, under proper funding and staffing, can be a healthy liaison between private property owners and the public who are using their right to ROWs and the beach while respecting private property.

In other states you see properly funded coastal management councils, exceptionally maintained ROWs, and (mostly) peace between private property owners and the public. In my travels to other states, it has been exceptional; RI is way too behind.

**Response from NOAA's Office for Coastal Management:**

This evaluation finding document discusses several issues around public access and rights-of-way (ROWs) and the Rhode Island Coastal Resources Management Program's role in designation, maintenance, and enforcement of ROWs. The CRMC has placed a focus on public access during this evaluation period and the evaluation team learned of efforts to communicate with property owners and local enforcement agencies on new public access laws. Additionally, the CRMC is working with community leaders and partners to create more access for all Rhode Islanders and enforce existing access.

Specific concerns on the right-of-way at Plum Point Beach Club in Saunderstown have been shared with the Rhode Island CRMC staff.

Comment #6: Trudy Coxe, resident of Edgewood, Rhode Island, and former director of NOAA's Office of Ocean and Coastal Resource Management

I am writing as a former director of the Office of [Ocean and] Coastal [Resource] Management to urge the National Oceanic and Atmospheric Administration to impose sanctions on the State of Rhode Island for its failure to carry out basic components of the Coastal Zone Management Act.

You will hear from many about the Rhode Island Coastal Resources Management Council's (CRMC) shortcomings, which have resulted in out-of-control commercial exploitation of our state's coastline. Four of many, many examples are listed below:

- the approval of Safe Harbors' Jamestown Boatyard over the objections of well-respected scientists and marine biologists, recreational users of Narragansett Bay, and a robust group of more than 500 citizens who wanted to be heard and respected by NOAA but were not. Rhode Island's Attorney General referred to CRMC's decision-making process for this project as one displaying "misconduct."
- the failure of CRMC to take action against the Quidnessett Country Club for building a large, 600-foot seawall without a permit. Staff at CRMC have determined that the seawall will impact the shoreline, that erosion will occur, and that aquatic species will be impacted. No action has yet been taken by the Council to rectify this situation.
- the back room deals associated with Champlin's Marina on Block Island. CRMC's decision was ultimately overturned by the RI Supreme Court, finally confirming the arguments against this project that citizens and scientists had made over a series of years.
- the green light of a wind power project, Revolution Wind, and the resistance of CRMC to grant to interested members of the public the opportunity for thorough and needed hearings and appeals on an offshore project that could result in a field of 1000 turbines in all. CRMC's disregard for its own special area management plan (SAMP) which identified areas that should be off limits for any industrial uses call into question the important role that CRMC should have played. The arguments made by CRMC against an interested and informed citizenry which called upon CRMC to take its SAMP seriously, among other topics, were flimsy and resulted in a failed process.

These four examples are but a few which demonstrate an underlying management problem—of magnitude—at CRMC.

On a personal note, I am a lifelong resident of Jamestown and Edgewood, RI. Prior to serving as the director of NOAA's Office for Coastal Management (formerly the Office of Ocean and Coastal Resource Management [OCRM]), I headed Save The Bay, Rhode Island's largest and most well-respected environmental group. Later, I was appointed Secretary of Environmental Affairs for the Commonwealth of Massachusetts under which the state's coastal program resides.

I believe I understand well how difficult it is for you to decide to impose sanctions. In my role as the director of OCRM, I had to deal with the state of Texas and the state of Florida for their inadequate coastal programs. The conversations and negotiations with both governors were hard, but they resulted in both states taking their coastal responsibilities more seriously.

CRMC has been a troubled agency for years, and it is time for the federal government, the only entity with the authority to correct Rhode Island's coastal zone failures, to step in and impose sanctions,

including the withdrawal of money to Rhode Island. NOAA's firm hand and leadership can help rectify problems in our state that must be dealt with before we lose our beloved shoreline.

**Response from NOAA's Office for Coastal Management:**

Pursuant to section 312(c) of the Coastal Zone Management Act, sanctions can only be imposed on a coastal management program if NOAA's Office for Coastal Management issues a final finding of nonadherence. This evaluation concludes that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program, adhering to the terms of the federal financial assistance awards, and addressing coastal management needs identified in section 303(2)(A) through (K) of the Coastal Zone Management Act. With these findings, NOAA's Office for Coastal Management cannot initiate the process to impose sanctions on the Rhode Island Coastal Resources Management Program.

NOAA's Office for Coastal Management has identified several necessary actions to address programmatic requirements of the Coastal Zone Management Act, the Coastal Zone Management Act's implementing regulations (15 C.F.R. part 923), and the Rhode Island coastal resources management program approved by NOAA.



Comment #7: George Davis, resident of Block Island, Rhode Island; chair, Town of New Shoreham (Block Island) Shellfish Commission; director, Committee for the Great Salt Pond (CGSP); and director, Block Island Maritime Institute (BIMI)

Thank you for NOAA's oversight and evaluation of Rhode Island's Coastal Resources Management Council (CRMC). As a year-round Block Island, Rhode Island resident and board member of several maritime organizations, I am well aware of actions taken by the CRMC that are contrary to its stated mission. These actions resulted from politically appointed Council Members lacking expertise and having broad regulatory powers with no accountability (without legal action). Reorganizing the CRMC into a true State Regulatory Agency with a Director, professional staff, and an advisory council will make an enormous difference in the protection of Block Island's and Rhode Island's coastline.

I urge you to find that the current structure of the CRMC is not serving the public and environment as intended and to pressure Rhode Island to pass the House and State bills which are already on the docket to affect these important reforms.

**Response from NOAA's Office for Coastal Management:**

NOAA's Office for Coastal Management has identified several necessary actions to address programmatic requirements of the Coastal Zone Management Act, the Coastal Zone Management Act's implementing regulations (15 C.F.R. part 923), and the Rhode Island coastal resources management program approved by NOAA. See Necessary Actions 1 and 2 and Recommendation 3 in the findings document.

As described in the introductory text of this appendix, the Rhode Island Department of Administration has reached out to NOAA for assistance in the state exploring possible organizational changes to CRMC. However, the purpose of this evaluation is not to recommend that the state adopt a particular structure for its coastal management program. This evaluation concludes that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program. NOAA's Office for Coastal Management identified numerous accomplishments that demonstrate ways in which the Rhode Island Coastal Resources Management Council is meeting or exceeding program requirements. There are some areas that the CRMC must address by the timeframes specified (see Executive Summary). Finally, areas where NOAA believes changes could improve program implementation are included as recommendations.

This evaluation concludes that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program. NOAA's Office for Coastal Management identified numerous accomplishments that demonstrate ways in which the Rhode Island Coastal Resources Management Council is meeting or exceeding program requirements. There are some areas that the CRMC must address by the timeframes specified (see Executive Summary). Finally, areas where NOAA believes changes could improve program implementation are included as recommendations.

**Comment #8: Fred Mattera and Shaye Rooney, East Farm Commercial Fisheries Center**

East Farm Commercial Fisheries Center of Rhode Island (CFCRI) is a nonprofit organization representing nine fishing associations across the state, including various ports and fisheries, with the overall mission of preserving commercial fishing as a profession, culture, and way of life through promoting the sustainability of the resource. The center along with many of its members have been engaged with the CRMC through the offshore wind permitting and federal consistency processes for many years. It is critical to have input from the local fishing community within the decision-making process as they are the primary stakeholders that will be impacted the most. In the past, the Fisheries [sic] Advisory Board (FAB) members filled this role. However, after years of significant commitment from FAB members to provide their knowledge, expertise, and sometimes proprietary information to the agency and council members to better inform their decisions, the FAB members collectively resigned from their roles due to their frustration with the decision-making structure and process. CRMC now lacks a formal method of gathering fisheries stakeholder input. CFCRI has been collaborating with CRMC staff to format a new method of formally gathering fisheries stakeholder input for offshore wind permitting applications.

The issue many of the industry members have with the CRMC structure lies with final agency decisions being ultimately made by the appointed council members and not the expert staff of the agency. The flawed structure of the agency council results in drawn-out decisions, a lack of trust and transparency, and even decisions that go against expert recommendations made by CRMC staff and supporting advisory boards. CRMC staff is consistently accessible and always follows up with answers to questions. CRMC staff continues to build trust with the fishing industry and we believe are well positioned to make final agency decisions based on their expertise. The staff members recognize the importance of gathering fisheries stakeholder feedback and continue to collaborate with the center to inform decisions and bridge the gap between the agency and the industry, particularly after the FAB resigned. However, we believe the staff could greatly benefit from additional staff and financial resources solely dedicated to the lengthy review and stakeholder engagement that is critical for offshore wind project permitting.

We believe that the current agency structure and process involving decisions being made by the council does not provide benefit to stakeholders. East Farm Commercial Fisheries Center encourages a restructure of the agency council in where the agency's professional staff is given authority to make final decisions. There is a great lack of trust in the decisions made by the council members among the commercial fishing industry. Many feel that decisions from the council are made prior to any public comments and comments from advisory boards like the FAB and are not truly considered in the process. Additionally, we have observed complete lack of respect from some council members during public comments at public hearings. Some council members have been seen preoccupied on their phones and iPads for the majority of public hearings and not giving attention to comments being made. This attitude reinforces the fishing industry's concern that decisions are already made, and council members are not truly considering the input from stakeholders.

Thank you for your consideration and the opportunity to provide comments to this important matter.

**Response from NOAA's Office for Coastal Management:**

The evaluation findings document the efforts of CRMC staff to continue to engage with fisheries sector stakeholders and provide a recommendation on staffing capacity as it specifically relates to offshore wind and federal consistency (Recommendation 1).

As described in the introductory text of this appendix, the Rhode Island Department of Administration has reached out to NOAA to assist the state in exploring possible organizational changes to CRMC. However, the purpose of this evaluation is not to recommend that the state adopt a particular structure for its coastal management program. This evaluation concludes that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program. NOAA's Office for Coastal Management identified numerous accomplishments that demonstrate ways in which the Rhode Island Coastal Resources Management Council is meeting or exceeding program requirements. There are some areas that the CRMC must address by the timeframes specified (see Executive Summary). Finally, areas where NOAA believes changes could improve program implementation are included as recommendations.

Comment #9: Nic Englehart; chemical hygiene officer and dangerous goods shipping specialist, University of Rhode Island

I'm reaching out to share feedback regarding Rhode Island's Coastal Resource Management Council (CRMC).

As a public university employee, I was hired based on merit.

I was shocked when I learned that many CRMC decision-makers are politically appointed (via <https://savebay.org/reform-crmc/#:~:text=The%20CRMC%20Council%20is%20made,is%20not%20one%20of%20them> and <https://ecori.org/time-to-strip-crmcs-politically-appointed-council-of-its-powers/>).

In The Ocean State, there isn't a short supply of extremely knowledgeable coastal experts. I observed that firsthand when I got my BS in geological oceanography from the University of Rhode Island in 2016.

In my role, I read and interpret regulations as they pertain to the University on matters of occupational safety, public health, and environmental stewardship. There's a clear and distinct chain of command from the federal regulations, to the state regulations, to our university policies.

With the CRMC and the Rhode Island Department of Environmental Management (RIDEM) existing in an extremely similar space with ill-defined boundaries, I believe there is a dire need to consolidate these state entities.

When emergencies and controversies strike, will it benefit RI to have these state entities finger-pointing?

I believe the choice is simple and clear: CRMC should be absorbed into RIDEM, and politically appointed positions should be absolved.

Should this Rhode Island-ism continue on, it will be to the detriment and confusion of the public and NOAA. I appreciate your time investigating this matter.

**Response from NOAA's Office for Coastal Management:**

The evaluation findings document one necessary action (Necessary Action 2) on supporting the capacity and expertise of council members. Additionally, there is one recommendation addressing the nomination process for council members that could expedite the process of identifying candidates and that would seek to expand council membership that is more representative of Rhode Island's coastal communities, including representation of education and expertise (Recommendation 3).

The evaluation findings document areas in which the Rhode Island Coastal Resources Management Council and the Rhode Island Department of Environmental Management coordinate and partner with each other and also identify opportunities for efficiencies between the two state agencies.

As described in the introductory text of this appendix, the Rhode Island Department of Administration has reached out to NOAA to assist the state in exploring possible organizational changes to CRMC. However, the purpose of this evaluation is not to recommend that the state adopt a particular structure for its coastal management program. The State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program. NOAA's Office for Coastal Management identified numerous accomplishments that demonstrate ways in which the Rhode Island Coastal Resources Management Council is meeting or exceeding program requirements. There are some areas that the CRMC must address by the timeframes specified (see Executive Summary). Finally, areas where NOAA believes changes could improve program implementation are included as recommendations.

## Comment #10: Conrad Ferla, Rhode Island Coastal Access

I am the admin for Saving RI Coastal Access/Rights of Way on Facebook:

<https://www.facebook.com/groups/2693920567597839/>

Here is our website:

<https://www.ricoastalaccess.com/>

And on instagram here:

<https://www.instagram.com/savingcoastalaccessri/>

We are a group of about 9000 folks who have worked hard to restore public access to the shore in Rhode Island. These platforms have been an amazing tool for addressing issues along RI shores in real time. Everything is cataloged and searchable. It also allowed an open forum in real time to see how the Coastal Resources Management Council (CRMC) is set up to fail on purpose. We were the ones who exposed a real estate lobbyist on the council who was working to restrict public access and public parking along the shore. We found hard structures being approved after boulders were dumped along the shore. No permit until after violation. We saw abuses in the use of emergency variance permits after major storms. We saw major conflicts of interest with solicitors and lawyers working for CRMC. It's so corrupt. RI is so corrupt that even the husband of the judge who is repealing the shoreline access law that we passed, which guaranteed your constitutional right to the shore, is the same person who was in front of the CRMC trying to get a seawall approved for Quiddnessett—Mr. Carter.

I implore you to join these groups on social media. We have folks reporting to CRMC every week. Folks using public rights-of-way, using the shoreline . . . all documenting everything in real time. The information you are looking for is in the Facebook group. Use the search tool. Use keywords like CRMC.

Early on we identified a few root problems regarding public access to the shore in RI:

- CRMC has a history of cronyism. CRMC delays for political reasons; lawyers love this and possibly collude.
- Parking Removal or restrictions are the back door way to privatize a public area.
- Real Estate Lobbyists and Real Estate Agents on local committees, boards, and town governments have conflicts of interest and actively profit from the privatization of our coast.
- Reforming CRMC will be imperative to the success of any plans that NOAA has for coastal resilience and the funds that come with it. CRMC in its current state does not benefit the public.
- Fire Districts attempt to usurp democracy by sending connected and powerful lawyers to intimidate the CRMC and the public (see Weekapaug v. ACLU).

Thanks, and I hope this makes sense.

### **Response from NOAA's Office for Coastal Management:**

The evaluation findings include three accomplishments (Accomplishments 3, 4 and 5) and one recommendation (Recommendation 6) on public access.

As described in the introductory text of this appendix, the Rhode Island Department of Administration has reached out to NOAA to assist the state in exploring possible organizational changes to CRMC. However, the purpose of this evaluation is not to recommend that the state adopt a particular structure for its coastal management program. This evaluation concludes that the State of Rhode Island is

successfully implementing and enforcing its federally approved coastal management program. NOAA's Office for Coastal Management identified numerous accomplishments that demonstrate ways in which the Rhode Island Coastal Resources Management Council is meeting or exceeding program requirements. There are some areas that the CRMC must address by the timeframes specified (see Executive Summary). Finally, areas where NOAA believes changes could improve program implementation are included as recommendations.

**Comment #11: Patrick Gaynes, Jamestown, Rhode Island**

I am reaching out to express serious concerns about the operations and oversight of the Rhode Island Coastal Resources Management Council (CRMC) that I ask be noted in the coming NOAA performance review. Recent decisions made by the CRMC indicate a troubling disregard for public input, professional staff recommendations, and established regulatory requirements—issues that, common sense dictates, demand immediate reform.

In October 2024, the CRMC approved a permit to dredge the seafloor in Dumplings Cove, ignoring the compelling testimony of 26 Jamestown residents as well as significant environmental and public safety concerns. This decision was made without the required review and consensus of all Council members and overlooked a petition signed by over 600 Jamestown residents in opposition to the project.

This troubling pattern extends to other cases:

- On Block Island, a faction of the CRMC met privately with appellants to reverse two longstanding rulings against the expansion of Champlin’s Marina. Thankfully, Rhode Island Attorney General Peter Neronha intervened, obtaining a Supreme Court order to block this improper reversal.
- In 2023, the CRMC approved an underwater cable installation in Narragansett Bay without legislative authorization, disregarding both its own staff’s recommendation and state legislative requirements. This decision was eventually rescinded but only after it became public.
- Most recently, the CRMC allowed Quidnesset Country Club in North Kingstown to build a breakwater in direct violation of the Bay’s strict type 1 water classification. Rather than enforcing this classification, the Council is now considering changing it despite opposition from their own staff.

These actions suggest a recurring trend of prioritizing specific interests over environmental protections, public safety, and transparency. I strongly urge our state leaders to initiate a full investigation and implement reforms to ensure the CRMC adheres to its regulatory responsibilities and operates in a transparent, accountable manner.

Thank you for your urgent attention to this matter.

**Response from NOAA’s Office for Coastal Management:**

As described in the introductory text of this appendix, the Rhode Island Department of Administration has reached out to NOAA to assist the state in exploring possible organizational changes to CRMC. However, the purpose of this evaluation is not to recommend that the state adopt a particular structure for its coastal management program. This evaluation concludes that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program. NOAA’s Office for Coastal Management identified numerous accomplishments that demonstrate ways in which the Rhode Island Coastal Resources Management Council is meeting or exceeding program requirements. There are some areas that the CRMC must address by the timeframes specified (see Executive Summary). Finally, areas where NOAA believes changes could improve program implementation are included as recommendations.



**Comment #12: Mary Giardina Najmy, Committee for the Great Salt Pond member and Block Island homeowner**

The creation of the Rhode Island Coastal Resources Management Council (CRMC) in 1972 had been a positive force for shoreline and estuarine protection, but this has changed and the current RI CRMC no longer resembles the organization the CRMC was originally envisioned to be [and] as the Federal Coastal Zone Management Act required. The existing council members are politically appointed volunteers, who are appointed with no requirement for any coastal management experience or expertise.

The Committee for the Great Salt Pond has been at the forefront of CRMC reform, and we feel that CRMC reform is needed. A new State Agency, similar to the RI Department of Environmental Management, is needed and should be administered by a cabinet-level director in the Executive Branch, accountable directly to the Governor and subject to legislative oversight. Reorganizing the CRMC into a true State Regulatory Agency with a Director, professional staff, and an advisory council will make an enormous difference in the protection of Rhode Island's unique, fragile coastline. We urge you to find that the current structure of the CRMC is not working and to pressure the State to pass the House and State bills which are already on the docket.

We appreciate your consideration in advance for this very important issue.

**Response from NOAA's Office for Coastal Management:**

As described in the introductory text of this appendix, the Rhode Island Department of Administration has reached out to NOAA to assist the state in exploring possible organizational changes to CRMC. However, the purpose of this evaluation is not to recommend that the state adopt a particular structure for its coastal management program. This evaluation concludes that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program. NOAA's Office for Coastal Management identified numerous accomplishments that demonstrate ways in which the Rhode Island Coastal Resources Management Council is meeting or exceeding program requirements. There are some areas that the CRMC must address by the timeframes specified (see Executive Summary). Finally, areas where NOAA believes changes could improve program implementation are included as recommendations.

### Comment #13: Green Oceans Board of Trustees

Lisa Quattrocker Knight, MD, PhD, *president and cofounder*

Bill Thompson, *cofounder*

Bryan Haggerty, *treasurer*

Katie Hamilton Gewirz, *secretary*

Barbara Chapman, *trustee*

Charlotte du Hamel, *trustee*

Green Oceans, a nonprofit organization and citizens group that represents the interests of more than 3000 individuals devoted to the preservation and conservation of our ocean and marine ecosystems, respectfully submits the following comments about the operation and implementation of the Rhode Island Coastal Resources Management Council (CRMC). These comments focus on the CRMC's Ocean Special Area Management Plan (SAMP) and the CRMC's approval of offshore wind projects.

The Ocean State's economy, culture, and society depend on its waters and shores. Under the public trust doctrine, the government protects and maintains these resources for public benefit. These resources are so crucial to Rhode Island and its citizenry that Rhode Island's Constitution guarantees their protection. The CRMC was established to ensure these protections.

The CRMC adopted the SAMP in 2010. It was the nation's first comprehensive set of "enforceable policies" approved by federal regulators for reviewing offshore wind and other ocean development projects. The SAMP's purpose is to carry out Rhode Island's public trust obligations for ocean development as outlined in the Coastal Zone Management Act of 1972.

The SAMP includes procedural and substantive requirements for reviewing offshore wind projects. Procedurally, the SAMP ensures public participation, hearings, and decisions grounded in findings of fact and conclusions of law. Substantively, the SAMP guarantees that ocean development will only proceed if the public benefit from the project outweighs the harm of the development. In conducting its federal consistency reviews of private offshore wind projects, the CRMC has repeatedly ignored the procedural and substantive components of the SAMP and, in doing so, has abdicated its public trust responsibilities to Rhode Island and its citizenry.

The SAMP ensures a "rigorous review" of all ocean development projects, so the state and its agencies meet their public trust responsibilities. In this regard, the processes for reviewing development within the state's territorial waters. According to the CRMC's Federal Consistency Manual, "consistency determinations and certifications are, in all cases, subject to the public notice, hearing, and appeals provisions of Part 1.4 of the RICRMP and the Code of Federal Regulations." Decisions must be rendered per the Administrative Procedures Act, including "findings of fact and conclusions of law separately stated." For incorrect consistency decisions, judicial review is available to "[a]ny person... who is aggrieved by a final decision in a contested case...." Notices of appellate rights must accompany consistency decisions.

#### Violations of the SAMP

1. **Neglect of Procedure:** The CRMC has not observed these procedural requirements for private offshore wind development projects. Although the CRMC has provided notice of the project hearings, it has treated the decision-making process with insufficient formality in all other respects. The CRMC issues no findings of fact or conclusions of law, even though the Rhode

Island Supreme Court has explained the critical role such findings play in the administrative review process. The CRMC has failed to provide notice of appellate rights with its decisions. When it reviewed the Revolution Wind project, the CRMC ignored the quorum requirement by allowing a disqualified member, who had been removed from the council and lacked voting rights because she no longer met the requirements to sit on the CRMC, to count toward the quorum for their federal consistency review vote. The CRMC has taken the baseless position in court that its consistency decisions are not subject to judicial review, no matter the basis for the challenge.

2. **Lack of Fact Finding:** The CRMC's utter failure to observe its procedures has resulted in substantive violations of the SAMP and a neglect of the requirement to assess the impact with a factual assessment. For purposes of federal consistency review, "[o]ffshore **developments shall not have** a significant adverse impact on the natural resources or existing human uses of the Rhode Island coastal zone..."

The evaluation of an offshore development on existing human uses must include whether "there is an overall **net benefit** to the Rhode Island marine economic sector from the development of the project or if there is an **overall net loss**."

The CRMC failed to properly assess any net benefit of the projects. The CRMC staff, in their report, admits that it could not assess the overall impact to RI's marine economy, stating on page 10 of its decision recommendations that, "It is unclear whether there will be an overall net benefit to the Rhode Island marine economic sector from the Project or if there will be an overall net loss."<sup>23</sup> Given the staff's inability to ascertain this critical determination required under the enforceable policies, under no circumstances should the CRMC have approved the project.

At no point does the Bureau of Ocean Energy Management (BOEM) ever clearly state or demonstrate that the projects will have a net benefit to the public, the planet, or climate change. To the best of our knowledge, no data or scientific study has ever directly proven that either offshore or onshore wind projects will help reduce our reliance on fossil fuels, decrease CO2 emissions, or help combat climate change. BOEM clearly states in multiple environmental impact statements (EISs) that the deleterious effects of climate change will continue unabated, despite the offshore wind projects, even collectively. In the Revolution Wind Final EIS, BOEM states, "The types of impacts from global climate change trends to commercial fisheries and for-hire recreational fishing described for the No Action Alternative *would occur* under the Proposed Action" (RWF, FEIS).<sup>24</sup>

Moreover, the BOEM does not expect a benefit from the entire buildout of offshore wind projects, stating in the Vineyard Wind EIS (Vol. II):<sup>25</sup> "Overall, it is anticipated that there *would be no collective impact* on global warming as a result of offshore wind projects,

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<sup>23</sup> [http://www.crmc.ri.gov/windenergy/revolution/RevWind\\_FedConDecision\\_20230512.pdf](http://www.crmc.ri.gov/windenergy/revolution/RevWind_FedConDecision_20230512.pdf), p. 10 of the staff report after the decision letter.

<sup>24</sup> <https://www.boem.gov/renewable-energy/state-activities/revolution-wind-final-eis>, 3.9–47.

