

Evaluation Findings

Connecticut Coastal Management Program

May 2014 to September 2022

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Table of Contents

Summary of Findings	1
Program Review Procedures.....	3
Evaluation Findings	5
Coastal Development Pressure and Water-Dependent Uses	5
Coastal and Marine Planning.....	7
Coastal Resilience.....	9
General Program Implementation	12
Evaluation Metrics	14
Evaluation Metrics: 2012-2017	14
Evaluation Metrics: 2018-2023	16
Conclusion.....	22
Appendix A: Response to Written Comments.....	23
Appendix B: Dredged Material Disposal Dispute Discussion	28

Summary of Findings

The Coastal Zone Management Act 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 Connecticut Coastal Management Program administered by the Connecticut Department of Energy and Environmental Protection, the designated lead agency, for the period from May 2014 to September 2022. The evaluation focused on three target areas: coastal development pressure and water-dependent uses; coastal and marine planning, and coastal resilience.

The findings in this evaluation document will be considered by NOAA in making future financial award decisions concerning the Connecticut Coastal Management Program. The evaluation came to these conclusions:

Accomplishment: The Connecticut Department of Energy and Environmental Protection has created new permitting application processes that have reduced the burden on the applicant while facilitating a more coordinated review by the permitting agencies.

Accomplishment: The Connecticut Department of Energy and Environmental Protection successfully led the development of the Long Island Sound Blue Plan that has greatly enhanced understanding of marine resources and uses in the Sound and has resulted in more informed and transparent decision-making.

Accomplishment: The Connecticut Department of Energy and Environmental Protection has made community resilience a central focus of its efforts to combat climate change, has provided significant support to the Governor's Council on Climate Change, and has worked with local governments, state agencies, and the coastal councils of government to reduce the impacts of climate change.

Accomplishment: The Connecticut Coastal Management Program, working in partnership with the University of Connecticut, provided leadership for the nomination and designation of the Connecticut National Estuarine Research Reserve, the 30th reserve in the national system.

Accomplishment: The Connecticut Coastal Management Program has been successful in navigating a number of staff retirements by providing a consistent focus on identifying the developmental needs of new staff members.

Accomplishment: The Connecticut Coastal Management Program has been very successful in finding additional sources of funding to support the achievement of the program's goals.

Recommendation: The NOAA Office for Coastal Management recommends that the Connecticut Department of Energy and Environmental Protection collaborate with the Connecticut National Estuarine Research Reserve to develop and deliver trainings related to cumulative impacts, sustainable development, and community resilience to local officials.

Recommendation: The NOAA Office for Coastal Management recommends that the Connecticut Coastal Management Program increase its outreach and education to local governments, who have control over land use decisions landward of mean high water, to continue to minimize cumulative negative environmental impacts from coastal development and shoreline hardening decisions and to ensure consistency with state coastal policies.

Recommendation: The NOAA Office for Coastal Management recommends that the Connecticut Department of Energy and Environmental Protection work with coastal communities, restoration partners, and businesses that rely on water access to develop a database that identifies upland placement opportunities for dredge material disposal, including restoration, to be able to more efficiently match dredging projects with priority reuse needs.

Recommendation: The NOAA Office for Coastal Management recommends that the Connecticut Department of Energy and Environmental Protection continue to coordinate with the State of New York, EPA, and the U.S. Army Corps of Engineers to find solutions for dredge disposal for projects in Long Island Sound.

Recommendation: The NOAA Office for Coastal Management recommends that the Connecticut Coastal Management Program work with partners, including the Connecticut National Estuarine Research Reserve, Department of Energy and Environmental Protection's Office of Climate Planning, Connecticut Institute for Resilience and Climate Adaptation, and Connecticut Department of Transportation, among others, to provide local officials and coastal residents the tools and resources they need to reduce the impacts of coastal hazards and climate change, including thinking strategically on how to take advantage of new federal funding opportunities.

This evaluation concludes that the Connecticut Coastal Management Program 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 Connecticut Coastal Management Program in fiscal year 2022. The evaluation team consisted of Ralph Cantral, evaluation team lead; Betsy Nicholson, north region director, Allison Castellan, program analyst and site liaison; and Michael Migliori, lead evaluator; all from NOAA's Office for Coastal Management; and Tyler Soleau, assistant director, Massachusetts Office of Coastal Zone Management. The support of the Connecticut Land and Water Resource Division staff within the Connecticut Department of Energy and Environmental Protection was crucial in conducting the evaluation, and their support is most gratefully acknowledged.

NOAA sent a notification of the scheduled evaluation to Katie S. Dykes, commissioner of the Connecticut Department of Energy and Environmental Protection, published a notice of "Intent to Evaluate" in the *Federal Register* on August 5, 2022, and notified members of the Connecticut congressional delegation. The Department of Energy and Environmental Protection's Land and Water Resource Division posted a notice of the public meeting and opportunity to comment on September 1, 2022.

The evaluation process included a review of relevant documents and a survey of stakeholders, which helped identify three target areas for the evaluation: coastal development pressure and water-dependent uses; coastal and marine planning; and coastal resilience. A site visit was conducted and the evaluation team held meetings with staff members and group discussions with stakeholders and program staff members about the target areas. In addition, a public meeting was held on Wednesday, September 21, 2022, at 6:30 p.m. at the Meigs Point Nature Center at Hammonasset Beach State Park in Madison, Connecticut, to provide an opportunity for members of the public to express their opinions about the implementation of the program. Stakeholders and members of the public were also given the opportunity to provide written comments. A summary of the written comments received and the NOAA Office for Coastal Management's responses are included in Appendix A. NOAA then developed draft evaluation findings, which were provided to the Connecticut Department of Energy and Environmental Protection, and the department's comments were considered in drafting the final evaluation findings.

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 at 15 C.F.R., Part 923; requirements of the state coastal management program approved by NOAA; and 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

non-adherence and the invoking of interim sanctions, as specified in the Coastal Zone Management Act §312(c).

Recommendations are actions that the office believes would improve the program but which are not mandatory. The state is expected to have considered the recommendations by the time of the next evaluation or dates specified.

Evaluation Findings

The Department of Energy and Environmental Protection's Land and Water Resource Division is responsible for administering Connecticut's federally approved coastal management program. The division is responsible for implementing the Connecticut Coastal Management Act (CGS §§ 22a-90 to 111), Harbor Management Act (CGS §§ 22a-113k to 113t), Tidal Wetlands Act (CGS §§ 22a-28 to 35) and Structures, Dredging, and Fill Act (CGS §§ 22a-359-363h), and the Long Island Sound Blue Plan. These are the core authorities that guide the state's federally approved coastal management program.

Coastal Development Pressure and Water-Dependent Uses

The majority of land use decisions in Connecticut are made by local government, yet the impact of land use decisions can have effects across a larger area. The legislation creating the Connecticut Coastal Management Program recognized a need for looking at these "extra-local" impacts within the first tier of the coastal zone, generally within 1,000 feet inland from the shoreline. To ensure consistency and minimize cumulative environmental impacts, the Connecticut Coastal Management Program was given authority by the legislature to review decisions by the 34 coastal towns. The program has not, however, been given the authority to overrule local decisions, and thus some development that does not consider cross-jurisdictional impacts may occur. To avoid this, the coastal program staff works closely with local governments to provide technical assistance related to these upland developments and has developed close working relationships with local planners and permitting authorities.

During the evaluation site visit, several stakeholders spoke to the need for better coordinating planning activities across the coastal towns to ensure that impacts from development in one community do not have unintended negative impacts on surrounding communities. One concept that has worked in other states is for the state to develop special area management plans focused on providing options for encouraging both economic development and environmental protection in focused areas. Several other states have relied on regional planning bodies to prepare regional plans that serve as a guide for local planning and permitting processes. In addition, enhanced training opportunities could be made available to local elected officials and planning board members to share concepts related to cumulative impacts and sustainable development. The recently established Connecticut National Estuarine Research Reserve is instituting a coastal training program that could help with this effort.

The Connecticut Coastal Management Program has provided hands-on technical assistance to coastal communities on an "as needed" basis. The assistance has proven invaluable to these communities. Moving forward, the program may find the need to prioritize this assistance to communities that are historically disadvantaged or that lack in-house planning and resource management staff.

Recommendation: The NOAA Office for Coastal Management recommends that the Connecticut Department of Energy and Environmental Protection collaborate with the Connecticut National Estuarine Research Reserve to develop and deliver trainings related to cumulative impacts, sustainable development, and community resilience to local officials.

In September of 2020 the department revised the application process for all of the regulatory programs administered by the Land and Water Resource Division. This new single permit application process has been helpful in ensuring that more useful information is available prior to the submittal of an application package. The changes have created a better environment for considering the overall impacts of permitted activities.

Accomplishment: The Connecticut Department of Energy and Environmental Protection has created new permitting application processes that have reduced the burden on the applicant while facilitating a more coordinated review by the permitting agencies.

There continues to be a great deal of pressure for development along the Long Island Sound shoreline, even after the direct impacts of storms such as Superstorm Sandy. The competition for the right to develop waterfront land may increase in coming years as offshore wind projects are now competing for land alongside public access, traditional waterfront uses such as fishing and shipping, and residential development. The expansion of commercial and industrial uses will also require the development of housing that may not be adjacent to the waterfront, but yet may place more residents at risk to the impacts of coastal storms and sea level rise.