<sup>25</sup> <https://www.boem.gov/renewable-energy/state-activities/vineyard-wind-1-feis-volume-2>, page A-66.

including the Proposed Action alone, though they may beneficially contribute to a broader combination of actions to reduce future impacts from climate change.”

How the CRMC could conclude that the overall net impact would not harm RI is unfathomable given that BOEM itself states, in the Record of Decision for Revolution Wind that, “Adverse environmental impacts in the Project area would generally be less under Alternative A (No Action).”<sup>26</sup>

The CRMC admits that they are incapable of making a determination of the net impact to RI’s marine economy. The CRMC notes, “Therefore, given the uncertainties of Revolution Wind’s economic exposure estimate and the FAB estimated potential losses, CRMC Staff cannot determine whether there will be an overall net benefit to the Rhode Island marine economic sector from the RWF Project or if there will be an overall net loss.”<sup>27</sup>

Without clear findings of fact, the CRMC’s federal consistency concurrence violates the Ocean SAMP.

3. **Relying on the BOEM’s DEIS (draft environmental impact statement).** The CRMC’s project review must also account for long-term adverse impacts to Rhode Island’s commercial fishing industry and marine economy. If the project adversely affects Rhode Island’s natural resources or human uses significantly, the project should be modified to avoid or mitigate the impact, or it should be denied. Uses or activities resulting in significant long-term adverse effects on Rhode Island’s commercial or recreational fisheries must be prohibited.

The CRMC uses BOEM’s Draft Environmental Assessment Statements (DEIS) to assess whether or not the project will produce long-term adverse impacts. This approach has several flaws.

**a. No Rhode Island–specific analysis:** First, BOEM’s report is not designed to evaluate the impact on RI’s marine economy alone. Instead, it addresses the impact on a broader region. For instance, when assessing the impact of the Revolution Wind project on commercial and recreational fishing, BOEM determined the percentage of fishing harvest that occurred from within this wind lease area by using all fishing in New England and the mid-Atlantic states as the denominator (DEIS, page 3.9-1). This grossly underestimates the importance of the Revolution Wind lease area to Rhode Island fishing.

When BOEM attempts to perform a more regional analysis, they state, “In addition, to provide a more localized geographical context the analysis describes commercial fishing revenue in the Regional Fisheries Area (RFA) for the Project, which includes Greater Atlantic Region Statistical Areas 537, 538, 539, 611, and 612.”<sup>28</sup> Area 611 and 612

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<sup>26</sup> <https://www.boem.gov/renewable-energy/state-activities/revolution-wind-record-decision-ocs-0486>, Record of Decision, p. 20

<sup>27</sup> [http://www.crmc.ri.gov/windenergy/revolution/3R evWind\\_FedConDecision\\_20230512.pdf](http://www.crmc.ri.gov/windenergy/revolution/3R%20evWind_FedConDecision_20230512.pdf), page 13 of the staff report.

<sup>28</sup> <https://www.boem.gov/renewable-energy/state-activities/revolution-wind-deis>, p. 3.9.1

include the coast of Connecticut, New Jersey and New York<sup>29</sup> and yet leave out 612 from the map of this regional analysis.<sup>30</sup> Including these regions, again, grossly distorts the importance of the Revolution Wind Lease area to fishing in Rhode Island. Moreover, BOEM misrepresents this in their figure of the area.

**b. Outliers:** A second flaw in BOEM’s analysis involves the way BOEM defines and treats “outliers” (see Appendix G of the DEIS, p. 23).<sup>31</sup> They defined “outliers” as vessels that relied on the lease area for an “exceptional” percentage of their total catch. By not incorporating these “outliers” into their means and quartiles, BOEM failed to properly recognize the degree to which the lease area would affect the fishing industry, particularly in RI.

**c. The No-Action Alternative:** BOEM also failed to provide a meaningful No-Action Alternative analysis in their analysis of the impacts on fishing. The no-action alternative was provided to serve as a baseline [for] the impact of the environmental justice populations. BOEM claimed the addition of the Revolution Wind project to the area would be minimal, given the already degraded baseline imposed by the other projects in the area, despite the fact that these projects had NOT yet been approved. Incorporating already approved projects into the baseline may have been appropriate, but incorporating all projects, even those in earlier planning stages, blatantly misrepresented the baseline project could be appreciated. By incorporating the anticipated harmful effects of all other proposed wind projects into the baseline, even though those projects had not yet been approved, BOEM misrepresented the baseline and effectively minimized the impact of the Revolution Wind project on RI fishing, historical properties, other human uses, and environmental justice populations. BOEM claimed the addition of the Revolution Wind project to the area would be minimal, given the already degraded baseline imposed by the other projects in the area, despite the fact that these projects had NOT yet been approved. Incorporating already approved projects into the baseline may have been appropriate, but incorporating all projects, even those in earlier planning stages, blatantly misrepresented the baseline.

Because the CRMC’s duty is to protect RI, it should not have relied on the biased and flawed analysis conducted by an agency whose mandate is to develop offshore wind farms rather than protect the natural resources and people of RI. In sum, when evaluating the impact of the project on fishing in Rhode Island, the RI CRMC should NOT have used the analysis in BOEM impact assessments.

Even if it had been appropriate for the CRMC to rely on BOEM’s analysis, the CRMC seems to have misunderstood or ignored the actual findings of fact in the BOEM documents. For instance, the BOEM DEIS for Revolution Wind clearly concludes, in section 3.9.1.2, that “BOEM anticipates that reasonably foreseeable offshore wind activities would have **long-term moderate to major adverse impacts** on commercial fisheries and **minor to moderate adverse impacts** on for-hire recreational fishing in the

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<sup>29</sup> <https://www.boem.gov/renewable-energy/state-activities/revolution-wind-deis>, p. 3.9.9

<sup>30</sup> <https://www.boem.gov/renewable-energy/state-a4 ctivities/revolution-wind-deis>, fig. 3.9-2

<sup>31</sup> <https://www.boem.gov/renewable-energy/state-activities/revolution-wind-deis>, p. 3.9.1

GAA,”<sup>32</sup> (geographic area of analysis). This should have been enough to disqualify the Revolution Wind project, as well as all other projects in the MA/RI Wind Lease Area.

4. **Cumulative Effects:** As a threshold matter, the CRMC does not account for the cumulative effects of private offshore wind on Rhode Island. It has considered and continues to evaluate each project as a stand-alone impact, which makes little sense in the context of private offshore wind development in the lease area off the Rhode Island and Massachusetts coasts. The cumulative effect of private offshore wind development in the land lease area will be catastrophic to Rhode Island and its citizenry.
5. **Coxes Ledge, a Habitat Area of Particular Concern:** The CRMC’s approval of the Revolution Wind project provides a glaring example of the CRMC’s abdication of its public trust responsibilities under the SAMP. The project comprises sixty-five turbines and two power substations on Coxes Ledge, about twelve miles south of Little Compton. Coxes Ledge is a glacial moraine. The SAMP recognizes glacial moraines as vital resources that must be protected from development activities. The CRMC allowed the private lawyer of the private, for-profit company to pacify its concerns about glacial moraine by inserting language that the developer would try to avoid glacial moraine to the extent “practicable.” By allowing this language, with no oversight, the CRMC failed to protect the public trust.

The National Oceanic and Atmospheric Administration recognized Coxes Ledge’s importance by labeling it a “Habitat Area of Particular Concern.” Following NOAA’s review of the Revolution Wind project, it concluded that the project would irreparably destroy the delicate Coxes Ledge ecosystem and would likely eradicate certain fish, like cod, and other organisms from southern New England.

Given the destruction that will inevitably result from a development project of this size on Coxes Ledge, the CRMC and all stakeholders agree that the Revolution Wind project will result in severe, long-term adverse effects on Rhode Island’s critical fisheries and marine economy. The CRMC and all stakeholders also agree the resulting harm will devastate the Rhode Island fishing industry. The commercial fishing industry alone will lose tens of millions of dollars. Generations of fishermen, sailors, yachters, boaters, and others will lose the benefit of this resource. Given these undisputed facts, the SAMP required the CRMC to reject this project. Yet, the CRMC approved it with almost no revisions.

There’s no turning back once Coxes Ledge and similarly sensitive habitats are developed. They will be destroyed. That’s why all nine Fishermen’s Advisory [Board] members resigned to protest the CRMC’s abdication of its responsibilities to conduct a “rigorous review” of offshore development. The Fishermen’s Advisory Board (FAB) is a board created by the SAMP specifically to advise the CRMC on the effects of large-scale ocean development on the Rhode Island fishing industry. The FAB has not been reconstituted, and the CRMC continues to review large-scale offshore wind projects violating the SAMP’s FAB advisory requirements (e.g., South Coast Wind and New England Wind). The CRMC’s become a rubber stamp for presidential policy preferences favoring private offshore wind

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<sup>32</sup> <https://www.boem.gov/renewable-energy/state-activities/revolution-wind-deis>, page 3.9.1.2

development. It has breached its public trust obligations in favor of political expediency. Generations of Rhode Islanders will suffer the consequences.

### **Summary**

In enacting the Coastal Zone Management Act (CZMA), Congress found coastal zones “essential to the well-being of all citizens” but “ecologically fragile and consequently extremely vulnerable to destruction by man’s alterations.” The purpose underlying Congress’ enactment of the CZMA was for the federal government to assist coastal states in preserving, protecting, and developing the nation’s coastal zones. The Coastal Resources Management Council (CRMC) has utterly failed as Rhode Island’s bulwark against the harms associated with ocean development. From a procedural and substantive perspective, the CRMC has violated the SAMP in conducting its federal consistency reviews of private offshore wind development. If these errors remain uncorrected, the harm to Rhode Island and the greater public will be devastating and possibly permanent.

**Response from NOAA’s Office for Coastal Management:** The purpose of this evaluation is to ensure that Rhode Island is implementing its federally-approved program, including its approved council structure, consistent with these requirements. NOAA finds that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program, adhering to the terms of the federal financial assistance awards, and addressing coastal management needs identified in section 303(2)(A) through (K) of the Coastal Zone Management Act. Comments on BOEM’s implementation of the Outer Continental Shelf Lands Act and its offshore wind program should be submitted to BOEM. Regarding CRMC’s implementation of the Ocean SAMP and offshore wind reviews, this evaluation acknowledges CRMC’s use of the Ocean SAMP and its review of numerous offshore wind proposals. CRMC’s CZMA concurrence decision letters contain substantial analysis of each project, its effects on Rhode Island coastal uses and resources, and consistency with the enforceable policies of the Rhode Island Coastal Resources Management Program. In doing so, CRMC relies on the substantial amount of information contained in each applicant’s Construction and Operations Plan submitted to BOEM, the applicant’s CZMA consistency certification, and BOEM’s NEPA DEIS and other documentation developed by BOEM. This is the information available as required by the CZMA regulations at 15 CFR part 930, subpart E and BOEM’s Outer Continental Shelf Lands Act regulations. When a state issues a concurrence for an applicant’s CZMA consistency certification, the CZMA does not provide for a third-party cause of action and the CZMA and NOAA’s regulations do not provide states with offering an appellate challenge to a state’s concurrence. (If a state issues an objection, then the state’s objection decision letter must describe the applicant’s right to appeal the objection to the U.S. Secretary of Commerce.)

Comment #14: Bobbi Houllahan, Providence, Rhode Island

The Rhode Island Coastal Resources Management Council needs to be led [by] informed professionals in light of climate change [and] sea level rise. To continue leaving the 400 miles of RI coastline in the hands of political appointees is ludicrous. Please act for reform.

**Response from NOAA's Office for Coastal Management:**

The Rhode Island Coastal Resources Management Program is led by an executive director and deputy who are two long-standing CRMC staff that have years of experience addressing pressing coastal management issues facing RI, including climate change and sea level rise. The evaluation team heard from many stakeholders about how professional and responsive the CRMC professional staff are. The evaluation team recognizes that some commenters are concerned that the politically-appointed council members, who make policy and permitting decisions for the CRMC, do not have adequate training or knowledge in coastal management issues.

The evaluation findings document includes one necessary action on supporting the capacity and expertise of council members (Necessary Action 2). Additionally, there is one recommendation addressing the nomination process for council members that would expand the expertise and community representation of council members (Recommendation 3).

As described in the introductory text of this appendix, the Rhode Island Department of Administration has reached out to NOAA to assist the state in exploring possible organizational changes to CRMC. However, the purpose of this evaluation is not to recommend that the state adopt a particular structure for its coastal management program. This evaluation concludes that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program. NOAA's Office for Coastal Management identified numerous accomplishments that demonstrate ways in which the Rhode Island Coastal Resources Management Council is meeting or exceeding program requirements. There are some areas that the CRMC must address by the timeframes specified (see Executive Summary). Finally, areas where NOAA believes changes could improve program implementation are included as recommendations.



**Comment #15: Erik Hoy, MD**

I'm writing to you to express my concerns over the current state of the coastal resources management in Rhode Island. My wife and I try to enjoy the shoreline with our two young children whenever possible, swimming, surfing, boating, and doing regular impromptu beach cleanups to protect our local beaches. Specifically, I'm concerned about the lack of protection for the public's coastal resources, coastal access, and the all-too-common occurrence of siding with the wealthy homeowners who violate these resources and rights. There is a notable lack of enforcement of current regulations, a common occurrence of approving permits post-violation, and allowing a large number of our public rights-of-way to [be] blocked illegally by abutters and neighboring land holders. There's also the problem of emergency variance permit approvals without any intent or efforts to follow up. In short, the Coastal Resources Management Council needs to be reformed and order replaced. Thank you for your consideration and for your attention to this problem that all Rhode Islanders face.

**Response from NOAA's Office for Coastal Management:**

As described in the introductory text of this appendix, the Rhode Island Department of Administration has reached out to NOAA to assist the state in exploring possible organizational changes to CRMC. However, the purpose of this evaluation is not to recommend that the state adopt a particular structure for its coastal management program. This evaluation concludes that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program. NOAA's Office for Coastal Management identified numerous accomplishments that demonstrate ways in which the Rhode Island Coastal Resources Management Council is meeting or exceeding program requirements. There are some areas that the CRMC must address by the timeframes specified (see Executive Summary).

The evaluation findings document includes one recommendation for the CRMC to consider to improve shoreline access (Recommendation 6).

The evaluation findings also highlight some controversial permitting and enforcement actions and noted the importance of the council following established management procedures and to consider the precedent their decisions would set. The evaluation findings include a necessary action that the Rhode Island Coastal Resources Management Program related to council procedures (Necessary Action 2).

Comment #16: Sheila Riley, Jamestown representative for CRMC matters

I write to you as the Coastal Resources Management Council's (CRMC) appointee for the Town of Jamestown. I have held this position for two or three years now. Never ONCE have I been invited or even notified to discuss CRMC matters affecting Jamestown, never ONCE have I been invited to meet with CRMC Board and staff: it is a ridiculous position to be in when one considers the weighty matters that the CRMC considers, affecting coastline issues in general, and Jamestown in particular. I cite in particular:

CRMC's blatant disregard of the testimony presented by 26 experts and Jamestown residents at the CRMC Zoom hearing regarding SHJBY's application for a permit to dredge the sea bottom of Dumplings Cove in October 2020. Six of the 10 sitting CRMC Councilmembers chose to ignore real environmental and public safety concerns. Of those six present (is that a quorum?), four voted to approve the permit without the required review and agreement of all 10 Councilmembers. It totally disregarded Jamestown's petition signed by over 600 Jamestown residents earlier that summer opposing the application in full.

- On Block Island in December 2020, a bloc of the 10-member Council met in secret with the appellants to overturn two of CRMC's previous rulings made over a 15-year period against the expansion of Champlin's Marina. Thankfully, Peter Neronha, Rhode Island Attorney General, stepped in and sought and obtained a RI Supreme Court order overturning CRMC's illegal action.
- In 2023, the CRMC ignored its own staff recommendation and the state legislature's requirement for [the legislature's] prior approval before any offshore wind underwater cables can be laid in Narragansett Bay and permitted its application for installation. CRMC was forced to rescind this decision once it came to light.
- Finally, this year the Quidnesset Country Club in North Kingstown built a 600-foot breakwater along the Bay, knowing it was illegal under CRMC's stringent water type classification of type 1. When they were called out, Quidnesset asked that the water type classification be changed to a more moderate type 2. Their application was unanimously opposed by the Congressional [sic] staff, but the Council ignored their opinion and decided to hold an upcoming hearing that very easily could again overturn a staff opinion and approve a changed water type.

Who are these members of the CRMC, what are their professional qualifications, and why do they continue to ignore professional staff recommendations, let alone override local objections to issues in local waters? It is well time to call this body to account for itself and change the way things work.

**Response from NOAA's Office for Coastal Management:**

The structure, authority, and procedures are established in state statute and regulation. Under these authorities, the politically-appointed council can make decisions contravening CRMC staff recommendations.

This evaluation findings include several necessary actions and recommendations for the Council (see Necessary Actions 1 and 2 and Recommendations 3).

As described in the introductory text of this appendix, the Rhode Island Department of Administration has reached out to NOAA to assist the state in exploring possible organizational changes to CRMC. However, the purpose of this evaluation is not to recommend that the state adopt a particular structure for its coastal management program. This evaluation concludes that the State of Rhode Island is

successfully implementing and enforcing its federally approved coastal management program. NOAA's Office for Coastal Management identified numerous accomplishments that demonstrate ways in which the Rhode Island Coastal Resources Management Council is meeting or exceeding program requirements. There are some areas that the CRMC must address by the timeframes specified (see Executive Summary). Finally, areas where NOAA believes changes could improve program implementation are included as recommendations.

**Comment #17: Marjorie Johnston, Wickford, Rhode Island**

I support the restructuring of the Coastal Resources Management agency so that knowledgeable scientists and specialists rather than special interests make decisions that affect Narragansett Bay and the coastal waters and all who use and enjoy them. There is too much potential for corruption when politically appointed board members make decisions in areas they are not trained in and are unaware of the consequences. Our coast and the bay are our state's most precious assets and must be cared for responsibly. It is our duty and obligation to hand them on to the next generation in better shape than we found them.

**Response from NOAA's Office for Coastal Management:**

The evaluation findings document includes one necessary action on supporting the capacity and expertise of council members (Necessary Action 2). Additionally, there is one recommendation addressing the nomination process for council members (Recommendation 3) that would expand the expertise and representation of council members.

As described in the introductory text of this appendix, the Rhode Island Department of Administration has reached out to NOAA to assist the state in exploring possible organizational changes to CRMC. However, the purpose of this evaluation is not to recommend that the state adopt a particular structure for its coastal management program. This evaluation concludes that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program. NOAA's Office for Coastal Management identified numerous accomplishments that demonstrate ways in which the Rhode Island Coastal Resources Management Council is meeting or exceeding program requirements. There are some areas that the CRMC must address by the timeframes specified (see Executive Summary). Finally, areas where NOAA believes changes could improve program implementation are included as recommendations.

**Comment #18:** Andrew S. Korfin, board member, Committee for the Great Salt Pond and Block Island homeowner

The creation of the Rhode Island Coastal Resources Management Council (CRMC) in 1972 had been a positive force for shoreline and estuarine protection, but this has changed and the current RI CRMC no longer resembles the organization the CRMC was originally envisioned to be [and] as the Federal Coastal Zone Management Act required. The existing council members are politically appointed volunteers, who are appointed with no requirement for any coastal management experience or expertise.

The Committee for the Great Salt Pond has been at the forefront of CRMC reform, and we feel that CRMC reform is needed. A new State Agency, similar to the RI Department of Environmental Management, is needed and should be administered by a cabinet-level director in the Executive Branch, accountable directly to the Governor and subject to legislative oversight.

Reorganizing the CRMC into a true State Regulatory Agency with a Director, professional staff, and an advisory council will make an enormous difference in the protection of Rhode Island's unique, fragile coastline. We urge you to find that the current structure of the CRMC is not working and to pressure the State to pass the House and State bills, which are already on the docket, to make these changes.

Thank you for your consideration.

**Response from NOAA's Office for Coastal Management:**

As described in the introductory text of this appendix, the Rhode Island Department of Administration has reached out to NOAA to assist the state in exploring possible organizational changes to CRMC. However, the purpose of this evaluation is not to recommend that the state adopt a particular structure for its coastal management program. This evaluation concludes that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program. NOAA's Office for Coastal Management identified numerous accomplishments that demonstrate ways in which the Rhode Island Coastal Resources Management Council is meeting or exceeding program requirements. There are some areas that the CRMC must address by the timeframes specified (see Executive Summary). Finally, areas where NOAA believes changes could improve program implementation are included as recommendations.

Comment #19: Donald H. C. Libbey

For purposes of full disclosure, I am a formal *pro se* objector to a pending aquaculture application for a location in Tiverton. It is not my intention to provide specific comments on that particular matter unless necessary but will instead provide more general comments on the Coastal Resources Management Council's (CRMC) current process and procedure.

The comments herein are informed from my experience as an active participant in many of the CRMC Bay SAMP Aquaculture Working Group's (Working Group) Zoom meetings over the last several years; active participation in local Tiverton Harbor Commission meetings; participation in several aquaculture education-related Zoom and in-person programs; and my online viewing of the multiple meetings of the Special House Legislative Commission to Study the Effects and Procedures for the Reorganization of the CRMC led by former RI House Representative Ruggiero and my written testimony submitted to the Committee.

I have been encouraged by CRMC's protection and enhancement activities related to access to public lands and the waters under its jurisdiction. CRMC's continued progress in identifying and designating historic and new public access points and rights-of-way (ROW) has been commendable, and I certainly hope that their efforts continue. My positivity, however, is tempered by CRMC's continued failure to provide an appropriate ombudsman who will solely represent the public's thoughtful, meaningful, and generally opposing comments on aquaculture project siting.

Currently, the CRMC employs an Aquaculture Coordinator (AC) whose job is to promote aquaculture development in the waters of RI. In doing so, the AC provides advocacy for those applicants within the municipality where the proposed site is located and advocates for the applicants before the Council seeking an assent and a permit to operate the aquaculture facility. All this promotion and advocacy is undertaken while simultaneously [and] allegedly assisting the public and various stakeholder opponents in navigating CRMC rules and regulations.

Based on the information submitted, including during the public comment period, the AC drafts and submits a recommendation in a Staff Report to the Council. Even where significant fact-based and good faith public opposition has been submitted, that opposing information goes to the AC, who historically and invariably deems the opposition information insufficient in the Staff Report. This presents a clear conflict of interest and not just the appearance of a conflict.

This clear conflict means the current aquaculture application process is inadequate to effectively represent what is in the public's best interest in the Council's final determination of whether to grant an assent. What is in the public's best interest is a statutory requirement under the CRMC enabling statute and RI's Constitution.

The current application process leaves no one to act for and in the best interest of the public and stakeholders. No one to assist the public in navigating the application process. No one acting as the central repository of public and stakeholder objections, submitted historic information, and important local knowledge. No one to identify issues raised by the public and stakeholders and no one to formally submit contrary (or not) recommendations to the Council for purposes of its vote on an aquaculture application. This is a large fault of the current application process and should be addressed in any evaluation of the CRMC and the aquaculture application process.

Since I am currently involved in a contested matter at the CRMC Hearing Officer level, my general and specific observations include the following:

- The CRMC and the Hearing Officer have not yet promulgated rules and procedures for the Hearing Officer to use in contested matters, nor have they, to my knowledge, adopted the rules and procedures used for contested matters before a subcommittee. This has led to, in my opinion, unnecessary and costly motion practice and a significant lengthening of the process
- The CRMC's attorney's involvement in the hearing process in my contested matter provides the potential for a conflict of interest or the appearance of a conflict of interest. At the very least, the Hearing Officer's counsel's direct participation raises the potential for a claim of bias and the supposed impartiality of any decision by the Hearing Officer.

Thank you for considering my comments and suggestions. I am available to assist and continue with this dialogue to the betterment of all Rhode Islanders and others that use our Public Trust waters.

#### **Response from NOAA's Office for Coastal Management:**

##### **Rights-of-Way**

NOAA's Office for Coastal Management acknowledges the Rhode Island Coastal Resources Management Program's accomplishments related to public access, including designating additional rights-of-way, in the evaluation findings. NOAA's Office for Coastal Management also encourages the Program to continue its work designating rights-of-way and included a specific recommendation related to that (Recommendation 6).

##### **Aquaculture Program**

NOAA's Office for Coastal Management has provided a recommendation in the findings to address the comments regarding aquaculture (Recommendation 1). The CRMC Staff subsection of the Program Administration section provides additional details on the evaluation team's findings related to the Rhode Island Coastal Resources Management Program's aquaculture program.

##### **Hearing Officer and Contested Hearings**

As described in these evaluation findings, NOAA's Office for Coastal Management acknowledges that there have been some improvements to staff access to legal counsel to address necessary actions from prior evaluation findings related to legal counsel. Despite these improvements, the 2025 findings also recommend additional actions to ensure staff receive the legal advice they need given today's demands, including during contested hearings (Recommendation 2).