Several coastal communities have also seen an increase in the number of applications for hard and soft structural shoreline stabilization techniques, such as bulkheads, living shorelines, and sand placement to reduce erosion in previously developed areas. As sea levels continue to rise, these requests will almost certainly become more numerous, despite their potential for impacting adjacent residents. The Connecticut Coastal Management Program's enhancement strategy for 2016 to 2020 addressed this issue by focusing on the development of policies related to living shorelines, including developing a definition of living shorelines. A clear definition was found to be necessary to encourage their development, as the regulated community was receiving applications that presented hard stabilization as living shorelines, adding to the confusion.

Recommendation: The NOAA Office for Coastal Management recommends that the Connecticut Coastal Management Program increase its outreach and education to local governments, who have control over land use decisions landward of mean high water, to continue to minimize cumulative negative environmental impact from coastal development and shoreline hardening decisions and to ensure consistency with state coastal policies.

Coastal and Marine Planning

During this evaluation period, the State of Connecticut embarked upon an effort to better understand the resources of Long Island Sound and to plan for future uses of the waters within the state's jurisdiction. In 2015, the Connecticut General Assembly established a Long Island Sound Resource and Use Inventory Advisory Committee representing state agencies, the University of Connecticut, coastal communities, and a variety of marine-related economic interests. The general assembly tasked this group with advising the Department of Energy and Environmental Protection on the development of an inventory of natural resources and human uses of Long Island Sound and the Long Island Sound Blue Plan. The development of the inventory and the Blue Plan was informed by a set of guiding principles that included meaningful public participation, sound science, a transparent process, coordination and collaboration, and a commitment to adaptive management. The Connecticut Coastal Management Program led the development of the Blue Plan and coordinated completion of the inventory for the Department of Energy and Environmental Protection.

The inventories and maps were developed by the department in collaboration with Connecticut Sea Grant, the University of Connecticut's Center for Land Use Education and Research, the Nature Conservancy, industry stakeholders, and other interested experts. The inventory provides a wealth of information about both the ecological resources and human uses of Long Island Sound. The inventory includes the entire Long Island Sound, including those areas under the jurisdiction of the State of New York.

The Blue Plan establishes a spatial plan to guide further use of Long Island Sound and provides a framework for conducting inventories in the future to understand changes in ecosystem health and resource use trends. The plan prioritizes the protection of existing natural and historic resources while supporting traditional uses, such as fishing and navigation. One of the goals of the plan is to minimize conflicts between existing and future uses of the Sound. Current and anticipated uses of the Blue Plan include planning for wind energy transmission cables, improving waterway planning, informing seagrass preservation and restoration, increasing public access, and strengthening waterfront connections in coastal communities.

The Blue Plan did not develop new regulations, but, instead, supplements existing state authorities as they are applied offshore. The policies contained in the plan are effective from an approximate depth of 10 feet seaward to the limits of the state's jurisdiction. Existing authorities, including municipal plans and regulations, continue to apply from the shoreline to the approximate depth of 10 feet.

The first draft of the Blue Plan was available for public review and comment in the spring of 2019. After a lengthy public review process and a delay due to the COVID-19 pandemic, the plan was adopted by the Connecticut General Assembly in the spring of 2022, which was a major accomplishment for the department and the coastal management program. NOAA

approved the addition of these amendments to the state's enforceable policies on February 11, 2022.

The Long Island Sound Advisory Committee continues to serve and meets quarterly and hosts an annual public hearing, as the plan is statutorily required to be adapted as additional information becomes available and new issues and uses emerge. The Connecticut Coastal Management Program's enhancement plan for 2021 to 2025 includes a strategy to prepare the first update to the Blue Plan by the spring of 2025. The update will consider progress made as well as new information and policy changes that have occurred since its adoption.

Accomplishment: The Connecticut Department of Energy and Environmental Protection successfully led the development of the Long Island Sound Blue Plan that has greatly enhanced understanding of marine resources and uses in the Sound and has resulted in more informed and transparent decision-making.

Dredging of ports, harbors, and marinas is an essential activity in coastal Connecticut, as the marine industry is vital to the state's economy. Numerous industries, from defense contractors to small marinas, need both deep- and shallow-water access to their facilities. In some instances, nearshore or upland placement of dredge material may be appropriate, especially when used for beneficial purposes, such as wetland restoration. The dredge material must be appropriate for the intended reuse (e.g., appropriate grain size and not contaminated with toxic materials). Transporting the material must also be compatible with transportation restrictions, in line with community plans and policies, and not cost-prohibitive. The disposal of dredge material has become complicated by the differing needs and objectives of Connecticut and New York with respect to use of the three open-water disposal sites in Long Island Sound that are approved by the Environmental Protection Agency, the prohibitive cost for transporting Connecticut dredge material to open-water disposal sites in the Atlantic Ocean, the lack of current alternatives to open-water disposal for dredged materials, and the fact that a high percentage of the dredged sediment in Connecticut is fine-grained and often inappropriate for beneficial reuse projects.

The Connecticut Coastal Management Program's enhancement strategy for 2021 to 2025 includes a strategy to develop policy, guidance, and outreach materials to advance the beneficial reuse of dredge materials for habitat restoration and enhancement activities. This work will ultimately lead to better guidance for the regulated community on how they can work within existing programs and policies to develop appropriate beneficial projects. To make maximum use of the existing disposal sites, alternatives for dredged material management, and funding streams to address pressing dredged material management issues, the Department of Energy and Environmental Protection should work with corporations, recreational marinas, and local communities to better understand the needs of potential beneficial reuse projects for dredge materials. Information collected could be used to match the availability of dredged material with reuse needs for restoration, which would provide a higher level of predictability for the interested parties. To facilitate this, the department should consider developing a database that identifies potential reuse projects and the types of dredge materials they could

accept to be able to efficiently connect dredge projects with appropriate alternative disposal options.

Recommendation: The NOAA Office for Coastal Management recommends that the Connecticut Department of Energy and Environmental Protection work with coastal communities, restoration partners, and businesses that rely on water access to develop a database that identifies upland placement opportunities for dredge material disposal, including restoration, to be able to more efficiently match dredging projects with priority reuse needs.

The availability of open-water dredge disposal sites has remained a major issue due to conflicts with the State of New York. Connecticut supports open-water disposal at the Long Island Sound open-water disposal sites designated by the U.S. Environmental Protection Agency (EPA) until viable upland disposal can occur. Although Connecticut, spearheaded by the coastal program's efforts, is exploring upland disposal options, it takes time to establish viable upland disposal options that will work for all dredging projects in the state. New York, on the other hand, generally opposes open-water disposal in the Sound, particularly at the Eastern Long Island Sound Dredged Material Disposal Site. The site evaluation team met with stakeholders representing marine industries in Connecticut that expressed frustration with New York's objections that resulted in some marina and port dredging projects not being allowed to proceed. While there is no clear short-term solution at the moment, Connecticut should continue to work with New York, EPA and the U.S. Army Corps to find a mutual solution. For example, it may be possible, if Connecticut, New York, EPA and the Army Corps, all agree, to reinvigorate the Long Island Sound Steering Committee and Regional Dredging Team and associated charter to address these issues. [Note: For a more in-depth discussion of this issue, please see Appendix B: of this report.]

Recommendation: The NOAA Office for Coastal Management recommends that the Connecticut Department of Energy and Environmental Protection continue to coordinate with the State of New York, EPA, and the U.S. Army Corps of Engineers to find solutions for dredge disposal for projects in Long Island Sound.

Coastal Resilience

After suffering significant impacts from tropical storm Irene and Superstorm Sandy, the Department of Energy and Environmental Protection and the University of Connecticut created a partnership to better understand and better address the impacts of climate change. This partnership, the Connecticut Institute for Resilience and Climate Adaptation (CIRCA), has led to a number of efforts including the development of state-specific sea level rise projections through the year 2050, creation of both technical guides and public outreach, as well as planning efforts with several local governments. The Connecticut Coastal Management Program director sits on CIRCA's executive committee, and other coastal management program staff have worked closely with CIRCA to implement its resilience work in coastal Connecticut.

CIRCA, in collaboration with state agencies, including the Department of Energy and Environmental Protection and the Connecticut Coastal Management Program, municipalities, and others, launched Resilience Connecticut. Funded through the National Disaster Resilience Competition from the U.S. Department of Housing and Urban Development, Resilient Connecticut focuses on regional resilience and adaptation planning, technical assistance, and engagement to guide regional and local resilience projects. The effort, initially focused on Fairfield and New Haven Counties, was expanded statewide with additional state funding. The goal of these planning and technical assistance efforts is to provide assistance to municipalities in developing local stormwater, climate resilience, and erosion control authorities that will address both short-term and long-term impacts of climate change while prioritizing assistance to vulnerable populations.

Another strategic planning effort to address climate change that the Connecticut Coastal Management Program was involved with was the Governor's Council of Climate Change (GC3). Initially established in 2015 to address greenhouse gasses, the GC3 was expanded in 2019 to address adaptation and resilience as well. Connecticut Coastal Management Program staff provided staff leadership and support for several GC3 workgroups to identify actions the state could take to be more resilient in the face of climate change. One recommendation of the GC3 resulted in the creation of a Connecticut Community Climate Resilience Program to provide grants and loans for planning and development of climate adaptation and resilience projects, such as nature-based infrastructure, and working with partners to engage with communities and provide technical assistance related to community resilience.