Comment #20: Michael Lombardi, chartered marine technologist, Lombardi Undersea LLC

I am respectfully writing at this time in response to NOAA Office for Coastal Management's request for public comment regarding its review of the RI Coastal Resource Management Council (CRMC) relative to duties pursuant to the Coastal Zone Management Act (CZMA).

My comments are free from any conflicts of interest and are solely my own, influenced uniquely by a formal education in marine science and a near 30-year career in the marine sector, which has encompassed inshore construction as well as related trades and technology fields, all principally within Rhode Island waters. I have voluntarily elected to be vocal on recent matters pertaining to offshore wind development given numerous concerning observations of very troubling impacts on Rhode Island's coastal and offshore waters and throughout our deeply traditioned marine community.

Pursuant to R.I. Gen. Laws § 46-23-1 (a)(2),

*"The general assembly recognizes and declares that the coastal resources of Rhode Island, a rich variety of natural, commercial, industrial, recreational, and aesthetic assets, are of immediate and potential value to the present and future development of this state; that unplanned or poorly planned development of this basic natural environment has already damaged or destroyed, or has the potential of damaging or destroying, the state's coastal resources, and has restricted the most efficient and beneficial utilization of these resources; that it shall be the policy of this state to preserve, protect, develop, and, where possible, restore the coastal resources of the state for this and succeeding generations through comprehensive and coordinated long range planning and management designed to produce the maximum benefit for society from these coastal resources; and that preservation and restoration of ecological systems shall be the primary guiding principle upon which environmental alteration of coastal resources will be measured, judged, and regulated."*

The RI General Assembly, pursuant to 16 U.S.C. § 1452 ("The Coastal Zone Management Act"), directs the CRMC to undertake these responsibilities.

In the broadest of terms, the facilitation of any offshore industrial development off the Rhode Island coast very directly contradicts the primary and lawfully required guiding principle of preservation and restoration. The CZMA is explicit in 16 U.S.C. § 1452 (Section 303) (D) that,

*Priority consideration being given to coastal-dependent uses and orderly processes for siting major facilities related to national defense, energy, fisheries development, recreation, ports and transportation, and the location, to the maximum extent practicable, of new commercial and industrial developments in or adjacent to areas where such*

CRMC's approval of Revolution Wind, and even mere consideration for related wind projects, is a direct contradiction to this policy, as Rhode Island does not have offshore areas where such development already exists. The state's guiding principles are the result of recognizing that past *"unplanned or poorly planned development of this basic natural environment has already damaged or destroyed"*. When reflecting on historical coastal development activities within Rhode Island dating back to the industrial revolution, it is obvious that heavy marine construction carries impacts that indeed *"has the potential of damaging or destroying"*, and therefore projects proposed in modern times and in the future all present



environmental concessions to be considered. As such, CRMC's purpose, as charged under the CZMA, must carry bias towards preservation of natural habitats and/or restoration of habitats already damaged or destroyed. Siting within previously untouched and not immediately adjacent to current developed areas are off-limits to the "*maximum extent practicable*". Proposed projects intended for profit and not of direct and measurable public benefit that require material alterations of these natural environments, and do not improve the immediate natural environment, are inherently damaging and are therefore inconsistent with the CRMC's purpose.

Occurring beyond the 3-mile coastal water demarcation, the CRMC adopted the Rhode Island Special Area Management Plan (SAMP) in 2010 to guide requirements relative to public trust obligations for offshore development. Citizens of Rhode Island have rightfully challenged CRMC's navigation of these procedural and substantive requirements as resulting decisions have not fostered public trust. It remains unclear how offshore development activities are defensibly occurring in a manner consistent with the primary guiding principles of the CRMC, being to prioritize preservation and restoration, given that they occur away from areas where development already exists, in arguably pristine areas that are subject to routine use by other economic sectors that depend on the protection and preservation of the habitats in their natural and unaltered state.

Rhode Island has commissioned energy generating wind turbines throughout the state, on land. None of these structures represent coastal- or water dependent uses that even warrant further consideration for expansion into otherwise pristine habitats depended upon by coastal dependent enterprises including but not limited to commercial fishing. Notwithstanding, there is some presumption that CRMC has met federal consistency review determinations including defense of Enforceable Policy § 11.10.1(C): "*Offshore developments shall not have a significant adverse impact on the natural resources...*", stating as such within its Staff Decision Recommendation for Concurrence published on April 25, 2023. Among other requirements, CRMC somehow justified the exploitation of Cox Ledge which will indeed have significant adverse impacts on the natural resources it provides since Cox Ledge has had no prior development.

Certainly, there is no direct improvement to coastal or ocean habitats by materially altering their natural state through heavy construction activities and the erection of permanent industrial facilities. It is in the coastal and ocean habitats' best interest to be left alone, protected, or substantially restored where previous negative impacts have occurred. Siting for new developments away from prior developments violates the Congress' very intention of the CZMA.

The Revolution Wind project is sited, and has been constructed, atop Cox Ledge, which is a glacial moraine. The SAMP recognizes glacial moraines as vital resources that must be protected from development activities. NOAA recognized Cox Ledge's importance by labeling it a "Habitat Area of Particular Concern" noting that that the project would severely impact certain commercial fisheries such as cod, and permanently alter benthic substrata. The CRMC itself and its stakeholders also agreed that the project would prove devastating for the commercial fishing activity within this area. Yet, the CRMC approved the project.

This action was a very direct violation of public trust, causing all members of its Fisheries Advisory Board (FAB) to resign in protest. The FAB has not been reconstituted, and additional offshore projects are under review. Absent this board of subject matter experts, it is unclear whether the CRMC has at its disposal adequate advising for current offshore wind projects under consideration. Given such dramatic opposition by its own FAB, it is in the public's heightened and essential interest to fully understand all manners of procedural and substantive decision making of the CRMC as it applies to meeting its responsibilities under the CZMA, principled in Congress' declaration that our coasts and ocean environments are "*ecologically fragile and consequently extremely vulnerable to destruction by man's alterations.*" The trust in CRMC to meet this federal requirement, as well as the State's priority of preservation and restoration has been compromised and for unknown reasons may be absent altogether with respect to approvals of offshore wind projects.

Further, Rhode Island's SAMP is guided by extensive review of historic scientific data and literature as well as purpose-generated data and its analysis, all compiled in a Section 2 document comprised of 28 sections accounting for multiple thousands of pages of critical baseline science requiring expert interpretation in its application towards policy to ensure that CRMC has at its disposal thorough information from which to determine federal consistency while also aligned with its state designated principled purpose of preservation and restoration. The approval of Revolution Wind speaks against the scientific basis of the SAMP area including Cox Ledge, begging the question of whether the SAMP was reviewed in its entirety and with development consequences being well understood and considered with specificity to the CRMC's duty to care for federal environmental protections, including the Marine Mammal Protection Act, and the Endangered Species Act.

For just one example, the SAMP describes in detail the ecology of cetaceans and other marine mammals, presenting a species list in order of priority concern for protection, coupled with seasonal abundance data. All cetaceans listed are protected under the Marine Mammal Protection Act. Rhode Island waters are also traversed by the North Atlantic Right Whale (NARW) which is critically endangered. CRMC approval of the Revolution Wind project therefore concedes that permitting agencies, including NOAA Fisheries, must establish a mechanism to account for the interaction of construction that fundamentally alters critical habitat and is cause for wildlife behavioral disruptions due to harassment and possibility of physical injury with species listed under the MMPA and ESA.

The CRMC failed to recognize the far-reaching impact of its Revolution Wind authorization in May 2023, despite referencing the BOEM draft EIS. Consequently, NOAA Fisheries issued an Incidental Take Authorization (ITA) for Revolution Wind effective November 23, 2023. This ITA describes harassment for more than 19,000 individual marine mammals, including permitting 56 harassment events to the North Atlantic Right Whale through the current ITA period, all within Rhode Island waters. This accounts for some level of direct harassment on more than 15% of the NARW known population. Since the CRMC and NOAA Fisheries ITA application review processes appeared to occur concurrently, the final and complete harassment impact on these natural resources was presumably not accounted for by the CRMC within their federal consistency process.

The mere existence of this ITA, which followed CRMC project approval, is a principled violation of the duties entrusted to CRMC through the CZMA, the MMPA, and ESA, particularly given the priority of preservation and restoration. The permitted construction of offshore infrastructure that is not coastal or water dependent offers no downstream tangible benefits that will directly mitigate the harassment of 19,000 marine mammals including direct impacts on 15% of the NARW population. These acts are irreversible, arguably illegal, and without thorough understanding of consequences evidenced by declarations of Unusual Mortality Events directly aligned with offshore development in this area. The lack of prioritized preservation and restoration has created this cascade of impacts. NOAA Fisheries has restricted timing for certain construction activities to reduce harassment impacts via the ITA, though this represents a concession to mitigate what CRMC has found acceptable – approving what amounts to a series of ecocidal events, rather than precautionary measures to protect Cox Ledge for our benefit and the benefit of all transient and resident marine life.

Certainly, among its duties bestowed by the CZMA and the State of Rhode Island to prioritize preservation and restoration would be actions of substance to avoid such harassment events at all costs, by relocating projects to areas where previous development exists – on land or immediately adjacent to existing coastal infrastructure. Of course, this presents additional use conflicts pursuant to Congressional findings in 16 U.S.C. § 1451. (Section 302) (g) where *“Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values.”* While Rhode Island has more than 400 miles of coastline, its offshore areas have not been previously developed, with good reason, and further expanding development adjacent to existing developed coastline threatens the scenic value that is among the major economic drivers for State tourism. Considering these factors, large scale offshore or coastal

development does not appear consistent with state or federal environmental policy, and should not be considered at all, particularly when alternate and more cost-effective energy strategies are indeed available and would pose far less environmental impact on our coastal and offshore habitats.

In close, as a concerned citizen who depends greatly on the ocean for all aspects of my livelihood, the above and additional concerns do not generate any confidence or trust that our state and federal agencies are doing their part in upholding conservation priorities and environmental protections; rather quite the opposite—conceding nature under political directive to facilitate industrial development for profit. This same profit-over-preservation is the root cause of our fossil fuel dependency problem and will not be solved by shifting environmental concessions to another medium (oceans). I have personally experienced the oceans' ability to provide us with both transformative gifts and economic benefits warranting its preservation—new species, new medicinal lead compounds, inspiration for medical devices, and it goes on. There are responsible means to capitalize on these numerous gifts from the sea to fuel a truly Blue Economy—none of them require *incidentally taking* anything nor conceding long fought environmental protections for industrial-scale profit. The matters at hand are no different than the discharge of forever chemicals into the environment, mowing down the rainforests, or even burning fossil fuels—heed these lessons learned. Please, leave the ocean alone. In your review of the CRMC, I respectfully urge fact-finding to expose how and why decisions to approve Revolution Wind materialized given obvious contradictions to state and federal policy directives, well established marine science itself, and ignorance to the cascade of impacts that have left public trust undone with numerous Rhode Islanders.

**Response from NOAA's Office for Coastal Management:** The purpose of this evaluation is to ensure that Rhode Island is implementing its federally-approved coastal management program, including its approved council structure, consistent with the requirements of the CZMA. NOAA finds that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program, adhering to the terms of the federal financial assistance awards, and addressing coastal management needs identified in section 303(2)(A) through (K) of the Coastal Zone Management Act. Regarding CRMC's implementation of the Ocean SAMP and offshore wind reviews, this evaluation acknowledges CRMC's use of the Ocean SAMP and its review of numerous offshore wind proposals. CRMC's CZMA concurrence decision letters contain substantial analysis of each project, its effects to Rhode Island coastal uses and resources, and consistency with the enforceable policies of the Rhode Island Coastal Resources Management Program. In doing so, CRMC relies on the substantial amount of information contained in each applicant's Construction and Operations Plan submitted to BOEM, the applicant's CZMA consistency certification, and BOEM's NEPA DEIS and other documentation developed by BOEM. This is the information available as required by the CZMA regulations at 15 CFR part 930, subpart E and BOEM's Outer Continental Shelf Lands Act regulations.

Comment #21: Gidget Loomis

I am 100% in favor of reforming the Coastal Resources Management Council (CRMC) and allowing the staff to make many decisions. Problems have been long-standing but getting worse each year.

Here's a perfect example of poor council decisions. In North Kingstown, there was an application to build a home on a steep bank above a saltmarsh about 15 years ago. Neighbors on both sides of the marsh objected, worried about the small size of the lot and the steepness. The town council of North Kingstown recommended denial. Both the staff biologist and staff engineer recommended denial for many reasons. The North Kingstown councilmember voted to deny it. All the other members approved the application. The applicant happened to be a builder who had a reputation of buying up coastal properties and pushing the limits of permitting and exceptions and variances to build houses and condos, so he was frequently before the council.

Please restructure the agency. Thank you.

**Response from NOAA's Office for Coastal Management:**

As described in the introductory text of this appendix, the Rhode Island Department of Administration has reached out to NOAA to assist the state in exploring possible organizational changes to CRMC. However, the purpose of this evaluation is not to recommend that the state adopt a particular structure for its coastal management program. This evaluation concludes that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program. NOAA's Office for Coastal Management identified numerous accomplishments that demonstrate ways in which the Rhode Island Coastal Resources Management Council is meeting or exceeding program requirements. There are some areas that the CRMC must address by the timeframes specified (see Executive Summary). Finally, areas where NOAA believes changes could improve program implementation are included as recommendations.

**Comment #22: Nancy Meehan**

I'm writing to express my deep concern that the Coastal Resources Management Council (CRMC) is not working for the RI coast, its habitat, nor citizens. Questionable deals (which appear to work only for a select few), lack of expertise, lack of sincerely listening to and working with fishermen, Save the Bay, amongst other issues, yet being continually funded by tax payers, does not sit right and shows a lack of priorities. After many years and opportunities for CRMC to be effective, its obvious inability to protect and share RI's greatest natural feature, the coast and its resources, it's time to get serious about ending CRMC's existence and moving forward before things become even worse.

**Response from NOAA's Office for Coastal Management:**

As described in the introductory text of this appendix, the Rhode Island Department of Administration has reached out to NOAA to assist the state in exploring possible organizational changes to CRMC. However, the purpose of this evaluation is not to recommend that the state adopt a particular structure for its coastal management program. This evaluation concludes that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program. NOAA's Office for Coastal Management identified numerous accomplishments that demonstrate ways in which the Rhode Island Coastal Resources Management Council is meeting or exceeding program requirements. There are some areas that the CRMC must address by the timeframes specified (see Executive Summary). Finally, areas where NOAA believes changes could improve program implementation are included as recommendations.

Comment #23: Kenneth Mendez, Tiverton, Rhode Island

Thank you for the opportunity to provide comments on the performance of Rhode Island's Coastal Resources Management Council ("CRMC" or "Agency"). I am very engaged in the Rhode Island recreational fishery community and with local conservation groups and interests. I want to make clear that I am sending this letter on my own behalf and it is not associated with anyone else or for any other group.

In my opinion, the CRMC is failing to meet certain obligations under the Coastal Zone Management Act of 1972 (CZMA). I am an avid fisherman in Tiverton, RI, and my experience in dealing directly with the CRMC leads me to this conclusion. An application for an aquaculture operation in the waters of Sapowet Cove in Tiverton, Rhode Island, provides evidence of the CRMC's failures. CRMC has also failed to meet a mandatory recommendation from [NOAA's FINAL Evaluation Findings dated August 2010](#).

For the past three years, there has been overwhelming opposition from the Town of Tiverton, the Tiverton Conservation Commission, the Tiverton Harbor Commission, hundreds of individuals within the Tiverton Community, and large stakeholder groups like the Rhode Island Saltwater Angler's Association, Backcountry Hunters and Anglers, the Rhode Island Canoe and Kayak Association to an aquaculture project proposed for waters in Tiverton. The commercial aquaculture operation would encroach on waters that have special natural and scenic characteristics next to the Sapowet Wildlife Management Area. Even with the passage by the Rhode Island General Assembly of a [new state law](#) in 2024 that bans commercial activities from the proposed location, the Agency has not dismissed this application.

The actions of the Agency in its aquaculture division suggest that the current structure of the Agency, from its aquaculture staff to its politically appointed council, creates a culture that does not foster effective management, beneficial use, protection, and development of the coastal zone. What follows are specific examples related to this case where the Agency is failing:

**1. Necessary Action Failure: Separate functions of the CRMC administrative hearing officer and CRMC legal counsel**

NOAA's August 2010 Final Evaluation Findings of CRMC cited as a Necessary Action that "CRMC must separate the functions of the CRMC administrative hearing officer from the functions of the CRMC legal counsel...The intent of this action is to prevent a real or perceived conflict of interest...."<sup>33</sup> In the current proceedings assigned to the hearing officer for the contested Bowen application, the [firm acting as CRMC legal counsel](#) has been providing legal support and legal arguments to the hearing officer. [At the July 15, 2024 meeting, the CRMC lawyer, Mr. Hartman, established his role for all parties saying "I represent the agency and as part of that I represent Mr. Kreiger and the Council..."](#) Is there a real or perceived conflict of interest when the

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<sup>33</sup> FINAL Evaluation Findings Rhode Island Coastal Resources Management Program November 2005 through February 2010, page 11.

CRMC legal counsel acts in this capacity to support the hearing officer?<sup>34</sup> What are the consequences for failure to comply with a Necessary Action if the deadline for Necessary Action was in 2010?

## **2. Failure of CRMC to exercise its responsibilities effectively and provide for key items under 16 U.S.C. § 1452 Section 303.**

Congressional declaration of policy 16 U.S.C. § 1452. (Section 303) asks for states to “...exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone....” However, in practice, what I have seen is the opposite.<sup>35</sup> The state legislature stepped in to protect Tiverton waters from commercial development and keep them in their natural, undeveloped state. Tiverton State Representative John P. Edwards recognized the CRMC’s failure to provide protection for the special natural and scenic characteristics of these waters. [He introduced and championed this bill](#). Representative Edwards provided these comments about his rationale and the CRMC’s performance on this application when he introduced the bill to his fellow legislators:

*“...This is about preserving a very, very special area at the mouth of the marsh...If CRMC had done their job four years ago when the applicants first brought this forward, they would have gone out there and looked and said that this is a unique area and should not be commercialized. Unfortunately, they’ve dragged the applicants through and all the constituents in this area through the mud on this for four years, and they still haven’t resolved it...This (bill) would solve the issue to preserve Sapowet Cove...”*<sup>36</sup>

## **3. Staffing Conflict of interest and bias in aquaculture permitting process**

A conflict of interest exists in the aquaculture permitting process because a single CRMC staff member, the aquaculture coordinator, is responsible for permitting and promoting aquaculture. The aquaculture coordinator’s priority is to expand commercial aquaculture in Rhode Island coastal waters. This bias, which favors development over protection, leaves coastal zone waters that have special natural and scenic characteristics exposed to development when they should be protected.

Currently, a single staff person evaluates aquaculture applications and is also responsible for advocating, promoting, and growing the aquaculture industry. Without checks and balances, these competing responsibilities held by one person can favor the granting of permits and erode public confidence in the CRMC’s ability to be unbiased in upholding the Public Trust.

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<sup>34</sup> Attached as Exhibit A are specific meeting dates and hyperlinks within those meetings where the CRMC legal counsel and administrative hearing officer discuss working together and where it appears there is no separation of function.

<sup>35</sup> Attached Exhibit B lists where CRMC decisions do not align with CZMA obligations listed in § 1452 (2)A, C, E, G, and J.

<sup>36</sup> Video of testimony can be found at RI Capitol TV February 14, 2024 House Committee on Municipal Government and Housing at time stamp 11:33

The Agency has no equivalent staff professional or ombudsman to advocate for public waters or for objectors when there are clear deficiencies in an application. The process for considering aquaculture has led to long, drawn-out decision-making processes that leave applicants and objectors frustrated. The Agency's aquaculture coordinator expedites and advocates for aquaculture applicants through the regulatory process. Advocating for applicants can lead to cursory reviews of applications and accommodation of commercial development in special natural and scenic characteristic areas that should remain off limits. This places private citizens in a role where they must advocate for more thorough reviews of applications to identify facts that are not accurate or are missed in applications. An ombudsman capacity in the regulatory process at the Agency could have responsibilities to uncover flaws in applications and review processes. For example:

- **May 2021.** The aquaculture staff report, approved by the CRMC executive director and deputy executive director, was brought to the full Council for approval without the necessary requirements as stated in CRMC's regulations. *The CRMC's counsel recommended that the application be delayed from consideration until proper approvals were granted.*
- **June 2021.** Self-reported answers in the application and in testimonies by the applicants went unverified. – Tiverton Harbor Commission member *remarks about truthfulness and accuracy of application.*
- Access to the lease area through sensitive intertidal habitat<sup>37</sup> from private land was not addressed by the aquaculture coordinator. Habitat intrusion from commercial activity from private land to the proposed location would be over a public intertidal area defined by the Rhode Island Department of Environmental Management (RIDEM) as Important Coastal Habitat and High Value/High Vulnerability Habitat. This information was not conveyed to the correct division within RIDEM nor disclosed in the staff report. The aquaculture coordinator's advocacy for the applicant can be seen at a Tiverton Harbor Commission meeting where he encourages Commissioners *"to do the right thing"* and assures Commissioners that the applicants *"have been very open and forthcoming."*

While the examples I have provided are specific to one application, I hope they can be combined with other public comments about CRMC actions to provide a larger perspective for your evaluation. The CRMC must do better in its aquaculture operations to meet its obligations under the CZMA.

#### **Response from NOAA's Office for Coastal Management:**

1. **Necessary Action Failure: Separate functions of the CRMC administrative hearing officer and CRMC legal counsel.**

The CRMC Staff subsection of the Program Administration section of this evaluation finding discusses the 2010 hearing officer Necessary Action. As described in these evaluation findings, NOAA's Office for Coastal Management acknowledges that there have been some improvements to staff access to legal counsel to address necessary actions from prior evaluation findings related to legal counsel. Despite these improvements, the 2025 findings also

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<sup>37</sup> Rhode Island Department of Environmental Management (RIDEM) has a State Wildlife Action plan that defines threats to Species of Greatest Conservation Need and their Key Habitats, Chapter 4. A RIDEM GIS map displays conservation opportunities in the Coastal Zone of Sapowet Marsh which is mapped as a Natural Heritage Area.



recommend additional actions to ensure staff receive the legal advice they need given today's demands, including during contested hearings (Recommendation 2).

2. **Failure of CRMC to exercise its responsibilities effectively and provide for key items under 16 U.S.C. § 1452 Section 303.**

This evaluation concludes that the State of Rhode Island is successfully addressing coastal management needs identified in section 303(2)(A) through (K) of the Coastal Zone Management Act.

3. **Staffing Conflict of interest and bias in aquaculture permitting process**

The evaluation findings discuss the need for additional staff and capacity for CRMC. NOAA's Office for Coastal Management specifically identifies aquaculture as possible priority areas for increased resources. The evaluation findings discuss the conflict of interest (perceived or real) in the aquaculture program and proposes alternative arrangements (Recommendation 1).

**Comment #24:** Cheryl Moore, president, Committee for the Great Salt Pond and Block Island summer resident

The creation of the Rhode Island Coastal Resources Management Council (CRMC) in 1972 had been a positive force for shoreline and estuarine protection, but this has changed and the current RI CRMC no longer resembles the organization the CRMC was originally envisioned to be [and] as the Federal Coastal Zone Management Act required. The existing council members are politically appointed volunteers who are appointed with no requirement for any coastal management experience or expertise.

The Committee for the Great Salt Pond has been at the forefront of CRMC reform, and we feel that CRMC reform is needed. A new State Agency, similar to the RI Department of Environmental Management, is needed and should be administered by a cabinet-level director in the Executive Branch, accountable directly to the Governor and subject to legislative oversight.

Reorganizing the CRMC into a true State Regulatory Agency with a Director, professional staff, and an advisory council will make an enormous difference in the protection of Rhode Island's unique, fragile coastline. We urge you to find that the current structure of the CRMC is not working and to pressure the State to pass the House and State bills which are already on the docket to make these changes.

**Response from NOAA's Office for Coastal Management:**

As described in the introductory text of this appendix, the Rhode Island Department of Administration has reached out to NOAA to assist the state in exploring possible organizational changes to CRMC. However, the purpose of this evaluation is not to recommend that the state adopt a particular structure for its coastal management program. This evaluation concludes that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program. NOAA's Office for Coastal Management identified numerous accomplishments that demonstrate ways in which the Rhode Island Coastal Resources Management Council is meeting or exceeding program requirements. There are some areas that the CRMC must address by the timeframes specified (see Executive Summary). Finally, areas where NOAA believes changes could improve program implementation are included as recommendations.

**Comment #25: David Moss**

In your upcoming report I strongly encourage you to consider disbanding the Rhode Island Coastal Resources Management Council and recommend reconstituting a new regulatory council that is free from political bias leading to long delays and mere opinion-based decision-making.

The next iteration of the council should be populated by members who are either elected or full-time government scientists and policymakers who will follow best practices for coastal management decision-making.

Perhaps the most compelling case for such a recommendation is the blatant disregard of Rhode Island law in the work of the CRMC, including the one recently enacted pertaining to Seapowet Cove. Additionally, I have witnessed firsthand current members make false statements at meetings regarding the frequency of use of the shoreline under CRMC jurisdiction for recreation.

Given the current structure, false statements and bias will continue to foster poor oversight of our precious coastline resource.

**Response from NOAA's Office for Coastal Management:**

As described in the introductory text of this appendix, the Rhode Island Department of Administration has reached out to NOAA to assist the state in exploring possible organizational changes to CRMC. However, the purpose of this evaluation is not to recommend that the state adopt a particular structure for its coastal management program. The purpose of this evaluation is to determine if the state is adhering to the requirements of the CZMA and implementing its federally approved coastal management program. This evaluation concludes that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program. NOAA's Office for Coastal Management identified numerous accomplishments that demonstrate ways in which the Rhode Island Coastal Resources Management Council is meeting or exceeding program requirements. There are some areas that the CRMC must address by the timeframes specified (see Executive Summary). Finally, areas where NOAA believes changes could improve program implementation are included as recommendations.

The evaluation findings include a recommendation on broadening the representation and expertise for nominees to the council (Recommendation 3) and a necessary action to continue education for the councilmembers (Necessary Action 2).

**Comment #26: Michael Woods, chair, New England Chapter Board, Backcountry Hunters & Anglers**

Backcountry Hunters & Anglers (BHA) seeks to ensure North America's outdoor heritage of hunting and fishing in a natural setting. Our members consider access to public lands and waters and protection of our natural resources top priorities, recognizing that both of these things are essential to our participation in, and the perpetuation of, our outdoor traditions.

Several aspects of Backcountry Hunters & Anglers' mission overlap with the jurisdictional area and regulatory focus of the Rhode Island Coastal Resources Management Council (CRMC). As a result, the New England Chapter of Backcountry Hunters & Anglers has worked alongside CRMC staff to advance initiatives when our goals and interests overlap. We have also participated in the Council's regulatory permitting processes to ensure BHA's perspective is considered when decisions affecting RI's public lands, water and wildlife, and access to them are made. The comments provided herein will detail BHA's experiences, observations, and concerns that are relevant to NOAA's performance evaluation.

**Administration – Council Membership**

Since its creation over five decades ago, the CRMC's structure has involved an empowered volunteer council and a subordinate professional staff. Over the last several years, BHA has become increasingly concerned with the appropriateness and effectiveness of this structure for carrying out RI's coastal program.

In its 2010 performance evaluation, NOAA required that CRMC ensure additional members were appointed to fill out the council's membership. CRMC's meeting minutes show that in the terminal years of the 2019 performance evaluation the council was fully appointed with 10 members serving. Unfortunately, CRMC's ability to maintain full membership after their last performance assessment has regressed—the council had 8 members serving in 2020, 7 in 2021, 8 in 2022 & 2023, and as of October 2024 has 7. This is very concerning because the statutory quorum requirement for CRMC to conduct business is 6 members present.

NOAA's concerns in 2010 were not limited to CRMC's ability to maintain a full council of appointees — the necessary action also raised concerns about the council's ability to conduct a regular, full schedule of meetings in order to implement RI's approved coastal plan. Disappointingly, CRMC has also struggled to meet this requirement during the evaluation period. Over the last five years, CRMC's records reveal that the council has canceled approximately 20% of its semimonthly meetings with no clear reason provided as to why they were not held, although we suspect failure to achieve quorum is the main contributor. In 2022, the year with the highest proportion of cancellations during the evaluation period, the council scheduled 20 semimonthly meetings and cancelled 6 of them (30%).

We recognize that the structure that the State of Rhode Island chooses to carry out its coastal program is outside of NOAA's control (as NOAA clearly stated in the 2010 performance report, p. 12, paragraph 2), we are concerned that the empowered volunteer council is not workable in Rhode Island at this point, as evidenced by its long-term, recurring failures both to maintain a full membership and to hold a full schedule of meetings. At a minimum, BHA urges NOAA to reiterate and require its prior necessary action requiring the state to resolve CRMC's membership and meeting cancellation issues. Additionally, we urge NOAA to include a recommendation that the State of Rhode Island consider restructuring CRMC's statutory authority such that its full-time professional staff is empowered to carry out RI's

coastal program, rather than its council of appointed volunteers, as a means to resolve CRMC's chronic appointment and meeting cancellation issues.

#### **Administration – Hearing Officer & Legal Counsel**

During its 2010 evaluation, NOAA issued a necessary action for CRMC to separate the functions of its administrative hearing officer from its legal counsel. At that time, CRMC's legal counsel was acting as the hearing officer for contested administrative cases, while also acting as a legal advisor to the staff and/or council. NOAA expressed concerns that this created a perceived and potentially real conflict of interest and called into question the impartiality of CRMC's decisions.

In 2023, a statutorily empowered administrative hearing officer was appointed by RI's Governor and confirmed by the RI Senate for the first time. Since then, one permitting application that BHA is involved with has been referred to the hearing officer as a contested matter (CRMC App. 2020-04-037). Between April 2024 and today, CRMC's hearing officer has held two pre-hearing conferences and one public hearing on 2020-04-037 [sic]. During all proceedings, CRMC's legal counsel has been present beside the hearing officer. Most recently, at a public hearing on September 23, 2024, CRMC's legal counsel was not only present beside the hearing officer but also interacted openly with the parties to the contested matter and introduced their own legal research/case law references, which directly challenged the position and rationale entered by one side in a written motion prior to the hearing. Further complicating the issue, the other party chose to represent themselves 'pro se' and has subsequently struggled to participate meaningfully in the hearing officer's quasi-judicial investigatory process. The rationale that was researched and produced by CRMC's legal counsel assisted their position with legal acumen that they almost certainly were not capable of producing themselves as non-attorneys.

BHA is concerned that what is currently occurring between CRMC's hearing officer and legal counsel is akin to the issue that NOAA required CRMC to resolve in 2010. Now that a hearing officer has been appointed pursuant to RI's statutes, they are required to *"be devoted full time to these administrative duties, and shall not otherwise practice law while holding office nor be a partner nor an associate of any person in the practice of law"* (RIGL § 46-23-20.1). In contrast, there are no such impartiality requirements of CRMC's legal counsel, who as a private practice law firm can generally practice law elsewhere, can lobby the government on behalf of other entities, and can even be retained simultaneously as legal counsel for a coastal municipality that has been directly involved in and taken specific advocacy positions on the contested matter currently before the hearing officer. Further, it is unclear why CRMC's hearing officer, who is statutorily required to be proficient in legal matters as a practicing attorney, requires the assistance of CRMC's legal counsel to conduct investigatory hearings on contested permit applications. Finally, given that the contested permit application will inevitably return to the CRMC for a final decision once the hearing officer has completed their investigation, it will be nearly impossible to view the council's decision as impartial because the facts that the decision will rely upon had been influenced by the participation their own legal counsel, rather than being a product exclusively of an independent, impartial hearing officer and the parties to the contested matter.

BHA urges NOAA to reiterate its necessary action from 2010, requiring the functions of CRMC's administrative hearing officer and CRMC's legal counsel to be completely independent, especially given that CRMC finally has a hearing officer appointed pursuant to the statute. Further, NOAA should issue a recommendation related to the potential conflict of interest that arises from CRMC's legal counsel simultaneously acting as legal counsel to a coastal municipality that from time to time is involved in matters that appear before the council.

### **Public Access – Shoreline Access Law & Rights-of-Way**

Protecting and enhancing access to public lands and waters is central to BHA's mission and, subsequently, this is the area where BHA's interests are most aligned with CRMC. During the performance evaluation period, CRMC made significant progress within this focus area, although there is still some room to improve.

During their 2023 legislative session, RI's General Assembly passed a law that corrected a flawed 1982 RI Supreme Court ruling, effectively replacing a scientific but practically unidentifiable boundary with a new, identifiable demarcation line on RI's beaches and rocky shores below which Constitutional shoreline rights and privileges are protected. CRMC staff, and particularly the Executive Director, were integral to the crafting of the law, which was rigorously debated by a legislative study commission between the 2021 and 2022 legislative sessions. After its enactment, the CRMC created an informational webpage linked to QR-coded placards at designated rights-of-way and other shoreline access points to inform the public on the practical application of the new law and where, exactly, shoreline rights are protected. Additionally, CRMC staff has conducted webinars, presentations, and beach walks to further educate the public.

Compared to the prior evaluation period, during which CRMC made little progress on designating rights-of-way (ROW), at least nine new ROWs in three different coastal communities have been designated during the evaluation period. The majority, and potentially all, of the newly designated ROWs were relatively noncontentious and essentially existed on property owned and maintained by the municipalities within which they occur. In contrast, CRMC's ROW Subcommittee and legal counsel have spent approximately the last eighteen months engaged in researching a very contentious potential ROW in Westerly, where progress seems to be throttled by CRMC's relatively small legal budget and the availability of volunteer council members to hold meetings. As a general trend, BHA is concerned that CRMC lacks sufficient financial and legal resources to carry out its work, and further that public-benefit functions, such as ROW research and designation, seem to be disproportionately impacted when bandwidth is limited.

Also relevant to ROWs: Around 2022, CRMC staff, in collaboration with the University of Rhode Island's Coastal Institute, created an interactive ROW tool that provides visual references and access to each ROW's designation documentation. We cannot understate the value of these resources to the access-seeking public as it centralizes relevant information in an easy-to-use, visual interface that is considerably more useful than anything that may have existed prior.

### **Protection of Natural Resources/Coastal Habitat**

Through their Coastal and Estuary Habitat Restoration Program and Trust Fund, CRMC has consistently funded projects focused on restoring and enhancing coastal habitats in partnership with the Narragansett Bay National Estuarine Research Reserve. Relative to the BHA's members, who are primarily hunters and anglers, these projects are vital to the fish and game species that we value most. Projects include restoration of coastal marsh and marine habitats that are important to migratory waterfowl and fish passage/dam removal projects that benefit the state's diadromous fisheries.

In contrast, the CRMC has been lackadaisical about addressing a major violation that is currently damaging sensitive coastal habitat perpetrated by the Quidnessett Country Club in North Kingstown, which constructed an unpermitted riprap revetment approximately 600 feet long more than one year ago. The country club's property is located adjacent to type 1 conservation waters, where shoreline hardening is prohibited under all circumstances. After CRMC staff issued a notice of violation, the club

petitioned CRMC to reclassify the water type such that their illegal seawall might be allowed to remain after a “cost of doing business” fine is paid. Rather than following the advice of their staff and compelling its removal, the council continues to draw out the process and provide the country club with additional opportunities to “make their case,” while their illegal development continues to block public access and damage the surrounding coastal environment. Further complicating the matter, the country club has retained the former council chair to represent them before the current council, making it extremely difficult to determine whether the deference that they receive is appropriate or if it somehow relates to residual favoritism for the former council chair, who presided over more than half of the council’s currently serving members only a few years ago.

As our comments have detailed, BHA feels that CRMC has excelled in some facets of its work, particularly the work that CRMC staff has led related to public access despite their relatively limited resources. In contrast, we have some structural and practical concerns related to CRMC’s empowered council and its conduct that we urge NOAA to resolve through necessary actions or recommendations.

### **Response from NOAA’s Office for Coastal Management:**

#### **Administration – Council Membership**

The evaluation findings include two necessary actions (Necessary Action 1 and Necessary Action 2) and one recommendation (Recommendation 3) on council membership.

#### **Administration – Hearing Officer & Legal Counsel**

As described in these evaluation findings, NOAA’s Office for Coastal Management acknowledges that there have been some improvements to staff access to legal counsel to staff to address necessary actions from prior evaluation findings related to legal counsel. Despite these improvements, the 2025 findings also recommend additional actions to ensure staff receive the legal advice they need given today’s demands, including during contested hearings (Recommendation 2).

NOAA’s Office for Coastal Management has recognized the benefit of a staff attorney position for CRMC in past evaluation findings (e.g., 2010, 2020) and was supportive of the CRMC pursuing approval and funding for this position with the Rhode Island legislature. We understand the CRMC has made several requests for this position in recent years but has not been successful. While NOAA’s Office for Coastal Management continues to be supportive of the CRMC pursuing a staff attorney position, recognizing the cost of additional legal services, we chose to use these evaluation findings to suggest alternative pathways the CRMC could pursue to increase their legal capacity.

#### **Public Access – Shoreline Access Law & Rights-of-Way**

The evaluation findings document several advances that the Rhode Island Coastal Resources Management Program has made in regards to shoreline access and rights-of-way (Accomplishments 3, 4 and 5). The evaluation findings also document challenges with the establishment, monitoring, and enforcement of rights-of-ways and provide a recommendation to address this concern (Recommendation 6).

#### **Protection of Natural Resources/Coastal Habitat**

The unpermitted riprap revetment at Quidnessett Country Club in North Kingstown is briefly discussed in the Coastal Resilience section of this findings document. We understand that the council unanimously voted to reject the country club's petition for a change in shoreline classification on January 28, 2025. In all decision making processes, NOAA's Office for Coastal Management encourages the CRMC to follow established management procedures (650-RICR-10-00-1) and the Coastal Resources Management Program, as amended (a.k.a. Red Book: 650-RICR-20-00-01) and to consider the precedent that would be set by approving the rulemaking request from Quidnessett Country Club to reclassify the water type after a violation was issued.



**Comment #27: Michael Sands, president, Nope's Island Conservation Association**

I am writing with feedback on the Coastal Resources Management Council (CRMC). I start by saying we are a 501(c)(3) that is all about conserving the Quonochontaug Barrier Beach. We allow pedestrian access to all our properties for the public. We have been struggling with sand pass and non-sand pass users trespassing, killing sea grass and driving on dunes along the Quonnie Beach. We have had little support from CRMC and have several unanswered emails to them. Our constructive comments lie in three main areas:

**CRMC needs to publicly state and stand by their regulations:** CRMC is being targeted by social media, out-of-state folks, and RI citizens who do not believe in conservation. Employees are fearful of retribution to state the actual red book regulations and stand by them. They fear that any adverse stance could potentially create a controversy that could lose them their jobs. This is wrong. The regulations are there to protect our state's natural resources. They should be supported and not bullied in their roles. CRMC does not have a field agent issue. We have found them to be highly competent, very supportive, and dedicated to conservation efforts. They have been muted, and the current leadership will not put their necks out due to their own political persecution. It seems that everyone is afraid to say anything or give real guidance. The CRMC needs to stop this toxic cycle and create an environment where talented folks can do their jobs fearlessly. Someone needs to stand up and protect them and the coastline.

**Lack of enforcement by the CRMC of its red book regulations:** CRMC is underfunded and has only two enforcement officials for over 400 miles of coastline. We have 45-plus GPS time-stamped photos with license plates of sand trail permit holders violating red book regulations. Yet no one from CRMC has returned my emails nor have any enforcement officers shown up. What good is having regulations when they are not enforced? This actually does more damage, because the violators know they can continue to violate, and no one will do anything. Other state agencies and local police will not enforce, because they say that "[if the] CRMC will not enforce, why should we?" It is a terrible circle of no accountability while nature resources get damaged. Any improvement that does not address enforcement will be a failure.

**Lack of communication:** CRMC has taken up several rights-of-way (ROW) issues and not contacted the people whose property is actually involved. Specifically, we have experienced this ourselves with the Quonnie Sand Trail. The lack of communication and outreach to understand all sides of the issue is unfair and, in some cases, illegal. We support public access and need CRMC to improve communication to all sides of the public on ROW issues, so everyone can understand the entire scenario.

Thank you for asking for feedback. We need CRMC to be successful in helping to conserve the limited natural resources we all have.

**Response from NOAA's Office for Coastal Management:**

**CRMC needs to publicly state and stand by their regulations**

Repeatedly throughout the evaluation findings, NOAA's Office for Coastal Management discusses the importance of the Rhode Island Coastal Resources Management Program to follow state regulations and their established procedures.

Lack of enforcement by the CRMC of its red book regulations

The evaluation findings document enforcement challenges and discuss the need for additional enforcement staff.

Lack of communication

The comment on communication of the Quonnie Sand Trail has been forwarded to the Rhode Island Coastal Resources Management Program for consideration.

**Comment #28: Trudy O'Toole, secretary, Committee for the Great Salt Pond**

As a member of the Board of the Committee for the Great Salt Pond (Block Island) I have become aware of the need for changes in the Rhode Island Coastal Resources Management Council (CRMC). A new State Agency, similar to the RI Department of Environmental Management would make the CRMC more professional, transparent, and accountable to citizens.

I encourage you to find the present system inadequate and recommend that the State pass the House and Senate bills already on the docket to make the necessary improvements.

**Response from NOAA's Office for Coastal Management:**

As described in the introductory text of this appendix, the Rhode Island Department of Administration has reached out to NOAA to assist the state in exploring possible organizational changes to CRMC. However, the purpose of this evaluation is not to recommend that the state adopt a particular structure for its coastal management program. This evaluation concludes that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program. NOAA's Office for Coastal Management identified numerous accomplishments that demonstrate ways in which the Rhode Island Coastal Resources Management Council is meeting or exceeding program requirements. There are some areas that the CRMC must address by the timeframes specified (see Executive Summary). Finally, areas where NOAA believes changes could improve program implementation are included as recommendations.

**Comment #29: Cynthia Pappas**

The creation of the Rhode Island Coastal Resources Management Council (CRMC) in 1972 had been a positive force for shoreline and estuarine protection, but this has changed and the current RI CRMC no longer resembles the organization the CRMC was originally envisioned to be [and] as the Federal Coastal Zone Management Act required. The existing council members are politically appointed volunteers, who are appointed with no requirement for any coastal management experience or expertise.

The Committee for the Great Salt Pond has been at the forefront of CRMC reform, and we feel that CRMC reform is needed. A new State Agency, similar to the RI Department of Environmental Management, is needed and should be administered by a cabinet-level director in the Executive Branch, accountable directly to the Governor and subject to legislative oversight.

Reorganizing the CRMC into a true State Regulatory Agency with a Director, professional staff, and an advisory council will make an enormous difference in the protection of Rhode Island's unique, fragile coastline. We urge you to find that the current structure of the CRMC is not working and to pressure the State to pass the House and State bills, which are already on the docket, to make these changes.

**Response from NOAA's Office for Coastal Management:**

As described in the introductory text of this appendix, the Rhode Island Department of Administration has reached out to NOAA to assist the state in exploring possible organizational changes to CRMC. However, the purpose of this evaluation is not to recommend that the state adopt a particular structure for its coastal management program. This evaluation concludes that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program. NOAA's Office for Coastal Management identified numerous accomplishments that demonstrate ways in which the Rhode Island Coastal Resources Management Council is meeting or exceeding program requirements. There are some areas that the CRMC must address by the timeframes specified (see Executive Summary). Finally, areas where NOAA believes changes could improve program implementation are included as recommendations.

Comment #30: R. Daniel Prentiss, P.C.

I write to make provide my comments for your consideration in the evaluation of the Rhode Island Coastal Resources Management Council (CRMC).

I have dealt with the CRMC with some regularity over several decades. In the late 1970s, I sat on the CRMC as the designee of the Director of the Department of Environmental Management, an ex officio member of the Council. Since that time, I have appeared many times as counsel to a variety of clients before the CRMC. I am quite familiar with its substantive regulations, its rules of practice, and the standards that should guide its decisions.

The CRMC today is unquestionably failing in its mission. More than any other agency of state government, the CRMC is entrusted with decision-making that not only affects the public today but that will be felt by future generations. The conveyance of the public trust resources of the coastal environment is in many cases permanent and irreversible. In what can only be termed an aberration of governmental structure, Rhode Island vested the responsibility to protect and preserve its valuable coastal resources in an agency that has no accountability. Alone among all other government agencies, the CRMC is not an executive department for which the governor is answerable. The only check on its authority is judicial appeal under the deferential review standard applicable to administrative agencies.

The CRMC has grossly abused the almost unbridled authority that it possesses. The examples of the CRMC's malfeasance are legion. I understand that others will be commenting and providing details on many of them. I will speak only from my personal experience as counsel to the Town of New Shoreham, the Committee for the Great Salt Pond, and several other environmental organizations, on the application of Champlin's Realty Associates, Inc. (Champlin's) to double the size of its marina in the Great Salt Pond in Block Island.

I represented my clients in opposition to the marina expansion from the time that Champlin's filed its application in 2003 and remained with the case until its conclusion in 2022. The first phase of that long and tortured history ended in a decision by the Rhode Island Supreme Court which, with one justice (then-Chief Justice Williams) dissenting, reversed a superior court judgment that granted the Champlin's permit. The court remanded the case to the CRMC for further hearings.

After remand proceedings the CRMC unanimously denied the Champlin's application, based on a lengthy analysis that showed the project to be in violation of multiple sections of the applicable regulations. On Champlin's appeal, the superior court in 2020 affirmed the CRMC's denial in a 56-page decision. Champlin's appealed that decision to the Supreme Court.

While the appeal was in a preliminary stage in the Supreme Court appellate process, CRMC's legal counsel, without informing me, emailed my client (the Town of New Shoreham), stating that the CRMC desired to engage in mediation with Champlin's concerning its application on the condition that the town (but not my other clients) participated.

This communication was itself highly inappropriate. The CRMC had determined that the application was inconsistent with its regulations. That determination was robustly affirmed by the superior court. It had no authority to "negotiate" its prior decision in any context; it absolutely had no authority to engage in a secret discussion with the applicant to find a way to evade the judicial affirmation of the permit's denial. The Town declined to have any involvement in a clearly extra-legal process to vitiate the permit denial.

Neither I nor my clients received any formal notification of any action by the CRMC on the Champlin's application.

Then, one month later the CRMC and Champlin's filed a "joint motion" in the Supreme Court asking to implement a "mediation" they had secretly conducted in a hotel room under the supervision of Frank Williams, the now-retired Supreme Court justice who had written an opinion in favor of the Champlin's application when the case was before the Court in 2010. With Mr. Williams's guidance, CRMC and Champlin's "negotiated" a permit granting the Champlin's marina expansion permit.

The CRMC defied both its own enabling statute and the Rhode Island Rules of Civil Procedure and refused to disclose any records of the secret "mediation."

Ultimately, and fortuitously, the CRMC's connivance with Champlin's to give it several acres of the Great Salt Pond failed. *Champlin's Realty Assocs. v. Coastal Res. Mgmt. Council*, 283 A.3d 451, 459 (R.I. 2022). That the CRMC failed in its plan is irrelevant to the Office for Coastal Zone Management's evaluation of its operations. What is critically relevant is that the CRMC conducts its operations in the belief that it can ignore its own regulations to make secret deals to convey public trust coastal resources to favored developers.

Rhode Island's coastal resources are literally without meaningful legal protection. This should be a matter of critical concern to the Office for Coastal Zone Management. The CRMC is unequivocally subverting the national policy "to preserve, protect, develop, and where possible, to restore and enhance the resources of the Nation's coastal zone for this and succeeding generations." 16 U.S.C. § 1452(1). The CRMC's corruption of its mission unfortunately enjoys the support of powerful political interests. Last spring legislation was introduced in the Rhode Island General Assembly to enact wholesale reforms that would have made it an executive department of government with the political and legal accountability attendant on that status. The legislation received exceptionally broad support in the legislature as a whole but was killed at the end of the legislative session through contrivance by the Rhode Island governor and legislative leaders.

The gross mismanagement and neglect of Rhode Island's coastal resources is not a problem that will go away on its own. The political benefits that flow from the ability to gift public coastal resources to favored constituents are, in Rhode Island, irresistible. The only way that meaningful change can be effected is through exogenous pressure.

I request that the Office for Coastal Zone Management exercise its authority pursuant to 16 U.S.C. § 1658(c) to suspend payment of further assistance to the state until it can satisfactorily demonstrate substantive reform of the structure and procedures to establish an effective and accountable coastal zone regulatory agency.

#### **Response from NOAA's Office for Coastal Management:**

Pursuant to section 312(c) of the Coastal Zone Management Act, sanctions can only be imposed on a coastal management program if NOAA's Office for Coastal Management issues a final finding of nonadherence. This evaluation concludes that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program, adhering to the terms of the federal

financial assistance awards, and addressing coastal management needs identified in section 303(2)(A) through (K) of the Coastal Zone Management Act.

NOAA's Office for Coastal Management has identified several necessary actions to address programmatic requirements of the Coastal Zone Management Act or its implementing regulations (15 C.F.R. part 923), and of the coastal management program approved by NOAA.

The Champlin's case is noted under the "Rhode Island Council Resources Management Program's Council" subsection of the Program Administration section of the findings document.

Comment #31: Stuart Ross, director, Protect Conanicut Coastline

My name is Stuart Ross, and I am a lifelong Jamestown resident. I am also the Chair of Protect Conanicut Coastline, a nonprofit Jamestown-based organization whose mission is “to protect and preserve the unique and spectacular coastline of Conanicut Island for current and future generations, in accordance with the Jamestown Comprehensive Community Plan.”