Connecticut Coastal Management Program staff were central to achieving another accomplishment that came out of the GC3 recommendations—the development of legislation to allow for the creation of local stormwater authorities. Adopted during the 2021 legislative session, the authority allows local governments to assess a fee for the amount of stormwater a property produces. The fees will help support stormwater improvements in the community that will enhance its resilience to climate change. The legislation also enhanced the authority of local flood control boards to develop and operate climate resilience initiatives using local sources of funding such as special assessments. As laid out in its 2021 to 2025 enhancement strategy, the Connecticut Coastal Management Program will continue to develop local and state policy guidance and updates to statutory authorities to respond to recommendations from the Governor's Climate Coalition and Resilient Connecticut study.

The Connecticut Coastal Management Program also provided significant information and technical support to the Long Island Sound Study National Estuary Program in the development of the Sea Level Affecting Marshes Model (SLAMM). This model illustrates how coastal land cover can change over time under alternative sea level rise scenarios. A partnership with the University of Connecticut's Center for Land Use Education and Research led to the development of the Sea Level Rise Effects on Roads and Marshes Viewer that enables coastal communities to see the potential impacts to marshes and roads. The tool is also used by groups such as land trusts and natural resource agencies to identify areas where lands might be purchased to allow for future marsh migration.

The evaluation team learned from stakeholders that the Connecticut Coastal Management Program has been very successful in collaborating with other state agencies and the regional councils of government along the coast to identify methods for reducing the impacts from climate change, especially on vulnerable communities. The Connecticut Department of Transportation and other agencies have created resilience planning groups following the lead of the coastal management program, making collaboration on resilience a standard operating procedure. The availability of infrastructure improvement funding through the Bipartisan Infrastructure Law provides opportunities to address climate vulnerabilities.

Accomplishment: The Connecticut Department of Energy and Environmental Protection has made community resilience a central focus of its efforts to combat climate change, has provided significant support to the Governor’s Council on Climate Change, and has worked with local governments, state agencies, and the coastal councils of government to reduce the impacts of climate change.

Despite the state’s efforts to publicize the risk of building in areas subject to the impacts of sea level rise and coastal storms, there is continuing pressure from developers and some local officials to develop properties that may pose difficulties for evacuation and public safety. Economic pressures are great in communities that have seen the loss of traditional waterfront land uses. Many coastal communities in the state are also struggling to create additional housing to meet demands. Thus some local officials look to new development as a key source of tax revenue and a way to respond to the housing shortage.

As was discussed in the coastal development section above, the presence of the recently designated Connecticut National Estuarine Research Reserve provides an opportunity for Connecticut’s Coastal Management Program to partner with the reserve’s coastal training program to inform local officials about possible methods to make their communities more resilient to coastal hazards and climate change, while still maintaining a healthy local economy and addressing housing needs.

Recommendation: The NOAA Office for Coastal Management recommends that the Connecticut Coastal Management Program work with partners, including the Connecticut National Estuarine Research Reserve, Department of Energy and Environmental Protection’s Office of Climate Planning, Connecticut Institute for Resilience and Climate Adaptation, and Connecticut Department of Transportation, among others, to provide local officials and coastal residents with the tools and resources they need to reduce the impacts of coastal hazards and climate change, including thinking strategically on how to take advantage of funding opportunities.

Many coastal communities in Connecticut face increased risks from coastal storms due to evacuation difficulties. Ingress and egress to neighborhoods are often exacerbated by the presence of elevated railroad lines and highways that provide a limited number of evacuation opportunities from coastal areas. The evacuation routes are often flood-prone because they are

at a lower elevation from the surrounding area as they dip down to pass under the elevated rail lines and highways. Rainwater and storm surge can pool in these lower areas, rendering the evacuation route impassible. Several coastal communities have worked to identify ways to resolve evacuation conflicts associated with this transportation infrastructure, and have sought funding for projects to make improvements that may deal with the immediate problem. Despite these efforts, long-term solutions will continue to be difficult in the face of climate change and sea level rise.

General Program Implementation

During this evaluation period, the Connecticut Coastal Management Program accomplished several things that are quite important to the management of coastal resources in the state, yet don't fall neatly within the focus areas of this evaluation.

One of the major accomplishments of the evaluation period for the Connecticut Coastal Management Program was the designation of the Connecticut National Estuarine Research Reserve. The Department of Energy and Environmental Protection, led by Connecticut's Coastal Management Program, served as the lead agency in undertaking the site selection process, and preparing the nomination package. The coastal management program developed a strong relationship with the University of Connecticut's Department of Marine Sciences, and co-led the development of the reserve's management plan. The partnership has continued as the university has assumed management responsibilities for the reserve.

There are many natural alignments between the coastal management program and the research reserve, as the reserve can play a key role in providing a variety of opportunities to coastal communities that will enhance the implementation of the coastal program. Education and training related to climate change and coastal resilience would be very useful for local officials, residents, and professionals. Similarly, the research focus of the reserve can provide essential information about the status of coastal resources and the impacts of human development on them. One particularly valuable area of focus for research efforts may be to look at the cumulative effects of armored shorelines.