Our organization was formed in 2020 to oppose the dredging and dock extensions in Dumplings Cove by Jamestown Boatyard (JBY), due to significant environmental and public safety concerns. That summer, over 600 Jamestown residents signed a petition against the JBY application to the Coastal Resources Management Council (CRMC). And in October, 26 concerned Jamestown residents testified against the expansion, but the 10-member CRMC, mainly comprised of political appointees with no background in marine science or environmental policy, voted 4-2 to allow the expansion to go forward.

Then, after a second vote in late December, the Council allowed the dredging to proceed immediately and didn’t observe the mandated 30-day waiting period to allow for an appeal by the neighboring Dumplings Association (TDA). In a scathing letter to CRMC, RI Attorney General Peter Neronha blasted their numerous egregious decisions, but the damage had been done. And almost 4 years later, TDA’s appeal is still tied up in Superior Court.

The Council’s record since then is strewn with misdeeds, including frequent disregard for its own “Red Book” and secretive agreements with the very organizations it is supposed to regulate, like allowing Champlin’s Marina expansions on Block Island that had already been blocked twice in the last 15 years by CRMC itself. Fortunately, the deal was overturned by the RI Supreme Court, thanks again to [Attorney General] Neronha. This was followed by a blatant disregard of a state-mandated requirement of prior legislative approval for installation of an underwater cable under Narragansett Bay, and that was also rescinded when discovered. Now, the Council is poised to reverse the unanimous opinion of their own staff to allow a golf course in North Kingstown to retain their illegally constructed 600-foot breakwater in a protected stretch of the Bay, even after being forbidden to build such a structure.

So, the many failings of CRMC to obey its very mission (“to preserve, protect, develop – a word that should be preceded by the word ‘responsibly’ -- and restore coastal resources for all Rhode Islanders”) have been extremely troubling for all concerned Ocean State residents. So often we have seen the Council place corporate special interests ahead of those of the citizens of Rhode Island.

What’s more, in the last two state legislative sessions, our state legislators have introduced bipartisan bills in both houses to eliminate the 10-member council, replace it with a citizens’ environmental council, and reform the organization with a structure similar to the Rhode Island Department of Environmental Management. However, due to the secretive intransigence of the legislative leadership, these bills were never brought to the floor for a vote. There’s no question that they would have passed.

So, we look to you at NOAA to do what we as RI citizens have not yet been able to do: conduct a comprehensive evaluation of the Council’s dreadful performance and require major changes to this corrupt and outdated state agency, as already proposed in the legislation. Most importantly, NOAA should insist that CRMC delete the 10-member Council but retain the overburdened but competent staff.



In short, CRMC as currently organized has truly failed to be responsive to all of us to protect and preserve our beloved coastal resources of Narragansett Bay. We now respectfully ask you at NOAA to right this terrible wrong.

**Response from NOAA's Office for Coastal Management:**

As described in the introductory text of this appendix, the Rhode Island Department of Administration has reached out to NOAA to assist the state in exploring possible organizational changes to CRMC. However, the purpose of this evaluation is not to recommend that the state adopt a particular structure for its coastal management program. This evaluation concludes that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program. NOAA's Office for Coastal Management identified numerous accomplishments that demonstrate ways in which the Rhode Island Coastal Resources Management Council is meeting or exceeding program requirements. There are some areas that the CRMC must address by the timeframes specified (see Executive Summary).

NOAA's Office for Coastal Management has encouraged the CRMC to follow regulations and its established procedures and provided a necessary action to continue to educate council members (Necessary Action 2).

**Comment #32: Eric Reimer, Block Island, Rhode Island**

I understand that NOAA is currently evaluating the overall performance of the Coastal Resources Management Council (CRMC) with findings due in January of 2025. I would urge that you and the NOAA Committee seriously evaluate the current structure of the CRMC, as clearly reform is needed. The reasons are so evident; whether because of politically appointed volunteers that either don't have the expertise, or the inability to react in a timely matter, or whom just don't listen to the CRMC staff, or closer to home, cutting a backroom deal with Champions [sic] Marina on Block Island. The reasons to reorganize are frankly endless. The potential of reorganizing the CRMC into a State Regulatory Agency with a Director in the Executive Branch, with accountability directly to the Governor and subject to legislative oversight, similar to the RI Department of Environmental Management would be an interesting model to investigate.

**Response from NOAA's Office for Coastal Management:**

As described in the introductory text of this appendix, the Rhode Island Department of Administration has reached out to NOAA to assist the state in exploring possible organizational changes to CRMC. However, the purpose of this evaluation is not to recommend that the state adopt a particular structure for its coastal management program. The purpose of this evaluation is to determine if the state is adhering to the requirements of the CZMA and implementing its federally approved coastal management program. This evaluation concludes that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program. NOAA's Office for Coastal Management identified numerous accomplishments that demonstrate ways in which the Rhode Island Coastal Resources Management Council is meeting or exceeding program requirements. There are some areas that the CRMC must address by the timeframes specified (see Executive Summary). Finally, areas where NOAA believes changes could improve program implementation are included as recommendations.

Comment #33: Office of the Attorney General, State of Rhode Island

Peter F. Neronha, Attorney General  
Keith D. Hoffmann, Chief of Policy

**RE: Comment Regarding Operation and Implementation of the Rhode Island Coastal Resources Management Council**

Dear Mr. Migliori:

The Rhode Island Office of the Attorney General regularly appears before the Coastal Resource Management Council (the Council) and defends State agency administrative actions related to Council decisions. Based on these experiences, the Attorney General's Office is positioned to provide comments on the operation and implementation of the Council.

**I. The Council's Structure and Lack of Adherence to Administrative Processes Has Led to Administrative Disaster.**

The Rhode Island Coastal Resources Management Program is comprised of a staff of experts overseen by a politically appointed Council of nine volunteer members plus one ex officio member. This structure has resulted in significant and all-too-frequent conflict between expert staff recommendations and the ultimate decisions of the Council, mistakes in administrative procedures that have resulted in lawsuits, and a Council that interferes with staff enforcement efforts.

That is not to say that Rhode Island's Coastal Resources Management Program is a failure. The Council's regulations and legal authorities are strong. The CRMC staff who handle the day-to-day management and enforcement of those laws work effectively and provide comprehensive recommendations to the Council. However, the Council's political appointees have in many instances undermined these programmatic bright spots.

As just one example, in a case involving a requested marina expansion for mega-yachts in a sensitive tidal area of Block Island, CRMC's reliance on private counsel and their own under-resourced contested case processes resulted in the hired counsel entering into a backroom mediation without the town of Block Island or other intervenors present – even when the Council's prior decision to deny the expansion had been upheld by a trial court. Ultimately, the Council attempted to enter into a mediated settlement that reversed the already-affirmed CRMC denial without addressing any of the 94 or so reasons that CRMC had previously denied it (conflicting uses, environmental impacts, navigational issues, etc.). Only after the Attorney General's Office intervened and appealed the mediated resolution, the Supreme Court of Rhode Island overturned it and restored the denial. *See Champlin's Realty Assocs. v. Coastal Res. Mgmt. Council*, 283 A.3d 451, 460 (R.I. 2022). In sum, extraordinary State resources had to be brought to bear to correct an easily avoidable administrative disaster generated solely by the improper actions of the Council and attorney for the Council.

**II. The Council Has Undermined the Public's Trust and Staff's Enforcement Efforts.**

Indeed, misadventures like this are the expected result of having a Council constituted like Rhode Island's. The Council is made up of political appointees who do not have technical or environmental

expertise. Oftentimes the weight of their considerations reflects political rather than scientific and regulatory concerns. The Council's nonexpert composition has meant that it also muddies the procedural record frequently, resulting in lawsuits and public distrust. One recent example involves *The Dumplings Association* case, in which the Council approved—in a procedurally deficient manner—a hotly contested dredge project (on New Year's Eve, no less) and then “ratified” the decision months later in an attempt to cure its own procedural errors. See *The Dumplings Association, Inc. v. CRMC*, Case No. PC-2021-00296 (R.I. Super. 2021). The Council's handling of this matter undermined the public's trust in the Council's own procedures.

Public trust—and faith that the letter of CRMC rules will be followed and upheld by the Council—is essential to the functioning of the Coastal Resources Management Program. To understand why, we need look no further than the Quidnessett Country Club's seawall. The Club constructed its blatantly illegal seawall after the Council effectively denied an application for a similar but smaller wall in 2012. Rather than obtaining Council approval for the project, the Club simply built a larger wall without permission. While the Army Corps of Engineers recently issued a notice of violation for the wall, and CRMC staff began enforcement efforts that remain ongoing, the Council has issued a Notice of Proposed Rulemaking to entertain the Club's petition for a water type change that may allow some form of a seawall to remain—effectively interfering with CRMC staff's enforcement efforts by potentially changing which laws apply to the Club.

Thus, the Council's structure undermines the enforcement of the Coastal Resources Management Program that were in part the subject of NOAA's [March 2010 to June 2019 Final Evaluation Findings](#) and recommendations (see p. 14). The Quidnessett Country Club matter is by no means an isolated event. Rather, historical actions by the Council, like the *Champlin's* and *Dumplings* cases, may have encouraged the Club to act as it did—it may be rational, after all, to seek forgiveness rather than permission from a Council that has a history of interfering with staff recommendations, ignoring its own procedures, and taking into account irrelevant political considerations.

### **III. The Council Has Diminished the Federal Consistency Review Process.**

Federal consistency reviews present another weak spot for CRMC. While CRMC staff work tirelessly to meet the goals of the Coastal Program, there is not enough staff to undertake the extensive review process required. This has had troubling results, as giant corporations that are allowed to negotiate piecemeal with individual states have been able to bulldoze the Council—and as a result, the livelihoods of fishermen. Indeed, in 2023 the entire membership of the Fishery Advisory Board resigned out of a perception of inequity in negotiations for compensation. Moreover, decisions by the Bureau of Ocean Energy Management (BOEM) to allow subdivision of leasing parcels, like in the South Fork project, limited the available alternatives that CRMC could consider and allowed windfarms to be located inside protected glacial moraines in Cox's Ledge. Finally, during the Revolution Wind consistency review, the staff recommendation specifically stated that the Council lacked authority to grant the requisite submerged land lease and that it must be approved separately from the legislature. Despite this clear finding, the Council approved the project and never sought the legislative approval as recommended by staff. These challenges are exacerbated because the Council's federal consistency process timeline does not allow for state judicial review of final Council decisions, as the final vote is often on the eve of NOAA's deadline.

### **IV. Conclusion**

Many of the challenges facing the Council—and by extension, the essential mission of the Coastal Resources Management Program—could be resolved with a change to the Council structure. Thus, the Attorney General’s Office respectfully requests that NOAA recommend that the Council adopt a state agency structure, like those in place in the vast majority of states, or other reforms to ensure that expert staff decisions are respected and not subject to the oversight of a politically motivated and unqualified Council. Additionally, the Attorney General’s Office believes that extending timelines for regional federal consistency review would lead to increased state oversight and reduce existing inequities in the consistency process.

Sincerely,

Peter F. Neronha  
Attorney General

**Response from NOAA’s Office for Coastal Management:**

**The Council’s Structure and Lack of Adherence to Administrative Processes**

As described in the introductory text of this appendix, the Rhode Island Department of Administration has reached out to NOAA to assist the state in exploring possible organizational changes to CRMC. However, the purpose of this evaluation is not to recommend that the state adopt a particular structure for its coastal management program. The purpose of this evaluation is to ensure that Rhode Island is implementing its federally-approved program, including its approved council structure, consistent with these requirements. NOAA finds that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program, adhering to the terms of the federal financial assistance awards, and addressing coastal management needs identified in section 303(2)(A) through (K) of the Coastal Zone Management Act.

The evaluation findings document some incidences where administrative procedures were not followed by the council. NOAA’s Office for Coastal Management encourages the Rhode Island Coastal Resources Management Council to follow state regulations and established administrative procedures. The evaluation findings include one necessary action on continuing education for new and existing Council members (Necessary Action 2).

**Public’s Trust and Staff’s Enforcement Efforts**

The evaluation includes a recommendation on nominating council members that could address the composition of the council (Recommendation 3).

**Federal Consistency Review Process**

The purpose of this evaluation is to ensure that Rhode Island is implementing its federally-approved program, including its approved council structure, consistent with these requirements. NOAA finds that the State of Rhode Island is successfully implementing and enforcing its federally-approved coastal management program, adhering to the terms of the federal financial assistance awards, and addressing coastal management needs identified in section 303(2)(A) through (K) of the Coastal Zone Management Act. Comments on BOEM’s implementation of the Outer Continental Shelf Lands Act and its offshore wind program should be submitted to BOEM. Regarding CRMC’s implementation of the Ocean SAMP and offshore wind reviews, this evaluation acknowledges CRMC’s use of the Ocean SAMP and its review

of numerous offshore wind proposals. Regarding the Fishermen's Advisory Board, the evaluation notes CRMC's efforts to engage with the Board and notes the issues that arose, but NOAA cannot compel participation by the Board. As for federal consistency timeframes, these are established by the CZMA and NOAA's regulations at 15 CFR part 930 and the CRMC cannot alter these federal timeframes.

Comment #34: John Marcantonio, chief executive officer, Rhode Island Builders Association/RCWP Builders Insurance Group

The Rhode Island Builders Association (RIBA), established in 1945, is a progressive, not-for-profit organization addressing the housing needs of the community. The Association supports the building industry's effort to enhance the economic growth and quality of life in Rhode Island.

We promote the highest standards of professionalism for the betterment of the building industry and those we serve by providing leadership, education, technology, and necessary services to improve the skills of our members and the quality of their products. We also strive to enhance a cooperative relationship between government, the community, and ourselves; RIBA is the united voice of the housing industry to Rhode Island's lawmakers, regulators, and the public. It includes among its members home builders, remodelers, lenders, suppliers, real estate professionals, and others whose work is related to the industry.

Having worked in a cooperative relationship with the Coastal Resources Management Council's staff for over 38 years, we would like to provide the following comments to NOAA for their review of the Council's operations:

RIBA recognizes and appreciates the Council's role in the managing of Rhode Island's coastline and fully supports the mission and regulatory authority of CRMC to protect vital resources. That said, RIBA has been very complimentary of the Council and its staff, but lately there has been a noticeable decline in application processing efficiency and an overall increase in issues that have been brought to the association leadership by members/builders working on the shoreline. The complaints range from unanswered phone calls and emails, difficulty in getting meetings, inconsistencies in processing applications between staff, etc. While these issues could be the result many variables both internal and external, we wanted to bring the need for review to your attention.

Lastly, we know the Executive Director to be engaged, helpful, professional, and motivated to make a better process. The association is committed to working with him and others in CRMC leadership to provide the needed stakeholder feedback to allow potential remedies to the above.

We would like to thank NOAA for this opportunity to provide these comments and suggestions.

**Response from NOAA's Office for Coastal Management:**

The evaluation findings include a recommendation for the Rhode Island Coastal Resources Management Program to invest in information technology upgrades (Recommendation 5). The Information Technology subsection of the Program Administration section discusses several possible solutions for improving the application process through technology upgrades to address this recommendation.

The Permitting subsection of the Program Administration section and Appendix B discusses the status of a necessary action on a permitting database. An updated necessary action is included in these evaluation findings (Necessary Action 3).



Comment #35: Sven Risom

I was unable to attend the hearings yesterday regarding the Coastal Resources Management Council (CRMC) and wanted to write to you directly. As a long-time resident and landowner on Block Island, I have been personally involved in numerous CRMC discussions and debates. In fact, I was a member of the RI House CRMC Reform Committee and past President of the Committee for the Great Salt Pond (CGSP) on Block Island. I am currently a Director on the CGSP, have stepped down, and passed the torch to Mrs. Moore, cc'd here.

Please understand that I know the CRMC staff is outstanding and has done amazing work regardless of the Council's leadership.

My major concern regards the CRMC leadership structure. This is an antiquated structure that worked once but is no longer appropriate. The Director should report directly to the Governor, and the organization [should] be driven by data and scientific facts. Transparency must lead the path.

As the primary funding agency, you have the most control over this decision, and it should not be a political dialogue but a science-based rationale. Could you imagine if NOAA reported to a board with non-science-based members . . . real estate agents, hairdressers, lay folks? Those professions are all very good, but they should not be the guiding light of a science-based/fact-based commission. Sadly, politics have overridden analytical decision-making regarding the CRMC, and now it is truly up to NOAA, as the funding agency, to do the right thing.

**I ask that you require a change in the organizational leadership structure of the CRMC to have the Director report to the Governor or legislature and be organized more along the lines of the [Department of Environmental Management or other major state/federal environmental commissions/departments.**

**Response from NOAA's Office for Coastal Management:** As described in the introductory text of this appendix, the Rhode Island Department of Administration has reached out to NOAA to assist the state in exploring possible organizational changes to CRMC. However, the purpose of this evaluation is not to recommend that the state adopt a particular structure for its coastal management program.

Comment #36: Joanna Salvo

This is the first time I've ever seen NOAA asking for public input and why it [is] that, because I live in Newport, RI, which is responsible for contributing huge amounts of revenue through tourism to the RI state coffers. Rhode Island is a state surrounded by water [and has] extensive shoreline for such a small state. One mile over the Newport Bridge is the University of Rhode Island's graduate school of Environment [and] Life Sciences [and] Department of Marine Affairs . . . Can you tell me why this state is in such peril with ordinary maintenance of our shoreline? I can tell you, because this state is an apolitical quagmire that allows the Governor to appoint hairdressers and other unqualified, unknowledgeable people to the Board to run the Coastal Resources Management Council (CRMC), one of the most valuable resources in our state. This Is Laughable! With the qualified resources one mile from Newport and 10 miles from Wakefield, the politicians stay away from altruistic, highly qualified thinkers, because they will lose the "deals." Yep, it's that simple.

CRMC was formerly rife with widespread dealmaking in their dealing in Newport and Newport's "four major players," and then throw in the developers and the favors. Currently/finally, we have transparency in the Newport City Hall and the above problem has begun to abate; however, transparency is very new to Newport [and] only within the past 2–4 years. Prior to then, the residents were kept in the dark purposely, so City Hall would run their way. That practice was so embedded in the system that taxpayers literally had to watch from a distance rather than openly object for fear of retaliation from the zoning officer (now deceased), city manager (retired), and mayor (1991–2023) who STACKED the various commissions (i.e., cliff walk, harbor and waterfront, zoning board, and every commission in Newport). Meanwhile, the governor did his share of damage to CRMC by appointing unqualified, nefarious appointments to the board such as his hairdresser appointment. And so you see, it started with the Governor stacking the boards, then the local mayor stacking the local boards, and then finally, to keep a real close eye on CRMC, Newport's former city manager was appointed to the CRMC Board as well as other city managers. Did they get anything beyond hotel development done? NO.

The University of Rhode Island's Graduate Department of Marine Affairs should be involved as possible appointments to the CRMC Board, and the student base could also be tapped.

**Response from NOAA's Office for Coastal Management:** As described in the introductory text of this appendix, the Rhode Island Department of Administration has reached out to NOAA to assist the state in exploring possible organizational changes to CRMC. However, the purpose of this evaluation is not to recommend that the state adopt a particular structure for its coastal management program. The purpose of this evaluation is to ensure that Rhode Island is implementing its federally-approved program, including its approved council structure, consistent with these requirements. NOAA finds that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program, adhering to the terms of the federal financial assistance awards, and addressing coastal management needs identified in section 303(2)(A) through (K) of the Coastal Zone Management Act. For all of NOAA's previous evaluations of the CRMC, NOAA solicited public comments.

**Comment #37: Elizabeth Shamer**

For several years, we have been following the multiple missteps of the Coastal Resources Management Council (CRMC), much of it covered in the media, but also as seen from the lens of a member of the public. Repeatedly, the expert advice and guidance by CRMC's own Staff is ignored and overruled by its Council, whose members are uninformed at best and unqualified at worst. Permitting decisions are made, and projects are approved without following the recommendations and advice of the Staff. CRMC needs to be restructured so that the Council—whose members are politically appointed—no longer has the executive authority over coastal policy, planning, or development.

**Response from NOAA's Office for Coastal Management:**

As described in the introductory text of this appendix, the Rhode Island Department of Administration has reached out to NOAA to assist the state in exploring possible organizational changes to CRMC. However, the purpose of this evaluation is not to recommend that the state adopt a particular structure for its coastal management program. This evaluation concludes that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program. NOAA's Office for Coastal Management identified numerous accomplishments that demonstrate ways in which the Rhode Island Coastal Resources Management Council is meeting or exceeding program requirements. There are some areas that the CRMC must address by the timeframes specified (see Executive Summary). Finally, areas where NOAA believes changes could improve program implementation are included as recommendations.

The evaluation findings include two necessary actions (Necessary Action 1 and 2) and one recommendation (Recommendation 3) related to the council.

Comment #38: Robin Squibb

Thank you for the opportunity to comment on the performance of the Rhode Island Coastal Resources Management Council (CRMC) at the NOAA meeting on October 15. I regret that I did not take the time to praise the Staff and to specify that my comments were intended for the Council only. Rhode Island is in desperate need of an honest, transparent, well-run agency to manage Narragansett Bay and its coastline. I ask that NOAA help us make this happen.

To start with, I wonder if NOAA has been receiving the information needed from the CRMC to effectively evaluate. Before attending the October meeting, I went online to review the video recorded by Capital TV of the meetings held by Rep. Deb Ruggiero's Commission, [which was] formed to look into reform of the CRMC. The meeting for which I was looking took place on December 9th, 2021, with Betsy Nicholson from NOAA and the former CRMC director, Grover Cleveland [sic], speaking to the Commission. All eight meetings of this Commission had been recorded but only seven have been posted on the government website. The one with Ms. Nicholson and Mr. Cleveland [sic] was not posted with the others. Ms. Nicholson had said words to the effect that "there used to be problems with the Council, but all is fine now," and I had wanted to get her exact wording. I then called Capital TV, and they immediately sent me the link to this video: <https://capitoltvri.cablecast.tv/show/3928?site=1>.

Much to my surprise, Betsy Nicholson's saying of these words had been removed. And as of my writing of this email, that particular video is still not in place along with the other CRMC Reform Commission videos (go to the State of Rhode Island General Assembly website, <https://www.rilegislature.gov/Pages/Default.aspx>, tap on WATCH, type "CRMC COMMISSION" into the search bar, and you will find the other seven meetings listed but not the one with Mr. Cleveland [sic] and Ms. Nicholson). I was unaware that Ms. Nicholson would be at the October meeting and chose not to mention her quote in front of her.

Then I rambled on about losing a "case" to a neighbor here in Saunderstown who had been granted permission by the CRMC to build an oversized dock with two boat lifts. The Council paid no heed to its own rules and regulations and claimed there had been staff advice for approval where there had been none. The hearing was a sham. I appealed the case to Superior Court and Judge Nugent overturned the entire decision. My neighbor has now appealed the case to the Supreme Court. During this five-year period, I have spent tens of thousands of dollars and been harassed, bullied, and intimidated by my neighbor and his partner, as have others in the neighborhood who filed protest letters. All this is happening because the CRMC did not follow its own rules and regulations. Documents are available upon request.

I will add that I was surprised to see Jeff Willis at the October 15 hearing, as I had assumed he was part of the team being evaluated.

I did not have the time needed at the October 15 meeting to submit further comments, so I shall do so here.

CRMC granted permission to Revolution Wind to lay cables in the West Passage of Narragansett Bay without permission from the General Assembly as is required by law. Evidently, the Council was told repeatedly by the staff that authorization was needed, but the Council chose to go ahead anyway. The link below is to an article in the Providence Journal that does a much better job of explaining the whole

issue than I could. I ask that you read it.

<https://www.providencejournal.com/story/news/environment/2023/03/22/offshore-wind-farm-cables-and-seabed-lease-put-crmc-lawmakers-at-odds/70037715007/>

Please help us achieve the long overdue reform of the CRMC.

**Response from NOAA's Office for Coastal Management:**

NOAA's Office for Coastal Management does not have a responsibility or authority to publicly post recorded hearings from the Rhode Island Legislature nor ensure the accuracy of those recordings. The commenter is directed to contact the Legislature directly for any recordings or materials.

NOAA's Office for Coastal Management has encouraged the CRMC to follow regulations and its established procedures and provided a necessary action to continue to educate council members (Necessary Action 2).

### Comment #39: Topher Hamblett, executive director, Save the Bay

Save The Bay represents thousands of members and supporters committed to preserving, restoring, and protecting the ecological integrity and value of Narragansett Bay and adjacent waters. We appreciate the opportunity to comment on NOAA's performance evaluation of the Rhode Island Coastal Resources Management Program (CRMC). Save The Bay's mission is to protect and improve Narragansett Bay. Our vision is a fully swimmable, fishable, healthy Narragansett Bay accessible to all.

Save The Bay interacts with CRMC's regulatory, planning and policy initiatives related directly to the federally approved Rhode Island Coastal Management Program. Our organization works closely with CRMC in supporting its budgetary and staffing requests, in advocating to the Rhode Island legislature on CRMC's behalf for additional and much-needed resources, as well as in collaborations that support funding opportunities to further CRMC's policy, habitat, and public access initiatives. As an advocate for a healthy and improving Narragansett Bay, Save The Bay also interacts with CRMC as a sentinel for the Bay, sharing information and knowledge with CRMC on potential and active violations of coastal law and/or CRMC policies that could impair or negatively impact Narragansett Bay. Based on Save The Bay's extensive interaction with CRMC staff, the politically appointed Council, and Rhode Island's Coastal Management Program, we submit the following comments and recommendations for program enhancements:

We commend the CRMC's staff for working to implement many of the recommendations and necessary actions from NOAA's last review, published in March 2020. CRMC has made progress on its website, and Save The Bay appreciates CRMC's prompt and professional response to all records requests, indicating that ongoing database improvements are working. Additionally, CRMC recently updated its penalty regulations, making progress towards implementing increased penalties to deter violations. Finally, as described in Save The Bay's comments for the previous evaluation, CRMC's enforcement staff continues to be responsive to issues that Save The Bay brings to their attention, providing timely acknowledgement and follow-up. On the other hand, several of NOAA's important recommendations and necessary actions remain unaddressed and hinder the CRMC from effectively implementing the Coastal Management Program.

These issues are detailed below.

#### **1. The CRMC still lacks effective legal counsel for its professional staff at contested hearings.**

Since 2010, NOAA's performance evaluations have consistently expressed ongoing concern with the lack of access to legal counsel for CRMC staff. However, in 2024, CRMC staff remains at a persistent and definitive disadvantage without adequate access to legal representation.

In 2010, NOAA emphasized CRMC's responsibility "to ensure CRMC staff members had access to legal counsel . . . *at hearings*" to prevent real or perceived conflicts of interest . . ." (emphasis added). In 2020, NOAA cited the part-time availability of legal counsel at CRMC staff headquarters as an accomplishment.

However, this accommodation, albeit an improvement, failed to cure the lack of legal representation for CRMC at full Council hearings.

At CRMC's Semimonthly Council hearings, designated as "meetings" on CRMC's calendar, applicants and petitioners appear before the Council commonly represented by attorneys. This can also occur at CRMC's subcommittee "meetings," or hearings, where a contested matter is before the subcommittee. At these "meetings," which are, in fact, contested hearings, attorneys for applicants, petitioners, and sometimes, objectors, present legal arguments, present expert witness testimony (under oath), and are provided with an opportunity to rebut points made in the CRMC staff recommendation and arguments raised during public comment. Referring to the Council proceedings as "meetings" is misleading when witnesses for applicants are giving sworn testimony under questioning by lawyers, and those lawyers are offering legal arguments on behalf of their client.

There is no question that the applicants and petitioners who arrive with attorneys and who then present expert witness testimony and legal argument are at an advantage over an unrepresented party before the Council. Sadly, in addition to applicants who may be unable to afford a lawyer and experts to argue and testify on behalf of their project in front of the Council, CRMC staff is also at the same disadvantage.

During these "meetings," or hearings, CRMC staff is merely provided an opportunity to give an overview of its recommendations contained in the CRMC staff report and is available to answer questions from the Council. At no time is the CRMC staff provided legal advice or counsel during these "meetings," or hearings, nor is there a CRMC attorney designated to argue on behalf of the legal and regulatory merits of the staff's recommendation. There is no CRMC attorney present to cross-examine an applicant's or petitioner's witnesses nor object to testimony presented by the applicant or petitioner that might be irrelevant, speculative, based on hearsay, or otherwise prejudicial to the Council's consideration of the merits of the issue before it.

Periodically, if an applicant's or petitioner's witness strays far afield or an attorney for an applicant is abusive, CRMC's legal counsel will rein in the proceedings back to order and civility. However, that is nowhere near the same as having active legal representation for the CRMC staff during these proceedings. Without access to legal representation at these proceedings, CRMC's staff is at a distinct disadvantage, which can influence the outcome of these hearings. This lack of parity disallows the Council from being able to fully and fairly evaluate all the evidence and legal arguments prior to making its decision.

Since NOAA's last review, CRMC's private contract attorneys are more available to provide legal counsel to CRMC's staff during normal business hours, which is a notable improvement. However, that is not equal to, nor in any way a substitute for, a full-time staff attorney dedicated to providing legal representation to CRMC staff. In fact, CRMC is the only environmental regulatory agency in Rhode Island that does not have at least one full-time, state-employed staff attorney.

The persistent lack of access to legal representation for CRMC staff at Council hearings and contested subcommittee "meetings" also not only unfairly affects the outcome of those proceedings but is also demoralizing to the CRMC staff who are repeatedly present but unrepresented at Council hearing after Council hearing. Lack of equitable access to legal counsel also perpetuates the *real or perceived conflicts of interest* that arise from such a lopsided process.

For example, in November 2024, a Council subcommittee will hear legal arguments from multiple attorneys during a continued hearing on a Petition for Rule Change (2024-04-071) that relates to a

pending agency enforcement action. At the first hearing in September 2024, the Petitioner's lawyers stated, and CRMC legal counsel confirmed, that at the upcoming November hearing, lawyers for the Petitioner will present sworn testimony from numerous witnesses (expert and perhaps nonexpert) as well as legal argument in support of its Petition.

During this hearing, there will be lawyers for the Petitioner and lawyers for the Council subcommittee, *but there will be no lawyers representing CRMC's professional staff*. Therefore, regardless of what is presented on behalf of the Petitioner, CRMC's staff will not have the benefit of counsel to raise objections to irrelevant, speculative, based-on-hearsay, or otherwise prejudicial evidence, to argue on behalf of CRMC's staff to have impermissible evidence or arguments dismissed or disregarded at the hearing, cross-examine the Petitioner's experts, or present rebuttal expert testimony by CRMC's professional staff to allow the Council subcommittee to fully and fairly evaluate all the evidence prior to making its recommended decision. This is fundamentally unfair.

**The persistent lack of access to legal services for CRMC's staff at hearings** denies CRMC's staff *equal legal representation* in contested cases before a panel that makes final agency decisions. It results in an unfair process where final decisions (or recommended decisions by a subcommittee) in contested cases are reached without the benefit of equal legal representation *for the state's coastal experts*. Failure to provide legal representation to CRMC's staff at hearings defies NOAA's repeated calls for action intended to avoid *real or perceived conflicts of interest* and jeopardizes the consistent and fair implementation of CRMC's coastal program. Lack of consistency and fairness not only threatens the integrity of the process, but also threatens CRMC's ability to protect the functions and values of the coastal zone, coastal ecosystems, and the land and water resources of our state.

For these reasons, Save The Bay urges NOAA to require compliance with its repeated calls to avoid *real or perceived conflicts of interest* and instruct CRMC to hire one or more full-time state staff attorneys to provide full-time, on-site committed legal services to CRMC's staff. Save The Bay also requests that NOAA require CRMC to ensure that at least one full-time staff attorney be dedicated to providing legal counsel to CRMC's staff at all CRMC proceedings where contested matters are heard, in addition to other related legal counsel assistance to the staff.

## **2. CRMC still hears contested cases despite the appointment of an administrative hearing officer that is required by law to hear all CRMC contested cases.**

In the 2020 review, NOAA commended CRMC for separating the functions of an administrative hearing officer from the Council's lawyer to *avoid a real or perceived conflict of interest*. However, complete separation of functions has not occurred, continuing the perception of conflicts of interest and resulting in inconsistent and erratic implementation of CRMC's own regulations and Rhode Island law. Although there is a CRMC hearing officer, charged by Rhode Island law to hear "all contested cases," it *does not hear* "all contested cases."

NOAA first identified this conflict-of-interest issue when CRMC's legal counsel also served as the hearing officer.

Fortunately, and with vigorous advocacy by Save The Bay and other groups, the Rhode Island legislature finally funded and hired a full-time CRMC hearing officer. With a full-time and fully funded agency hearing officer in place, CRMC is firmly equipped to comply with the legal mandate that "all contested cases, all contested enforcement proceedings, and all contested administrative



cases shall be heard *by the administrative hearing officers, or by subcommittees*” . . . if the hearing officer is “otherwise engaged.” R.I. Gen. Laws § 46-23-20; *and see* R.I. Gen. Laws § 46-23-20.1(e).

Currently, although contested enforcement and administrative penalty matters are assigned to be heard by the CRMC hearing officer, only “some” contested cases are referred to the hearing officer. In determining which contested cases are assigned to the CRMC hearing officer, the CRMC Council has adopted an inconsistent process that affords the Council full and unaccountable discretionary power over which cases are heard by the CRMC hearing officer.

CRMC’s rules define when a case is considered a “contested case,” and therefore appropriate to be heard by CRMC’s administrative hearing officer. CRMC Management Procedure Rule 1.1 (B) defines “contested case” and contains *three triggers* that send a case to a hearing officer. They are: 1) “When a *substantive formal written objection*” is submitted by “any interested party;” AND/OR 2) when a “*request for hearing* is received by any interested party;” or 3) upon the “request for hearing by any four (4) members of the Council.” CRMC Management Procedure Rule 1.1 (B).

Despite the clear language of Management Rule 1.1 (B), in contested application matters, petitions for rulemaking, and other contested matters, including contested rights-of-way, the Council has interpreted this rule in contravention of the plain and ordinary language of the rule. Before hearing a case, the Council engages in a preliminary deliberation to decide if public comments submitted for or against a potentially “contested case” are “substantive” in nature. Recently, and appropriately, this determination is aided by a staff recommendation contained in the staff report. If, in these instances, the Council agrees by a majority vote that one or more public comments are deemed “substantive,” it refers the matter to the hearing officer. If it does not deem any comments as “substantive,” the Council proceeds to hear the matter.

However, in many instances, even if the Council does not deem any comments as “substantive,” a *request for hearing* may have been received from an interested party which should automatically trigger a referral to the agency hearing officer as contemplated by Rule 1.1(B). Instead, in those instances, the Council explicitly ignores that part of its rule, does not refer the contested application hearing, petition for rulemaking, or other contested matter to a hearing officer, and *hears the case itself*. The Council, in ignoring the plain language of Rule 1.1(B) where it states that a case will be heard by a hearing officer “when a substantive objection is submitted . . . AND/OR when a request for hearing is received” reserves broad and unfettered authority over which cases are referred to the impartial agency hearing officer.

In a recent Rhode Island Supreme Court case reviewing a CRMC contested application matter, the Court applied a clear standard for interpreting a CRMC regulation. *See Champlin’s Realty Assoc. v. Coastal Resources Management Council, et al.*, 283 A.3d 451, 475 (R.I. 2022). In *Champlin’s*, the Court noted that if the regulation was “clear and unambiguous,” the Court would interpret the words in the regulation according to their “plain and ordinary meaning.” *Id.* (quoting *Ruggiero v. City of Providence*, 893 A.2d 235, 237 (R.I. 2006)). CRMC legal counsel is presumably well acquainted with Rhode Island controlling law, especially from a case he recently litigated on behalf of CRMC, so it is unclear why CRMC legal counsel advises the Council to ignore the plain and ordinary meaning of the words “and/or” in its own rules.

For example, in an application matter heard before the Council on November 28, 2023 (2020-07-031), an interested party submitted an objection to the application and a request for a hearing.

CRMC's staff reviewed the objection and recommended that the objection did not meet the definition of "substantive." The Council agreed and determined that the objection was not substantive and proceeded to hear the case. However, that interested party had also submitted a *request for a hearing*.

In its rejection of the request for a hearing as one of the circumstances that fulfilled the definition of a "contested case" and therefore triggering a referral of the case to the agency hearing officer, the Council's legal counsel advised that the "and/or" language in Rule 1.1(B) was "not binding" and essentially ignored the second trigger in Rule 1.1(B). Despite receiving a "request for a hearing," the Council, *not the hearing officer*, heard the case. While an administrative agency has some latitude in interpreting its own rules, it cannot operate outside of well-established rules of regulatory interpretation, especially when such rules have been so clearly and recently articulated in one of its own cases. Further, as recently highlighted by the Rhode Island Supreme Court, and relevant to NOAA's programmatic review, [t]he obligation of protecting Rhode Island's marine resources falls primarily on the CRMC, as does the challenging task of balancing the myriad interests in and to the tidal waters and adjacent upland areas. In light of the many competing activities and the intense public interest which they generate, **it is of the utmost importance that the CRMC operate under a clear set of parameters.** *Champlin's Realty Assoc. v. Coastal Resources Management Council, et al.*, 283 A.3d 451, 455 (R.I. 2022) (emphasis added).

CRMC's rejection of the plain language of its own rules is arbitrary, creates unpredictable results, and furthers the appearance of a lack of impartiality in contested cases. *The Council's inconsistent use, or total lack of use, of the appointed CRMC hearing officer* inserts a new layer of unaccountable discretionary power for the Council where none exists. It negates the intent of NOAA's *Necessary Action* to provide for a separately functioning hearing officer to hear contested cases to avoid real or perceived conflicts of interest. Failure to adhere to its own regulations and refer all contested cases, not just "some contested cases," to the hearing officer also results in inequitable and disparate outcomes for applicants trying to determine whether their cases may or may not be referred to a hearing officer and jeopardizes the consistent and fair implementation of the coastal program.

Therefore, Save The Bay requests that NOAA require compliance with its repeated calls for CRMC to have a fair, just and transparent system to hear contested cases and require the Council to fully comply with CRMC's own rules that prescribe when a contested case "shall be heard" by CRMC's appointed hearing officer. See R.I. Gen. Laws § 46-23-20. In addition, rather than permitting the Council to engage in arbitrary and unaccountable discretion to control which contested cases are referred to the hearing officer, Save The Bay urges NOAA to direct the Council to adhere to the application of law to "prevent real or perceived conflicts of interest" and promote fairness and transparency for coastal applicants and coastal stakeholders.

### **3. The politically appointed CRMC Council lacks expertise, is accountable to no one, and has persistent vacancies that impair CRMC's ability to meet its program obligations.**

Save The Bay has consistently observed that CRMC's politically appointed Council structure is inherently flawed, unsustainable, and a hindrance to the implementation of Rhode Island's Coastal Management Program. The politically appointed Council members are not required to have any experience or expertise on the matters addressed by the coastal program. NOAA's 2020 review suggested that Council members with proper training and a "willingness to learn" could result in an

effectively operating Council. However, the persistent reality is that the lack of training and expertise is a severe hindrance to the fair and effective implementation of the coastal program.

Despite NOAA's optimistic expectations, CRMC's politically appointed Council is primarily composed of members *with no expertise in coastal science, engineering or coastal policy*. Members serve with minimal and cursory training, consisting of a less than 2-hour introduction to program highlights and without the kind of robust training envisioned by NOAA when it recommended to CRMC in 2020 that it provide Council members with more formal training in: 1.) CRMC's regulations and controlling law; 2.) the Coastal Zone Management Act; 3.) the federal consistency process; and 4.) other important coastal management issues, urging CRMC to take advantage of NOAA's online training modules for Coastal Zone Management Act 101. (NOAA 2020 Review). In addition, the Council continues to have *persistent and unabated vacancies*, despite NOAA's 2020 findings to the contrary.

**The Council's lack of expertise, coupled with lack of any substantive formal training**, as well as its persistent vacancies, leads to unfair and inequitable results for coastal applicants and coastal stakeholders. With no expertise or substantive training, the lay Council routinely rejects and/or modifies the staff's recommendations, commonly resulting in confusing and inconsistent decisions. For example, in an application matter heard by the Council in August 2022 (2012-08-021), the staff recommended denial of an application to replace an existing residential dwelling and upgrade an on-site septic system on a constrained lot on the backside of a developed barrier beach. For numerous reasons, the staff opined that the proposal did not comply with CRMC regulations, and did not, as designed, adequately protect coastal resources. (Staff Report, 2012-08-021). In its deliberations, a member of the Council inexplicably began to engage in mathematical computations and proposed structural and dimensional changes to the proposed project, changing the parameters of what had been reviewed by CRMC's professional staff, and what had been sent out to public notice. The Council's impromptu proposed and undocumented changes to the project were ultimately approved by the Council without the benefit of expert review by CRMC's staff. The approval was granted with a hypothetical plan, a promise that the applicant would produce a new plan, and wholly without the same level of staff review afforded to other similar applications.

**Complex Council decisions are frequently subject to judicial review and remand.** Inexperienced Council members with no legal background or added training frequently hear cases rife with complex legal issues requiring legal interpretation, commonly resulting in added judicial review, remand and/or reversal, *eroding the public's trust in the agency's decision making*.

For example, in 2021, the Council heard a disputed case regarding a proposed dock and boat lifts requiring several variances from CRMC regulations (2018-12-037). After a lengthy hearing with sworn testimony from multiple witnesses and legal argument from attorneys representing interested parties, the Council voted to approve the dock and lifts. On appeal, the Rhode Island Superior Court held that CRMC's Final Agency Decision lacked "substantial evidence for [several of] the Decision's Findings of Fact . . ." *Squibb v. Rhode Island Coastal Resources Management Council, et al.* (R.I. Super. Ct. 2023). The Council's failure to comply with the most basic requirements of the Administrative Procedures Act adds unnecessary delay to program administration and disrupts the public's trust in agency decision-making.

**CRMC's Council structure lacks accountability and transparency.** In its 2020 Review, NOAA suggested that it believes that regardless of Council structure or expertise, "both councils and hearing officers *are capable of poor decisions*."

(NOAA 2020 Review) (emphasis added). However, poor decisions usually have consequences. Without consequences, there is no accountability. Without accountability, there are no corrective measures implemented to change behavior, no guardrails for future actions, and lack of public trust. A lack of accountability and transparency erodes the public's trust in CRMC, hampering its ability to effectively meet its program obligations.

Recently, the Rhode Island Supreme Court noted the importance of preserving “the public's trust in the integrity of the administrative process” in a decision reviewing the Council's demonstrably poor decision-making process in a major contested coastal application case. *Champlin's Realty Assoc. v. Tikoian, et al.*, 989 A.2d 427, 450 (2010). Long after the conclusion of numerous CRMC hearings, appeals to court, additional CRMC hearings, and after the Rhode Island Superior Court finally upheld a denial of the application, the applicant appealed the court-affirmed denial to the Rhode Island Supreme Court.

While that case was pending in the court, CRMC's Council attempted to circumvent the appeal process. Looking to privately settle the case, CRMC's Council engaged in behind-closed-doors negotiations, without key litigants from the case present, and disregarded due process to the detriment of the public's trust, as well as its obligation to protect and preserve the coastal resources of the state. In overturning the Council's unlawful actions, the Rhode Island Supreme Court had to remind CRMC's Council of its obligation to engage in “an open, traceable decision-making process [which] is essential for an effective coastal management program.” *Champlin's Realty Assoc. v. Coastal Resources Management Council, et al.*, 283 A.3d 451 at 476 (2022) (emphasis added). The Council had done the opposite by engaging in an unauthorized “private mediation” in a significant coastal permitting case in violation of CRMC's legal authority. Indeed, a “poor decision.”

However, beyond a piercing Supreme Court decision, there were no consequences for the Council's breach of the public's trust or its mandates to protect the state's coastal resources. There were no administrative or legislative inquiries or studies, no new training for Council members, and no new procedures or policies set in place to prevent future breaches of due process or public trust. Without accountability and transparency, and with persistent erosion of the public's trust in CRMC, the Council structure hampers CRMC's ability to effectively meet its program obligations.

For example, this past year, CRMC's staff issued a Cease and Desist Order, along with an assessment of penalties to a riparian property owner for illegally constructing a 600-foot long, and up to 20-foot tall rock revetment along and below the mean high water mark on an undeveloped coastline. (Cease & Desist Order 23-0185). This same landowner previously applied for, and was denied, CRMC permission to construct a smaller rock wall in this same location. However, despite that permit denial, the landowner skipped the application process, and simply installed an illegal rock structure in, and adjacent to, jurisdictional coastal lands and waters. It is undisputed that the landowner, or its agents, built the illegal wall with no permits and no engineering or environmental review as required by state and federal law. In the opinion of CRMC staff, as well as Rhode Island's Department of Environmental Management and the federal Army Corps of Engineers, this landowner violated state and federal law.

If CRMC's Council operated in accordance with CRMC's own rules and was held accountable for past mistakes highlighted in scathing court decisions chiding the Council for its lack of a fair and transparent process, this case would proceed like any other enforcement case. It would be treated

as a typical administrative enforcement matter, be assigned to CRMC's hearing officer as required by law and be subject to an orderly, transparent and fair process that affords all parties to make its case to an impartial hearing officer. Indeed, this case should be handled as an "*open, traceable decision-making process* [which] is essential for an effective coastal management program." *Champlin's Realty Assoc. v. Coastal Resources Management Council, et al.*, 283 A.3d 451 at 476 (2022) (emphasis added).

Instead, without citing any authority, and without engaging in an understandable or transparent process, CRMC's Council inexplicably voted to allow a separate hearing where the landowner subject to the CRMC enforcement action can make its case to change the rules that form the foundation of CRMC's Cease and Desist Order. In the meantime, the illegal wall remains in place, now over 400 days since it was illegally constructed, and the Council's arbitrary decision to hear the request for a change in CRMC's rules leaves the enforcement hearing process indefinitely held in abeyance, furthering the harm caused to the intertidal habitat and coastal ecosystem by this illegal massive rock revetment.

Providing the alleged violator an opportunity to petition CRMC to change the rule governing the water type impacted by the alleged violation undermines the agency's ability to enforce its Cease and Desist Order. This is a distortion of the rule of law and thwarts CRMC's ability to comply with the mandates of its coastal program. It also wholly disincentivizes compliance with Rhode Island's coastal program if alleged violators can simply tie the lay Council in knots for months as it attempts to change the rules to negate a staff-issued enforcement action.

It is incomprehensible that the Council would consider providing an alleged violator with an opportunity to circumvent CRMC's own regulatory process by allowing a hearing to take place outside of the enforcement process. Allowing the wall to remain in place while entertaining a change to the water type to accommodate a violation makes a mockery of the legal system, undermines and violates the mandates of the coastal program, encourages others to violate the law, and creates a dangerous precedent. Such a convoluted process defies NOAA's prioritization of preventing *real or perceived conflicts of interest*.

Additionally, the lack of public trust caused by an arbitrary process that overtly devalues the deterrent effect of enforcement unfairly disempowers and flatly disrespects CRMC's professional staff. Erratic, inconsistent and overturned agency decisions, as well as confounding Council decisions to offer hearings to alleged violators to change the rules rather than providing for an orderly and transparent process to enforce its rules, compounds the public's lack of trust in the agency. CRMC staff is further burdened to overcome that loss of trust by engaging in protracted and unnecessary hearings and related communications that divert resources from an overburdened permitting and enforcement staff. Council decisions that wholly fail to signal an equitable, reasoned and fair process, and court decisions that shine a spotlight on the Council's lack of transparency are distractions that undermine CRMC's ability to strongly implement its management program.

**Persistent Council vacancies impair CRMC's ability to effectively meet its program obligations.**

Despite NOAA's 2020 finding that fully seating the 10-member Council is necessary to avoid delay and allow CRMC to efficiently implement its management program, Rhode Island's executive branch has persistently failed to fully seat the Council over the last several years. Volunteer Council members come and go, and hearing outcomes depend on the votes of Council members who happen to be present at a given hearing. The lack of a fully seated Council causes periodic

cancellation of its meetings for lack of a quorum, delays, and continuances of lengthy hearings. It also hampers CRMC's progress on consequential regulatory decisions that bear directly on ocean-dependent economic activities, such as offshore wind and aquaculture permitting. This impairs CRMC's ability to effectively and productively manage coastal development in an orderly and efficient manner as required under its management program.

**Therefore, Save The Bay urges NOAA to ensure more accountable agency decision-making by empowering CRMC's Executive Director with final administrative decision-making authority on day-to-day permitting and enforcement decisions.** Such transfer of administrative decision-making would not impact the ability of the public to participate by providing public comment at public hearings, or in conjunction with administrative hearings heard by hearing officers.

Empowering CRMC's Executive Director with final administrative decision-making authority on day-to-day permitting and enforcement decisions does not conflict with Rhode Island's approved "direct permit" program structure and is consistent with the executive authority and accountability of other cabinet-level directors in Rhode Island's state government. It also puts the science-based decision-making where it belongs - in the hands of the coastal experts. Save The Bay further requests that NOAA support the replacement of the current Council structure with a stakeholder-driven Advisory Council structure with relevant coastal expertise and experience that advises CRMC as it relates to policy.

Persistent poor decisions and unfair processes by a flawed Council structure is a hindrance to the implementation of Rhode Island's Coastal Management Program that can be easily remedied for the betterment of the agency's protection of our coastal resources.