Accomplishment: The Connecticut Coastal Management Program, working in partnership with the University of Connecticut, provided leadership for the nomination and designation of the Connecticut National Estuarine Research Reserve, the 30th reserve in the national system.

The coastal management program staff saw a number of retirements of key staff during the evaluation period. As new staff have been hired and long-serving staff departed, the program organized additional training opportunities for all staff and developed mechanisms to ensure that knowledge was transferred before staff left to ensure that the program continues to be effective. As additional retirements will occur in the near future, the program may want to work with the NOAA Office for Coastal Management to learn of additional tools to capture historical knowledge that have been successful in other coastal management programs, such as the Rhode Island Coastal Resources Management Council.

In addition, the Connecticut Coastal Management Program may want to continue to analyze positions as they become vacant to look strategically at emerging issues and the needs to address them. An example of this would be to consider what skills might be necessary to respond to major initiatives, such as the recent infrastructure funding, that will increase demand on coastal program permitting and technical assistance staff.

Accomplishment: The Connecticut Coastal Management Program has been successful in navigating a number of staff retirements by providing a consistent focus on identifying the developmental needs of new staff members.

During this evaluation period, the Connecticut Coastal Management Program has combined funding from a number of sources to undertake efforts to address pressing coastal management issues and improve the health of Long Island Sound. These projects included wetland restoration, shoreline improvements, community resilience, and fish passage. These projects were funded through a variety of sources, including the State Bond Commission, the Long Island Sound Cable Fund Settlement, and the U.S. Environmental Protection Agency's Long Island Sound Study National Estuary Program. Total funding from these sources contributed nearly \$18,000,000 to coastal management program projects during this evaluation period. For example, this external funding allowed the Connecticut Coastal Management Program to partner with the State of New York and others to map significant portions of the seafloor of Long Island Sound. This mapping effort greatly informed the development of the Long Island Sound Blue Plan and inventory, discussed above.

Accomplishment: The Connecticut Coastal Management Program has been very successful in finding additional sources of funding to support the achievement of the program's goals.

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. In 2018, coastal programs began a new five-year period and set targets specific to their programs for two performance measures from the existing Coastal Zone Management Performance Measurement System and the coastal hazards performance measure.

Evaluation Metrics: 2012-2017

Metric 1: Coastal Habitat Protection by Reducing Wetlands Loss

Goal: To protect productive and sensitive tidal wetlands of the state.

Objective: By 2017, authorize no more than 25,000 square feet of tidal wetlands losses from state permitted activities.

Strategy: The state places a high priority on protecting tidal wetlands because they are areas of high biological productivity and provide flood mitigation, aesthetic value, and water quality benefits. Protection includes limiting the loss of wetlands through permitted activities.

Performance Measure: Square feet of tidal wetlands lost annually as authorized by permitted activities.

Target: No more than 5,000 square feet of tidal wetlands lost annually as authorized by permitted activities.

Results:	Year 1	53,143
	Year 2	44,697
	Year 3	9,617
	Year 4	1,199
	Year 5	110

Total: **21,753/average per year**

Discussion: The program had significant success reducing the area of tidal wetlands lost annually through permitted activities. Although the target was only met two of the five years of this period, the area lost was reduced each year, creating a very positive trend.

Metric 2: Coastal Habitat Protection through Wetlands Creation

Goal: By 2017, require and/or permit the creation of 200,000 square feet of tidal wetlands through permitting and enforcement activities.

Strategy: The state places a high priority on protecting tidal wetlands because they are areas of high biological productivity and provide flood mitigation, aesthetic value, and water quality benefits. Protection includes creating wetlands to offset permitted losses and as required to compensate for losses resulting from unauthorized activities. In conjunction with Objective 1, creation of tidal wetlands should be at a rate of at least eight times greater than the area of permitted tidal wetlands lost.

Performance Measure: Square feet of tidal wetlands created annually through permitted and enforcement activities.

Target: 40,000 square feet of tidal wetlands created annually through permitted and enforcement activities.

Results:

Year 1	- 51,679
Year 2	- 15,676
Year 3	- 48,803
Year 4	- 7,075
Year 5	- 510

Total: 24,749 average sq. ft. per year

Discussion: Opportunities to create new wetlands are inherently sporadic due to levels of permitting activity, which influences the amount of mitigation required. There is also often a lag time between project implementation or projects and successful mitigation efforts.

Metric 3: Benthic Mapping of Long Island Sound

Goal: To provide adequately detailed and relevant benthic data/derived analysis for high priority areas of Long Island Sound.

Objective:

By 2017, for high priority areas of Long Island Sound, provide the following geospatial products and documentation for use by government planning and regulatory bodies, academia, and the private sector:

- Seafloor topography
- Sediment texture
- Sediment environment (erosional, depositional, sorting)
- Benthic habitat diversity

Strategy: Critical resource information on the physical, geological, and ecological nature of the benthic environment is lacking for significant areas of Long Island Sound. As a result, regulatory decisions are prone to be reactionary and lack appropriate scope or context, and planning activities are limited. Making this information available to all, including the public, via an internet portal, will help foster rational and effective decision-making. High priority areas where detailed and relevant benthic mapping data are required were developed from stakeholder input and cover approximately 33% of Connecticut state waters (see attached map).

Performance Measure: By 2017, percentage of benthic mapping data for Long Island Sound high priority areas completed and made available publicly.

Target: By 2017, 100% of benthic mapping data for Long Island Sound high priority areas completed and made available publicly.

Results:

- Year 1 – 20.71%
- Year 2 – 29.90%
- Year 3 – 39.90%
- Year 4 – 43.00%
- Year 5 – 46.00%

Total: 46%

Discussion: Steady progress was made under this strategy, but exterior forces related to data acquisition and QA/QC were encountered, which slowed down the mapping efforts.

Evaluation Metrics: 2018-2023

Metric 1: Loss/Gain of Tidal Wetlands

Connecticut Coastal Management Act Goal: To preserve and enhance coastal resources in accordance with the policies established by chapters 439, 440, 446i, 446k, 447, 474, and 477.

Objective: By 2023, minimize the net loss of tidal wetlands by: (1) minimizing the number of permitted acres lost; and (2) requiring tidal wetland mitigation through state Coastal Zone Management regulatory review (which includes both permitting and enforcement activities).

Strategy: The state places a high priority on protecting tidal wetlands because they are areas of high biological productivity and provide flood protection, aesthetic value, and water quality benefits. One important role the Connecticut Coastal Zone Management Program plays in tidal wetland protection is through its state regulatory program that was created to limit the loss of wetlands and promote the protection, mitigation, and restoration of additional tidal wetlands through permit and enforcement requirements. Data to be collected and analyzed for this metric will include total amount of tidal wetlands lost (in acres), total amount of tidal wetlands gained through mitigation or restoration (in acres), and total net amount of tidal wetlands lost as a result of all regulatory program activities (total wetlands lost minus total wetlands gained).

The tracking of success for this metric includes an annual analysis of total acreage of tidal wetland lost and required gain or mitigation through state coastal zone management regulatory activities. This will be valuable information to collect and analyze to evaluate the effectiveness of current state coastal zone management policies and regulatory processes.

The performance measure will be calculated as CZMA Performance Measurement System #2b (tidal wetland acres required gain or mitigation due to coastal zone management regulatory activities) – CZMA Performance Measurement System #2a (tidal wetland acres lost as part of coastal zone management regulatory activities).

Performance Measure: Between 2018 to 2023, net number of acres of estimated tidal wetland acres lost or gained due to activities subject to coastal zone management regulatory review and approval, either permitting or enforcement actions.

Target: Between 2018 to 2023, a net of three or less acres of permit-estimated tidal wetland acres lost due to activities subject to coastal zone management regulatory programs.

Results:

- Year 1 - 66 net acres gained
- Year 2 - 14 net acres gained
- Year 3 - 51 net acres gained
- Year 4 - 1 net acre gained
- Year 5 - To be submitted Fall 2023

Total: TBD

Discussion: Although the annual net number of acres gained has gone down during the evaluation period, the program continues to show net gain as opposed to net loss.

Metric 2: Sustainable Development and Ports and Waterfronts

Connecticut Coastal Management Act Goal: To ensure that the development, preservation, or use of the land and water resources of the coastal area proceeds in a manner consistent with the rights of private property owners and the capability of the land and water resources to support development, preservation or use without significantly disrupting either the natural environment or sound economic growth.

Objective: By 2023, coastal communities develop or update sustainable development and port and waterfront redevelopment ordinances, policies, and plans to effectively manage and protect coastal resources and water-dependent uses on a local level.

Strategy: The Connecticut Coastal Management Act requires communities to balance private property rights with the development capability of land and water resources without a

significant degradation of sensitive coastal resources. To achieve this goal, the state places high importance on planning for and the wise management of coastal resources and uses by local governments. The Connecticut Coastal Zone Management Program intends to work with coastal communities to create and implement effective local coastal resource, port and waterfront redevelopment plans, policies and ordinances/regulations to ensure coastal resources are protected, coastal-dependent uses are prioritized, and public access is facilitated and enhanced. Specifically, Connecticut Coastal Zone Management Program staff engage with coastal communities through the planning process to provide significant technical assistance on the development and revision of harbor management plans, local plans of conservation and development, and local sustainable development plans, policies, and ordinances/regulations. The technical assistance Connecticut Coastal Zone Management staff will provide communities is intended to lead to improved local plans, policies, and ordinances/regulations and to strengthen these local policies/plans/and regulatory actions' alignment with Connecticut Coastal Management Act-specified goals and policies.