#### **4. CRMC must re-engage with the Fishermen's Advisory Board for all federal consistency reviews.**

In 2023, the entire Rhode Island Fishermen's Advisory Board (FAB) resigned amid deep frustration and critical concerns regarding the federal consistency review process for offshore wind. Federal law and CRMC's own regulations require CRMC to work with ocean stakeholders, including Rhode Island's economically important fishing community in its review of offshore wind. See C.F.R. § 930.60(a)(2); §§ 650-RICR-20-05-11.10.1(D) and (J) (Rhode Island Ocean Special Area Management Plan).

Save The Bay strongly supports, and NOAA specifically identifies, that our state's fishing industry not only be represented as a critical ocean stakeholder in offshore wind evaluations, but also have a "meaningful role in new regional efforts" around offshore development, science and policy. (NOAA 2020 Review).

Increased offshore wind projects and accompanying energy infrastructure in our coastal waters requires more stakeholder input, not less. Therefore, Save The Bay requests that NOAA require CRMC to immediately re-initiate collaboration with our state's Fishermen's Advisory Board for all federal consistency reviews, and robustly include the FAB in other related regional initiatives around offshore energy.

#### **5. Designation and implementation of coastal public access and rights-of-way should be further prioritized, with an emphasis on increased access in under-represented coastal communities.**

Ensuring public access to - and along - the shoreline is an increasingly important part of Save The Bay's mission. In recent years, CRMC staff have elevated and prioritized public access in their work. In December 2020, CRMC hired a new coastal policy analyst and the majority of their work has been focused on public access. In 2021 and 2022, CRMC's Executive Director served on the Rhode Island House Shoreline Access Study Commission (along with Save The Bay's Executive Director) and contributed to recommendations that eventually led to passage of a new state law that more clearly defines Rhode Islanders' shoreline access rights. CRMC staff have highlighted the need for expanded shoreline access in urban areas and are engaged in efforts to expand and enhance a new CRMC-designated right-of-way (ROW) to the shore within Providence's industrial waterfront. CRMC's Urban Coastal Greenways regulations, part of the Metro Bay Special Area Management Plan (SAMP), works to expand public access by allowing reduced coastal buffer widths for development projects if public access pathways are included.

Several challenges related to both lateral and perpendicular access to the shore remain however. CRMC has a stated goal of one CRMC-designated right-of-way to the shore for each mile of Rhode Island's 420-mile shoreline. As of CRMC's most recent (June 2024) progress report, there are now 234 designated ROWs. Progress towards meeting their goal has been slow, with an average of <1 ROW added per year since 2001:

Year of CRMC ROW Progress Report Number of Sites Designated as ROWs

2001\*: 216

2004: 220

2009: 224

2014: 221

2019: 226

2024: 234

\* First year of progress report

The process of reviewing new potential ROWs is cumbersome and slow. For example, four potential ROWs in the Town of Narragansett (Glenwood Avenue, Succotash Road, Mollusk Road and Island Road) have been listed as "under review" in every ROW progress report *for over twenty years* - from 2001-2024. Indeed, at a recent Council subcommittee ROW hearing, an 81-year-old petitioner seeking CRMC's designation on a separate ROW sought to intervene in the ROW hearing before the subcommittee in an effort to "move CRMC along" so his proposed ROW might get listed before "he died." (2020-11-084, hearing on October 8, 2024). CRMC has little-to-no dedicated funding for their work to expand ROWs and title searches are time consuming and expensive. Staff have enlisted the help of law students from Roger Williams University School of Law to provide assistance, but more resources are needed to do this important work.

Of the 234 CRMC-designated ROWs to the shore, many of those are challenging or uninviting for the public to actually use for a variety of reasons, including: overgrown vegetation, coastal erosion, blockages (both unintentional and intentional) by adjacent property owners, unauthorized "no parking" signs, and the fact that many ROWs are sandwiched between two houses with no signage. The actual number of rights-of-way that the public is comfortable using is likely far fewer than 234. Similar issues and intimidation from coastal property owners also result in conflicts when the public exercises their rights to lateral access along the shore, particularly along Rhode Island's southern coast. The public looks to CRMC staff to respond to and help resolve such conflicts, but the lack of adequate staffing makes that difficult.

The lack of parking near ROWs is a challenge in many coastal communities, and adjacent property owners - and in some cases the municipalities themselves - will put up signage that deters the public from using ROWs. Recently, the Town of Middletown placed an electronic billboard sign near a ROW that read “No Parking” and “DEM Police Will Enforce Fishing Laws.” (Note: there is no requirement that the public must be fishing to access and use a right-of-way.) *See photo below.*

There are also issues of equity and racism regarding public access. Save The Bay has heard several stories from people of color who have been intimidated and made to feel unwelcome when attempting to access the shoreline. A BIPOC Save The Bay staff member has been stopped and questioned multiple times by nearby residents when conducting assessments of ROWs. A local shellfisherman recently shared a story of being questioned when using a ROW and later finding dog feces spread on his car door handle. Many, if not most, of the state’s ROWs are located in wealthy, predominantly-white coastal communities, with relatively little public access to the shore in urban and more diverse communities. CRMC must recognize these inequities and work to resolve them through the addition of ROWs in urban communities, and through better public education throughout the state.

For these reasons, Save The Bay requests that NOAA support increased funding to support a more robust, equitable and responsive ROW program. Additionally, Save The Bay urges NOAA to encourage CRMC to prioritize increasing access for *all* Rhode Islanders, especially those with little to no coastal access in urban and more diverse communities.

*“No Parking” signs placed recently near a CRMC ROW in Middletown, RI.*

## **6. CRMC should continue to coordinate coastal habitat restoration and climate resilience efforts.**

Save The Bay urges NOAA to support staff capacity to collaborate with the Army Corps of Engineers (ACE) on the identification of beneficial use sites for dredge material. To ensure the beneficial use of sediment from future ACE-sponsored dredging projects, CRMC is the appropriate state agency to play the lead role as the state sponsor of future beneficial use projects. CRMC has been the state sponsor for past ACE-led habitat restoration projects through Section 1135 of the Water Resources Development Act. CRMC’s Dredging Coordinator position has been filled. It is important that CRMC retain the Dredging Coordinator position so that CRMC staff can advocate for the beneficial use of clean dredge material for projects that can increase climate resilience, restore habitat, and enhance public access.

## **7. CRMC requires additional resources to meet increased demands of offshore permitting, expanded aquaculture, and emergency post-storm response to continue to effectively carry out its program obligations.**

Save The Bay commends the expertise and diligence of CRMC’s limited staff in implementing its coastal program. With its extensive jurisdiction and the drastically changing need for responsiveness, Save The Bay continues to robustly support budget increases in every legislative session to strengthen CRMC’s ability to protect the public’s health and our environment.

Specifically, CRMC’s budget does not account for the growing and emerging challenges caused by climate change impacts to our state’s infrastructure, economy and ecosystems. Sea level rise, coastal flooding and storm surges, coastal erosion and ecosystem and habitat adaptations impact



nearly every Rhode Islander, and require expert analysis, robust coastal policies and nimble response by CRMC to meet our state's economic, environmental and public safety concerns.

CRMC's limited staff are stretched to the limits with the emerging growth of offshore energy federal consistency reviews, emergency permit responses, complex climate change-related adaptations and mitigation projects, compliance and enforcement. Therefore, Save The Bay requests that NOAA support an increase in CRMC staff to address the persistent staff deficiencies that hamper the agency's ability to fully meet its program obligations and plan effectively for increased climate change impacts to our coastal zone.

Save The Bay appreciates the opportunity to present comments to support CRMC's professional staff in its programmatic review and shares NOAA's goal in supporting CRMC to fully and effectively meet its coastal resource management program obligations. CRMC's ability to meet its coastal program mandates and goals benefits every state resident, as well as the important and rich coastal and ocean resources of Rhode Island.

#### **Response from NOAA's Office for Coastal Management:**

Responses to Save the Bay are organized according to the seven items enumerated in the written comment.

##### **1. The CRMC still lacks effective legal counsel for its professional staff at contested hearings.**

As described in these evaluation findings, NOAA's Office for Coastal Management acknowledges that there have been some improvements to staff access to legal counsel to address necessary actions from prior evaluation findings related to legal counsel. Despite these improvements, the 2025 findings also recommend additional actions to ensure staff receive the legal advice they need given today's demands, including during contested hearings (Recommendation 2).

NOAA's Office for Coastal Management has recognized the benefit of a staff attorney position for CRMC in past evaluation findings and was supportive of the Program pursuing approval and funding for this position with the Rhode Island legislature (e.g., 2010, 2020). We understand the Program has made several requests for this position in recent years but has not been successful. NOAA's Office for Coastal Management continues to be supportive of the Program pursuing a staff attorney position. However, recognizing state administrative procedures and the cost of additional legal services, this evaluation suggests that CRMC pursue options to increase their legal capacity.

##### **2. CRMC still hears contested cases despite the appointment of an administrative hearing officer that is required by law to hear all CRMC contested cases.**

The Rhode Island CRMC must adhere to the state's approved coastal management program, which includes state statute (R.I. Gen. Laws § 46-23-20) and the established procedures (CRMC Management Procedure Rule 1.1 (B)) for hearing contested cases. If the Rhode Island Coastal Resources Management Program finds that the plain language interpretation is not a tenable approach for the initiation of a contested hearing process, NOAA's Office for Coastal Management encourages the Rhode Island Coastal Resources Management Program to consider whether changes should be proposed under the State's Administrative Procedures Act.

**3. The politically appointed CRMC Council lacks expertise, is accountable to no one, and has persistent vacancies that impair CRMC's ability to meet its program obligations.**

The evaluation findings include two necessary actions (Necessary Action 1 and 2) and two recommendations (Recommendation 2 and 3) that address this comment.

**4. CRMC must re-engage with the Fishermen's Advisory Board for all federal consistency reviews.**

NOAA's Office for Coastal Management agrees that CRMC staff should collaborate with the state's recreational and commercial fishery industry on all federal consistency reviews that may have an effect on the Rhode Island fishing industry and other related regional initiatives around offshore energy. The evaluation team has documented CRMC staff efforts to do this in these evaluation findings and has included an accomplishment to that effect. Additionally NOAA's Office for Coastal Management encourages CRMC staff to continue to work towards restoring the state's recreational and commercial fisheries participation in offshore wind energy development with clear expectations on areas of influence, but NOAA cannot compel the fishing industry to participate.

**5. Designation and implementation of coastal public access and rights-of-way should be further prioritized, with an emphasis on increased access in under-represented coastal communities.**

The evaluation findings document three accomplishments of Rhode Island's Coastal Management Program related to public access (Accomplishments 3, 4, and 5)

The evaluation findings also identify challenges and opportunities for the CRMC for advancing public access. Opportunities include continuing to work with partners to monitor established rights-of-way. NOAA's Office for Coastal Management also encourages the CRMC to increase enforcement efforts and to work with community leaders to advance greater coastal access. The evaluation findings include one recommendation related to rights-of-way (Recommendation 6).

**6. CRMC should continue to coordinate coastal habitat restoration and resilience efforts.**

The evaluation findings document Rhode Island Coastal Resources Management Program accomplishments and challenges related to coastal habitat restoration and coastal community resilience. However, the findings do not speak specifically to collaboration with the U.S. Army Corps of Engineers on the identification of beneficial use sites for dredge material. NOAA's Office for Coastal Management recognizes the accomplishment of hiring new staff, in part to replace several retirements, including a dredging coordinator who is a licensed professional civil engineer. NOAA's Office for Coastal Management believes that it is important for CRMC to retain the Dredging Coordinator position related to the beneficial use of clean dredge material for projects that can increase coastal community resilience, restore habitat, and enhance public access. The findings also acknowledge CRMC's coordination and leadership role in coastal habitat restoration and coastal community resilience efforts in Rhode Island.

The evaluation findings include a recommendation that addresses Save the Bay's suggestion on continued coordination on coastal habitat restoration and resilience efforts (Recommendation 8).

**7. CRMC requires additional resources to meet increased demands of offshore permitting, expanded aquaculture, and emergency post-storm response to continue to effectively carry out its program obligations.**

The evaluation findings discuss the need for additional staff and capacity for CRMC. NOAA's Office for Coastal Management specifically identifies offshore energy, aquaculture, and federal consistency as possible priority areas for increased resources. With the reality that such resources are limited, the evaluation also documents ways in which the program can leverage partnerships to advance the state's response to coastal management goals.

**Comment #40: Job Toll, Jamestown, RI**

As NOAA evaluates the Coastal Resources Management Council (CRMC), I think they should look carefully at the 10-member, politically appointed council. The council should be eliminated, and the CRMC [should be] restructured to a format similar to the Rhode Island Department of Environmental Management (RIDEM), or the CRMC could be made part of RIDEM. At the very least, there should be some requirements to be on the CRMC such as a scientific, engineering, fisheries, or marine science background.

**Response from NOAA's Office for Coastal Management:**

As described in the introductory text of this appendix, the Rhode Island Department of Administration has reached out to NOAA to assist the state in exploring possible organizational changes to CRMC. However, the purpose of this evaluation is not to recommend that the state adopt a particular structure for its coastal management program. The purpose of this evaluation is to determine if the state is adhering to the requirements of the CZMA and implementing its federally approved coastal management program. This evaluation concludes that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program. NOAA's Office for Coastal Management identified numerous accomplishments that demonstrate ways in which the Rhode Island Coastal Resources Management Council is meeting or exceeding program requirements. There are some areas that the CRMC must address by the timeframes specified (see Executive Summary). Finally, areas where NOAA believes changes could improve program implementation are included as recommendations.

Comment #41: Carl van Warmerdam

Please take the politics out of the Rhode Island Coastal Resources Management Council.

**Response from NOAA's Office for Coastal Management:**

As described in the introductory text of this appendix, the Rhode Island Department of Administration has reached out to NOAA to assist the state in exploring possible organizational changes to CRMC. However, the purpose of this evaluation is not to recommend that the state adopt a particular structure for its coastal management program. This evaluation concludes that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program. NOAA's Office for Coastal Management identified numerous accomplishments that demonstrate ways in which the Rhode Island Coastal Resources Management Council is meeting or exceeding program requirements. There are some areas that the CRMC must address by the timeframes specified (see Executive Summary). Finally, areas where NOAA believes changes could improve program implementation are included as recommendations.

Comment #42: Bradford Whitman, Jamestown, Rhode Island

Thank you for the opportunity to comment on the performance of the Rhode Island Coastal Resources Management Council ("CRMC").

Narragansett Bay has played a major role in my life and the lives of my family since our earliest years. Since 1980 my family has been "on, in, or next to" Narragansett Bay much of the time from our home base in Jamestown.

I became an environmental lawyer at the very beginning when the U.S. Department of Justice hired eight of us as trial and appellate lawyers to represent the U.S. Environmental Protection Agency and other federal agencies having environmental responsibilities. It was a unique opportunity among the fields of law practice because Congress was creating the landmark federal environmental statutes at the same time that we were making law in the federal courts using old and new statutes—and establishing a federal common law. I continued practicing environmental law for the duration of my career at private law firms, and I served as an arbitrator in complex environmental litigation pending in the federal courts. I have assisted many environmental groups over the years.

I became familiar with state environmental agency performance in a number of states, particularly in the context of the federal delegation of responsibilities under the Clean Water and Clean Air Act permit programs, and in Rhode Island with regard to the coastal management program of CRMC. States have deviated from their responsibilities in various ways. None, to my knowledge, have even approached the level of intentional misconduct, corruption, and abuse of power that CRMC has demonstrated in a contested proceeding in Jamestown arising out of an application by Jamestown Boatyard ("JBY," newly acquired by Safe Harbors) to dredge Dumplings Cove and extend piers 150 feet and another highly publicized, long-running litigation involving Champlin Boatyard at Block Island—and doubtless others I know nothing about. This misconduct continues to this day despite a public written admonition by Rhode Island Attorney General Peter Neronha and his successful reversal in the Rhode Island Supreme Court of CRMC backdoor dealings.

CRMC came into my focus in 2020 when a huge, commercial marina developer, Safe Harbors ("SH"), a subsidiary of a giant conglomerate apparently dealing mostly in manufactured housing, acquired the 100-year-old Jamestown Boatyard in Dumplings Cove. I was one of several citizens who joined in a fierce, well-informed opposition to SH's demand to rebuild and extend the JBY piers 150 feet further out into the Cove and dredge a navigation channel through the pristine Cove bottom so that deep-draft, high-end yachts could come all the way in along the piers regardless of the tide. JBY's existing practice was to service its premier Swan 60's on the high tide. Of course, JBY had many smaller-boat clients that kept the enterprise healthy for many years—and a friendly neighbor to the residents who lived in the Cove and the low-impact users: swimmers at the beaches and the beach club, kayakers, birders, paddleboarders, and small-craft sailors. Rhode Island Audubon owns two of the "Dumplings," the rock outcroppings unique to this Cove and iconic to Rhode Islanders, especially the one that supports the stick-shingle house "Clingstone."

Five hundred Jamestown residents signed a Petition opposing SH's plan; it was accepted in the record at the hearing. Conanicut Island is small; the Town of Jamestown is smaller, especially in number of residents. That the opposition group to SH could obtain five-hundred signatures clearly warranted good faith consideration by CRMC. The same holds true for the testimony of more than two dozen opposition

witnesses, lay and expert. CRMC disregarded all of it. CRMC's December 31, 2020 "New Year's Eve" Decision" speaks for itself (Exhibit "A" hereto).

The Petition combined with the testimony of twenty-eight opposition witnesses, lay and expert, represented a huge outpouring of well-articulated public sentiment and expert opinion touching the core factors enumerated in the Coastal Zone Management Act and CRMC's enabling act. I read the entire two-day transcript of the hearing. The credibility and importance of this testimony were very high. Without even considering all of CRMC's specific legal violations and deviations from the approved program (listed below), it is obvious from the "Decision" that the CRMC's entire proceeding was a rush to judgment to accommodate Safe Harbors' desire to dredge during the January "winter window" allowed by the Rhode Island Department of Environmental Management (RIDEM).

Six Councilmembers attended the JBY hearings. I examined to see how CRMC responded to the opposition witnesses who established that: a) the Cove is unique in its small size, geology, scenery, and difficulty to navigate safely because of surface and hidden rocks and the presence of moorings and recreational users; b) strong tides, high winds, and a shallow bottom replenished with shifting sands would inevitably require regular *re-dredging* to keep the channel open, and this activity would forever prevent the recovery of marine life damaged and removed; and c) in addition to marine life, it is probable that at least some residual chemicals from a hundred years of boat-servicing are present in pockets of the bottom sediments currently protected from coming in contact with wildlife.

CRMC members at the hearing complained that they did not have experts to weigh these factors. They had taken two total samples of the bottom and had refused to require SH to submit the comprehensive Category B Application that CRMC's own regulations demand. They also refused to obtain the biology report mandated by the regulations (known as the "Red Book"). In fact, CRMC had an expressed legal duty (in the enabling act and the program) to obtain all expert assistance necessary to perform its duties from outside agencies, state and federal, particularly RIDEM.

Furthermore, there could have been no more qualified marine biologist to answer questions than the opponent's expert witness, Christopher Powell, who retired from RIDEM after a career performing surveys of Narragansett Bay as a marine biologist. The CRMC completely disregarded Mr. Powell and his strong opinion that the pristine Cove should never be dredged and converted into a marina just like the more than 100 other full-service marinas that SH operated—as the company boasted in its marketing plan on its Internet website.

In preparation for submitting this Comment, I researched the background of CRMC and examined approximately sixty state Program Change Requests maintained in NOAA's files to see if there were other instances of a rogue citizen council like CRMC. There were none. Almost all of the approved state programs are operated under the Coastal Zone Management Act and state law as executive agencies or departments in their own right or as parts of related agencies or departments, as reported in a Department of Commerce Biennial Report to Congress that singled out Rhode Island without comment.

It should not be surprising that in this day of immense business and political power in the marketplace and the astonishing rate of development of coastal regions that Rhode Island, the formerly undiscovered "Ocean State," and its sparkling Narragansett Bay should fall prey to corrupt influences.

The CRMC is a random group of Rhode Island residents appointed by the Governor without any demonstration of environmental qualifications, integrity, or special interest in preservation of coastal resources. The members are unsupervised, have no accountability to the staff hierarchy and Secretary or Director of a conventional government agency, and [do not] report to an Inspector General enforcing rules against conflicts of interest and ex parte contacts with interested parties.

Appointment to the CRMC is a political favor, nothing more.

The number of Council members has varied in the past. There are ten members currently. The current Chair is Raymond C. Coia. He was one of the “Subcommittee” of six that presided over the JBY hearings. When an application for permit is opposed, the CRMC designates it as a contested case and selects a “Subcommittee” of members to attend the hearings and make decisions up to but not including the final decision that can only be issued by the full Council after compliance with the regulations described below.

Towards the end of the JBY proceeding, Rhode Island Attorney General Peter Neronha took the unusual step of issuing a public admonition to the CRMC, emailed directly to the CRMC Chairperson, who was one of the six presiding over the JBY case. This document is Exhibit B hereto.

In considering CRMC’s conduct, it is highly relevant that the Council did nothing to reform its behavior after receiving RIAG Neronha’s admonition. Instead, CRMC promoted Mr. Coia, one of the six JBY members, to the position of Chair. The prior Chairperson went into private law practice and now represents Quidnessett Country Club before CRMC seeking to downgrade the established water classification in the vicinity of the Club so that Quidnessett will not have to remove a *550-foot stone seawall erected at the water’s edge without any permit at all*. It is unknown at this time whether Quidnessett had ex parte contacts with CRMC members before undertaking the huge expense and risk of this project, a flagrant violation of law. It is well known that a wall such as this destroys marine life and habitat by its physical presence and inevitably causes longshore erosion and redeposit of sand and stones. It seems unlikely that the sophisticated members and directors of this private club, despite all the adverse publicity relating to JBY and Champlin, would have taken the risk without some assurances. CRMC has put the case on hold—twice.

Before I make my recommendation to NOAA, I will identify the major violations that constitute the CRMC noncompliance or “nonadherence” more than sufficient to warrant—and require—NOAA’s sanctions:

- In Rhode Island, as in most states, the Constitution is the paramount law. Rhode Island’s Constitution contains an environmental public-trust provision: Article 1, Section 17 establishes a public trust obligation extending to all submerged lands. The origin of this provision resides in the old common law that draws a line against any activity, public or private, that infringes on submerged lands and the public’s superior to enjoy them. The RI General Assembly incorporated this provision in the enabling act for CRMC: “The legislature recognizes that under Article I, Sec. 17, the submerged lands of the state are impressed with a public trust, and the state is responsible for protection of the public interest in these lands...” R.I. Gen. Laws, Sec. 46-23-1(f)(1). The entire JBY proceeding trampled on the public trust rights of ordinary citizens. The transcripts of the hearings contain references to small-craft recreation as unwanted and unlawful interference with SH’s superior right to dredge and build out. CRMC turned the law upside down.
- The Red Book requires all new or “improvement” dredging (as opposed to maintenance dredging) to be approved under Category B applications. 650-RICR-20-1.1.5. Despite repeated demands from the opposition that Category B be applied, the CRMC flatly refused. The critical environmental data upon which the entire case depended were deliberately excluded. Just before Safe Harbor’s monstrous dredge went to work, the CRMC sent in a quahog fisherman. He pulled out *forty bushels of quahogs*. Pristine Dumplings Cove was not just pristine; it was one of the most fertile marine sanctuaries anywhere in the Bay. The abundant eelgrass was further confirmation.
- Category B applicants also must demonstrate the “*need for the proposed activity or alteration*.” 650-RICR-20-1.3.1(A)(1)(a). Jamestown Boatyard had existed for a hundred years and was highly regarded for its service of yachts, including the high-end Swans. Safe Harbors, however, wanted mega-yachts. Owners and sailors of large yachts testified for the opposition that there were “at least” four full-service marinas for large deep-draft keel boats within 15 nautical miles of Dumplings Cove, less than a day’s sail away. Clearly, there was no need.



- The Red Book specifically requires Category B activities be supervised in a manner to provide “necessary data and information for the purposes of *federal consistency reviews*.” 650-RICR-20-1.3.1(A)(1). This provision is a tip-off that NOAA would judge compliance by how the state body handled the most sensitive and important applications for first-time dredging and other activity. Dredging, of course, is the most destructive activity possible. The CRMC again shunted this legal obligation aside.
- In contested cases, the CRMC cannot proceed with an application without a *staff biologist report*. 650-RICR-10-1.4.2. This report would have said a lot about Dumplings Cove. CRMC produced no report despite repeated demands by the opponents.
- Category B applicants must prove that the project will not result in significant conflicts with water-dependent uses, including recreational boating, fishing, swimming, and navigation. 650-20-1.3.1(A)(j). SH made no attempt to prove this element.
- The procedures for decision-making are very clear. A Subcommittee of the full Council attends the hearings, in this case six members. The hearings are recorded. The Subcommittee makes recommendations to the full Council. “The record shall be available to the full Council... Upon hearing all of the facts and reviewing the record in its entirety, the Council shall render its decision in accordance with R.I. Gen. Laws Chapter 42-35.” 65—RICR-10-1.5.3(B-C). The New Year’s Eve “Decision” was the grossest form of intentional noncompliance.
- The regulations require that final decisions include findings of fact and conclusions of law “separately stated...accompanied by a concise and explicit statement of the underlying facts supporting the findings.” 650-RICR-10-1.8(A-B). The “Decision” obviously violated this requirement.

#### Conclusion and Recommendation

Other speakers will address the Champlin Boatyard, Block Island case that is egregious because the backdoor dealing occurred while the case was before court and was being handled by lawyers subject to Rules of Professional Conduct.

The CRMC has amply proven that it is a rogue, corrupt, biased, and incompetent body that must be replaced by an executive department or agency not unlike the administrative bodies in other states. Rhode Island badly needs a lawful, dedicated, accountable, transparent department with a hierarchy of staffing and responsibility.

It is a matter of public record that in the last session of the General Assembly a coalition of environmental groups and the RIAG vigorously testified in support of companion bills in the House and Senate that would accomplish this goal and be submitted to NOAA as Program Change Requests. NOAA has a history of supporting structural changes in coastal management programs and reserving the time and resource intensive reviews for substantive changes in water quality and resource standards and delineations of managed areas.

In this case, I believe the federal action most productive and faithful to the CZMA after the public comment closes on October 25 is for NOAA to issue an interim decision that the CRMC is in noncompliance with law in many respects and that a period of time is allowed within which to submit a revised state program. The Rhode Island General Assembly comes into session in January. As I said, extensive hearings have been held. The CRMC should be allowed thirty days from October 25 within which to disprove the evidence presented orally or in writing.

Rhode Island should not be sanctioned by withdrawal of federal funds. It is under threat of a federal takeover of the program, and that should be incentive enough to push through the proposed legislation. NOAA should encourage Rhode Island to apply for Program Development grants to support the overhaul.

There should be no further carnage in the interim. This should be made clear on the record.

If NOAA deems it necessary to review the underlying transcripts, exhibits, and other documents, that can be arranged.

#### SUPPLEMENTAL PUBLIC COMMENT OF BRADFORD WHITMAN

Thank you again for the opportunity to comment on the performance of the Rhode Island Coastal Resources Management Council (“CRMC”) following the Public Meeting on October 15, 2024.

Following the meeting I received an additional document regarding the CRMC’s handling of the Quiddnessett Country Club (“QCC”) application to downgrade the Narragansett Bay Water Type from Type 1 to Type 2 to accommodate the construction of a 600-foot seawall. This document (attached as Exhibit A) is a June 26, 2024, eight-page letter, including attachments, opposing QCC’s application that was sent by *former CRMC Acting Deputy Director James Boyd to current Executive Director, Jeff Willis*. In my October 15 Comment, I set forth in detail the illegal acts and omissions carried out by Willis and Council members in the JBY case. The QCC events described here are subsequent to the JBY case, i.e., they occur *after* the Rhode Island Attorney General’s strong public admonition to CRMC, which should have been duly considered and which should have resulted in reforms being made by the Council and its Executive Director.

The June 26 Boyd letter is important for NOAA’s evaluation of the performance of the CRMC.

Mr. Boyd was Mr. Willis’s own Deputy at CRMC. It is unusual to come across such a detailed, formal public comment by an insider. The facts and analysis relating to QCC are indisputable. QCC had a “permit history” with the CRMC stretching back over a number of years. QCC and CRMC knew well the Type 1 classification for this undisturbed sandy shoreline in front of the golf course. CRMC’s Red Book regulations prohibit any “alteration” unless the primary purpose is to preserve or enhance the natural habitat. 650-RICR-20-1.2.1(B)(2). There were QCC applications of record at CRMC in 2006, 2012, and 2013, well before QCC in 2023 constructed the massive seawall two football fields in length, without permission from either the CRMC or the U.S. Army Corps of Engineers.

Attached as Exhibit B are photos of the seawall (credited to Seth Homline, Save the Bay). This was a huge project on a pristine Type 1 shoreline. A more blatant, knowing, and willful violation of state and federal environmental law cannot be imagined. The Corps of Engineers has had federal jurisdiction over the disposal of materials in navigable waters since 1899 pursuant to the Rivers and Harbors Act, 33 U.S.C. 401-407. The Corps has always had primary federal jurisdiction over construction in coastal waters. During my years at the Department of Justice we used the 1899 Act to obtain injunctions compelling developers of so-called finger canals without a permit to restore the wetlands they had destroyed. The idea of obtaining an after-the-fact permit was killed off a long time ago.

An important part of Rhode Island’s NOAA-approved coastal program was a legal requirement that the CRMC, which lacked the extensive, in-house environmental expertise of the Rhode Island Department of Environmental Management (“RIDEM”), to consult and obtain input from RIDEM. R.I. Gen. Law 46-23-4.1 states: “*The executive director shall coordinate and liaison with the director of environmental management.*” (All italics are mine.) This NOAA-approved provision mandated that the Council Executive Director, Willis, consult with and obtain input from RIDEM. Willis was Executive Director during the JBY and Champlin cases discussed previously.

Boyd has not mentioned, and I have not found any evidence, that Willis adhered to this requirement in respect to QCC’s activities. It is incomprehensible that RIDEM would have accepted this monstrous wall

breaking up the sandy shoreline in Type 1 waters—so that golfers would not have to move back their 14<sup>th</sup> hole.

Boyd points out that in 2012 QCC applied for permission to construct a 350-foot sheet pile wall at the same location. The CRMC staff responded with certain conditions. QCC dropped its application.

The 600-foot wall could not have taken CRMC by surprise and arisen overnight. It goes without saying that NOAA would never approve any state program that fails to regulate this kind of activity.

The CRMC enabling act, although it has many deficiencies, does contain the following provision: “Council staff, conservation officers within the department of environmental management, and state and municipal police shall be empowered to issue written cease and desist orders in any instance where activity is being conducted which constitutes a violation of this chapter, or any rule, regulation...” R.I. Gen. Law 46-23-7(a)(2).

What explanation can there be for “Council staff” not having obtained an immediate cease and desist order against QCC’s wall construction or contacting RIDEM conservation officers so that they could do so?

In fact, what explanation can there be for the CRMC, having received Boyd’s opposition letter in June 2024, and an equally compelling letter from Attorney General Peter Neronha two days later, not to have rejected the QCC application and then taken enforcement action against QCC by now, *four months later*?

Consider QCC. QCC is a wealthy, sophisticated country club. The management and probably the members knew, as Boyd points out, that the only purpose of the wall was to protect a part of the 14<sup>th</sup> hole, hardly a compelling justification if they were subsequently prosecuted in court. It is highly implausible that QCC acted alone, without any backdoor assurances from CRMC.

This is where the story of CRMC stands today. Unless NOAA puts an end to this corrupt regime that has caused great harm to Dumplings Cove and the Bay—and public confidence in the rule of law, Rhode Island will suffer more. The proper course is for NOAA to issue a Notice of Intent to withdraw approval of the CRMC program. The Rhode Island General Assembly comes back into session in January 2025. Comprehensive bills establishing a Department of Coastal Resources will be resubmitted. Committee hearings have already been held. There has been enormous support from the bill sponsors, the Attorney General, Save the Bay, Protect Conanicut Coastline, Rhode Island Audubon, Conservation Law Foundation, and many others in the environmental community. Furthermore, while the Governor has expressed financial concerns, it is clear that the state would be entitled to a Program Development Grant.

Nothing less will fulfill the intent of the Coastal Zone Management Act.

Four attachments:

- (1) Petition of: Jamestown Boatyard  
Docket No.: 2019-06-014
- (2) Attorney General Peter F. Neronha’s Statement of Concern In re: December 31, 2020 Coastal Resources’ Management Council decision on Petition of Jamestown Boatyard, Docket No. 2019-06-014 and the agency proceedings related to it.
- (3) Re: Advanced Notice of Proposed Rulemaking - Quidnessett Country Club Petition for

CRMC Regulation Change (Map of Water Type Classification for North Kingstown (north))  
- **CRMC File 2024-04-071**

(4) Picture of the Quidnessett Country Club

**Response from NOAA's Office for Coastal Management:**

As described in the introductory text of this appendix, the Rhode Island Department of Administration has reached out to NOAA to assist the state in exploring possible organizational changes to CRMC. However, the purpose of this evaluation is not to recommend that the state adopt a particular structure for its coastal management program. This evaluation concludes that the State of Rhode Island is successfully implementing and enforcing its federally approved coastal management program. NOAA's Office for Coastal Management identified numerous accomplishments that demonstrate ways in which the Rhode Island Coastal Resources Management Council is meeting or exceeding program requirements. There are some areas that the CRMC must address by the timeframes specified (see Executive Summary). Finally, areas where NOAA believes changes could improve program implementation are included as recommendations.

With these findings of adherence, NOAA's Office for Coastal Management cannot initiate the process to impose ss on the Rhode Island Coastal Resources Management Program.

NOAA's Office for Coastal Management has identified several necessary actions to address programmatic requirements of the Coastal Zone Management Act or its implementing regulations (15 C.F.R. part 923), and of the coastal management program approved by NOAA.

## Appendix B: Reporting on Previous Evaluation Findings

### Status of 2020 Necessary Actions and Recommendations for Rhode Island Coastal Management Program

**1 of 1 Necessary Actions: In Progress**

**3 of 5 Recommendations: In Progress**

**2 of 5 Recommendations: Complete**

#### **Necessary Action**

**Initial Due Date: March 31, 2024**

**Extension granted to March 31, 2025**

The Rhode Island Coastal Resources Management Program must develop a new permit database and web interface that can process permit applications and online payments, serve as a platform for interagency review, and track enforcement issues by March 31, 2024. In addition, the coastal program should submit a plan for completing the digitization of all older permits so that the staff can easily access all past permits for current decision-making and respond efficiently to public information requests. The plan should be completed by March 31, 2024.

**In Progress:** Rhode Island Coastal Resources Management Program staff have been working with its sister and lead agency for this effort, Rhode Island Department of Environmental Management (RIDEM), to develop a request for proposals for developing a state shareable database. In Fall 2023 RIDEM chose a vendor and the CRMC has joined the team to inform it of the needs of the agency in the database build.

On March 22, 2024, the Rhode Island Coastal Resources Management Program submitted a request for a one-year extension to the due date for this necessary action. NOAA's Office for Coastal Management agreed to extend the deadline for the necessary action. An extension for a plan to digitize older permits was granted through July 31, 2024. And an extension on development of the database was granted through March 31, 2025.

On April 11, 2024, the Rhode Island Coastal Resources Management Program submitted a plan to digitize older permits. NOAA's Office for Coastal Management reviewed the plan and approved the completion of this part of the necessary action on April 16, 2024.

As part of the 2024 evaluation, the evaluation team met with Director Terrance Gray of RIDEM to understand the progress on the database and the cooperation of the two agencies in completing development of the database and making it available to the public for the permitting application process.

*This necessary action from the 2020 evaluation findings is retained as part of this evaluation finding.* NOAA's Office for Coastal Management is extending the deadline for Rhode Island Coastal Resources Management Council to complete this necessary action to September 30,

2026. This additional time accounts for time to coordinate with RIDEM, to identify and acquire the resources to complete the action, and to develop and launch the new permitting application for CRMC.

NOAA's Office for Coastal Management will continue to monitor progress on this action.

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**Recommendation:** The NOAA Office for Coastal Management recommends that the Rhode Island Coastal Resources Management Program actively plan, and prepare for, upcoming staff changes, as a number of senior staff members will be retiring in the next few years. In particular, the coastal program should identify the skill sets it needs moving forward to address emerging coastal issues and those that will enable continued progress on long-term issues, such as coastal access and coastal hazards, and to pursue opportunities to fill identified gaps. In addition, per the NOAA- sponsored succession planning workshop held for the coastal program in October 2019, this will entail transfer of knowledge from departing staff members to those remaining through shadowing, training, and ideally overlapping with new staff members (working with Human Resources on creative solutions), preparing to hire new staff members with skill sets that position the program to respond to increasing coastal management challenges, and prioritizing staff meetings and follow-on actions to maintain the high-quality level of service the state has come to depend upon.

**In Progress:** Several retirements happened shortly after the evaluation findings were issued and additional staff transitions also occurred. The Executive Director and several other senior staff, including a supervising environmental scientist, dredging coordinator, aquaculture coordinator and geologist retired. Additionally, the regular attritions due to staff leaving for other employment opportunities occurred. The Deputy Director was confirmed by the Rhode Island Senate to the Executive Director position. A senior policy analyst was promoted to Deputy Director. Following his retirement a few years later, the lead of the program's enforcement division was promoted to Deputy Director. New staff hires include three policy analysts (including positions with a focus on offshore wind and public access), administrative position, geologist, enforcement staff, hearing officer, and aquaculture coordinator. A long-term environmental scientist was also promoted to fill the vacant supervising environmental scientist position.

The CRMC staff continued to develop its "Knowledge Drive" database for staff. This growing database includes information, both archival and current, on a number of topics such as staff policy memos, staff meeting agenda and notes, internal staff training presentations, administrative documents, etc.<sup>38</sup> The knowledge drive has become a valuable tool for staff, regardless of their tenure, and serves as a clearinghouse and archival resource. This repository of knowledge is complemented by the new perspectives, experiences, and skills brought by new staff. The combination of experience and fresh perspectives can serve the CRMC staff well as they continue to address the coastal management needs of the state, adapt to new issues, and consider engagement in new opportunities.

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<sup>38</sup> This addresses a recommendation from the previous evaluation. See Appendix X for additional information.

**Recommendation:** The NOAA Office for Coastal Management recommends that the Rhode Island Coastal Resources Management Program continue to improve implementation of the program through activities such as providing training for the [C]ouncil, developing “job aids” for council members, and providing all materials to council members electronically.

**In Progress:** At the start of the reporting COVID restrictions prevented group meetings so training sessions at Council meetings were suspended. All Council members have received tablets on which they use to access meetings and review agenda packages which are now posted on the agency’s website rather than printed and delivered as hard copies.

Staff completed a hard-copy (and digital) Council Training Manual that has replaced the informal one-on-one training done under previous management regimes.

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**Recommendation:** The NOAA Office for Coastal Management recommends these actions to improve compliance with existing regulations: (1) the Rhode Island Coastal Resources Management Program should continue to pursue an increase in the maximum administrative penalty for notices of violation and cease-and-desist orders so that they serve as an effective deterrent and are not seen as the “cost of doing business.” For example, the fee structure could be made comparable to the Rules and Regulations for Assessment of Administrative Penalties that govern the Rhode Island Department of Environmental Management; (2) the Rhode Island Coastal Resources Management Program should pursue strengthening its enforcement program, including increased staffing to improve the program’s ability to address reported violations and conduct site visits to determine if projects have been built as permitted.

**Complete:**

- (1) At the time of the previous evaluation, the Chairperson or Executive Director had statutory authority to assess an administrative penalty of not more than twenty-five hundred dollars (\$2,500) for each violation R.I. Gen. Laws § 46-23.7.1(1). After the Council issues a cease-and-desist order, both the Council and the Executive Director were authorized to assess additional penalties of not more than five hundred dollars (\$500) for each day during which the violation continued. However, the maximum penalty that could be imposed in the aggregate was ten thousand dollars (\$10,000).

In 2021 the Rhode Island legislature updated these administrative penalties. Effective July 1, 2021, R.I. Gen. Laws § 46-23-7.1 authorizes the chairperson or executive director to assess an administrative penalty of not more than ten thousand dollars (\$10,000) for each violation of this section, and is authorized to assess additional penalties of not more than one thousand (\$1,000) for each day during which this violation continues after receipt of a cease-and-desist order from the council pursuant to § 46-23-7(a), but in no event shall the penalties in aggregate exceed fifty thousand dollars (\$50,000).

- (2) As part of the program’s 2021 budget process, the agency’s budget request included a proposed increase of full-time employee count by one (an environmental scientist to be

assigned to enforcement). That did not get approved. In 2021, there was one full-time enforcement position.

In 2022 an existing administrative position was revised into an environmental scientist position. The position was filled in the program's enforcement unit. However, in 2022, the enforcement lead was also promoted to Acting Deputy Director and later made permanent Deputy Director so there remain only two enforcement staff for the program.

At the time of the evaluation site visit in 2024, the enforcement position (Environmental Scientist III) that was vacated by the now Deputy Director was still vacant. This position has been advertised and is expected to be occupied shortly. When filled, there would be three full-time enforcement staff for the program (two Environmental Scientist III and one Environmental Scientist II positions).

**Recommendation:** The NOAA Office for Coastal Management recommends that the Rhode Island Coastal Resources Management Program works with our office staff to develop a schedule for submitting recent changes to its implementing legislation and regulations for incorporation into its federally approved program at regular intervals.

**Complete: November 2022.** The agency submitted six program changes to NOAA for incorporation into the federal program, which have subsequently been approved by NOAA. Each program change included a public comment period.

1. RI-2022-1

*Rules and Regulations Governing the Protection and Management of Freshwater Wetlands in the Vicinity of the Coast* replaced the previous CRMC freshwater wetland regulations in their entirety, as required by Rhode Island General Laws §§ 2-1-18 through 2-1-28. The new freshwater wetland regulations (650-RICR-20-00-9) became effective on July 1, 2022, and simultaneously the old freshwater wetland regulations (650-RICR-20-00-2) were repealed on the same date.

Received by NOAA: 6/13/2022

Decision Issued: 7/26/2022

State Public Notice of Decision: 8/3/2022

Additional information available:

<https://coast.noaa.gov/czmprogramchange/#/public/change-view/1275>

2. RI-2022-2

Incorporated reformatting changes to the Ocean Special Area Management Plan (Ocean SAMP) regulations (Parts 2 through 8). The Ocean SAMP was reformatted to comply with the State of Rhode Island Office of Regulatory Reform pursuant to R.I. General



Laws 42-35 that adopted a uniform Rhode Island Code of Regulations (RICR). They are as follows:

1. 650-RICR-20-05-2 (Chapter 2 - Ecology)
2. 650-RICR-20-05-3 (Chapter 3 - Global Climate Change)
3. 650-RICR-20-05-4 (Chapter 4 - Cultural and Historic Resources)
4. 650-RICR-20-05-5 (Chapter 5 - Commercial and Recreational Fisheries)
5. 650-RICR-20-05-6 (Chapter 6 - Recreation and Tourism)
6. 650-RICR-20-05-7 (Chapter 7 - Marine Transportation, Navigation and Infrastructure)
7. 650-RICR-20-05-8 (Chapter 8 - Renewable Energy and Other Offshore Development)

Received by NOAA: 6/17/2022

Decision Issued: 8/5/2022

State Public Notice of Decision: 8/17/2022

Additional information available:

<https://coast.noaa.gov/czmprogramchange/#/public/change-view/1276>

3. RI-2022-3

Incorporated reformatting changes to the Salt Pond SAMP (650-RICR-20-00-3). The Salt Pond SAMP was reformatted to comply with the State of Rhode Island Office of Regulatory Reform pursuant to R.I. General Laws 42-35 that adopted a uniform Rhode Island Code of Regulations (RICR).

Received by NOAA: 6/22/2022

Decision Issued: 8/5/2022

State Public Notice of Decision: 8/17/2022

Additional information available:

<https://coast.noaa.gov/czmprogramchange/#/public/change-view/1277>

4. RI-2022-4

Incorporated reformatting changes to the Narrow River SAMP (650-RICR-20-00-4), Metro Bay SAMP (650-RICR-20-00-5), Greenwich Bay SAMP (650-RICR-20-00-6) and Aquidneck Island SAMP (650-RICR-20-00-7). The SAMPs were reformatted to comply with the State of Rhode Island Office of Regulatory Reform pursuant to R.I. General Laws 42-35 that adopted a uniform Rhode Island Code of Regulations (RICR).

Received by NOAA: 6/24/2022

Decision Issued: 8/16/2022

State Public Notice of Decision: 8/17/2022

Additional information available:

<https://coast.noaa.gov/czmprogramchange/#/public/change-view/1278>

5. RI-2022-5

Incorporated reformatting changes to CRMC's Management Procedures (650-RICR-10-00-1) and substantive amendments to the Management Procedures that the council had previously adopted between January 2020 and June 2021. The Management Procedures were reformatted to comply with the State of Rhode Island Office of Regulatory Reform pursuant to R.I. General Laws 42-35 that adopted a uniform Rhode Island Code of Regulations (RICR).

Received by NOAA: 6/30/2022

Decision Issued: 8/25/2022

Additional information available:

<https://coast.noaa.gov/czmprogramchange/#/public/change-view/1279>

6. RI-2022-6

Incorporated reformatting changes to CRMC's Coastal Management Program regulations (Red Book) (650-RICR-20-00-01) and substantive amendments to the Red Book that the council had previously adopted between September 2018 and February 2021. The Red Book was reformatted to comply with the State of Rhode Island Office of Regulatory Reform pursuant to R.I. General Laws 42-35 that adopted a uniform Rhode Island Code of Regulations (RICR).

Received by NOAA: 8/2/2022

Decision Issued: 11/29/2022

State Public Notice of Decision: No date provided

Additional information available:

<https://coast.noaa.gov/czmprogramchange/#/public/change-view/1280>

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**Recommendation:** The NOAA Office for Coastal Management encourages the Rhode Island Coastal Program to continue to work with ocean stakeholders, including the fishing community, to facilitate a transparent and collaborative process for siting and reviewing offshore wind turbines and other activities using the Ocean Special Area Management Plan process, and to continue to work with the NOAA Office for Coastal Management, as needed, to revise the Ocean Special Area Management Plan to improve clarity and process based on lessons learned.

The coastal program is also encouraged to help ensure that the Rhode Island fishing community has a meaningful role in new regional efforts like the Regional Offshore Science Alliance and the Responsible Offshore Development Alliance.

**In Progress:** In July 2019, the CRMC adopted amendments to the Ocean SAMP policies to improve the predictability of state permitting and federal consistency review processes. The changes applied to offshore renewable energy projects for renewable energy and offshore development activities located within state waters or federal waters within the CRMC geographic location description boundaries that are subject to federal consistency review. The Rhode Island Coastal Resources Management Program subsequently submitted these amendments as changes to its federally-approved coastal management program in October 2019 which NOAA OCM approved in February 2020.

When the Rhode Island Coastal Resources Management Program began reporting on this recommendation, the Fishermen’s Advisory Board (FAB) advised the Council and CRMC staff on the potential adverse effects of offshore development on commercial and recreational fishermen and fisheries activities in accordance with the Ocean Special Area Management Plan. Between July 2019 to September 2023, staff met at least monthly with the FAB during CRMC’s federal consistency review of four offshore wind projects located in federal waters off of the coast of Rhode Island and Massachusetts (South Fork Wind Farm, Revolution Wind, Sunrise Wind; and New England Wind). At times, staff were meeting with the FAB weekly and sometimes multiple times a week during this period.

However, the nine-member Fishermen’s Advisory Board resigned *en masse* in September 2023 due to frustrations with state and federal regulators and offshore development, largely over the adequacy of mitigation the developers were offering for fishing impacts which was outside of the federal consistency review process.

Since the FAB’s resignation, CRMC staff has been coordinating with the Commercial Fisheries Center to hold public meetings/listening sessions with the fishing sector to solicit input on how the Fishermen’s Advisory Board can be reformed, reimagined, and ultimately recreated. For example, CRMC presented at a March 2024 event facilitated by the Commercial Fisheries Center, that allowed fishing industry members to provide comments on how to reform and improve the Fishermen’s Advisory Board as well as the board’s relationship with CRMC staff and council members.

CRMC staff has also been working with the 11-state Coordinated and Regional Mitigation Administrator and BOEM to develop regional equitable mitigation and compensation guidelines to mitigate impacts to the fishing industry when siting and developing offshore wind farms.

In addition, CRMC staff has been collaborating with the Northeast Regional Association of Coastal and Ocean Observing Systems (NERACOOS), the Responsible Offshore Science Alliance (ROSA) and the Regional Wildlife Science Collaborative for Offshore Wind (RWSC) to regionally integrate collective knowledge regarding these offshore wind development areas

and to determine how to continue to monitor these vast areas as effectively and efficiently as possible to inform future decision-making regarding offshore use and adaptive management of these coastal resources. RWSC and ROSA were created in 2019 to curate, collect and guide the science that is required to understand the various impacts of offshore wind development in the United States. ROSA focuses on fisheries research while RWSC focuses on habitat, marine mammals, birds, bats, turtles. CRMC staff has participated in these groups and communicated the concerns of Rhode Island coastal stakeholders and CRMC's needs to better review and monitor the offshore wind industry in the United States. CRMC is a member of the RWSC state caucus and has helped to share the work plans and research to be funded.

CRMC has also been working with the Bureau of Safety and Environmental Enforcement (BSEE) since 2017 on a continuing study of the structural health of offshore wind farms. The results from this study will reduce the uncertainty around the survivability and longevity of permanent foundations for offshore wind in the North Atlantic.