This measure is CZMA Performance Measurement System #13a + 13c. A community may be counted twice in the same year if it develops or updates both a sustainable development ordinance, policy, or plan and a port or waterfront redevelopment ordinance, policy, or plan.

Performance Measure: Between 2018 to 2023, the number of coastal communities that developed or updated sustainable development and/or port and waterfront development ordinances, policies, and plans with assistance from coastal zone management funding or staff.

Target: Between 2018 to 2023, five coastal communities will develop or update sustainable development and/or port and waterfront development ordinances, policies, and plans with assistance from coastal zone management funding or staff.

Results:

Year 1	– 2
Year 2	– 0
Year 3	– 0
Year 4	– 0
Year 5	– Not available

Total: TBD

Discussion: The development and/or updating of plans relies on the preparation and adoption schedules of different communities, and there may be lag times between preparation and adoption.

Metric 3: Coastal Hazards

Connecticut Coastal Management Act Goal: To consider in the planning process the potential impact of a rise in sea level, coastal flooding, and erosion patterns on coastal development so as to minimize damage to and destruction of life and property and minimize the necessity of public expenditure and shoreline armoring to protect future new development from such hazards.

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

Strategy: Over the last decade, Connecticut has been extremely proactive and in the forefront in terms of climate resiliency and climate adaptation planning and implementation activities. Connecticut was one of only two states to include climate change in its hazards analysis within its 2010 and subsequent updates to its Natural Hazards Mitigation Plan. In addition, over the last four years the state has developed three important entities to promote climate resilience and adaptation on both a state and local level: (1) the Connecticut Institute for Resiliency and Climate Adaptation (CIRCA); (2) the Governor's Council of Climate Change (GC3); and (3) the State Agencies Fostering Resilience Council (SAFR Council).

These three entities received federal funding to work to promote climate resiliency and adaptation planning, and the implementation of community resiliency and flood mitigation projects.

Connecticut Coastal Zone Management Program staff are actively engaged in many of these and other efforts to reduce future damage to coastal hazards at both state and local levels. Coastal zone management staff are actively engaged in a number of state-level planning initiatives to advance the goals and policies of the Connecticut Coastal Management Act. This is achieved by participating in and playing a significant role in such planning efforts as natural hazard mitigation planning, long-term recovery planning, and collaborative planning efforts between the Department of Energy and Environmental Protection and CIRCA, with respect to climate resiliency and adaptation.

Furthermore, coastal zone management staff play an important role in local-level policy/plan development through: (1) their efforts to provide technical assistance to local officials concerning coastal resource issues; (2) thorough and detailed reviews of draft policies, plans, ordinances/regulations; and (3) detailed analysis and comments submitted to communities through the site plan review process. These staff actions help to promote the goals and policies of the Connecticut Coastal Management Act and to ensure alignment between local planning, policy, and regulatory efforts and the stated goals and policies of the act.

Specific examples of how Connecticut Coastal Zone Management staff are working to promote hazard resiliency include the following:

- CIRCA Partnership: coastal zone management staff will collaborate with CIRCA on the development of a Connecticut Coastal Resilience Plan and associated planning activities. This planning effort is anticipated to be completed within a three-year timeframe and will begin in early 2019. As part of this effort, the Department of Energy and Environmental Protection will be responsible for providing technical assistance in the development of site plans to implement pilot adaptation projects.

In addition, on the local level, many coastal communities or their affiliated council of governments (regional planning organizations) have received grants over the last four years from CIRCA to develop climate resiliency and adaptation plans. Coastal zone management staff provide technical assistance to communities and their plan developers in the form of

- technical data for use in planning efforts;
 - review and constructive comments on draft plans; and
 - ongoing communication with communities and their plan developers during the planning process to promote the inclusion of proposed goals, objectives, strategies, and actions of local plans that align the goals, objectives, and policies of the Connecticut Coastal Management Act.
- U.S. Army Corps of Engineers Risk Management Study: In 2016 the Department of Energy and Environmental Protection collaborated with the U.S. Army Corps of Engineers, in a joint effort to perform and author a flood risk management study for Fairfield and New Haven Counties. The primary result from this study is to identify and provide a feasibility analysis for at least one large-scale flood mitigation project for one or more coastal communities within the focus area of Fairfield and New Haven Counties. The objective for this flood risk management analysis feasibility study is to provide a flood management solution that will enable the communities to become more resilient, and to support its regional economy in becoming more sustainable in the wake of future projected sea level rise and other climate change impacts. Coastal zone management staff play a significant role in this study and are actively engaged in all aspects and activities of the study with the corps. The study is expected to be completed by June 2020.
 - Support to Coastal Communities on Considering Sea Level Rise: New legislation signed by Governor Malloy in July 2018 (PA 18-82) requires local communities to consider sea level rise scenarios in their local plans of conservation and development and also requires communities to develop or update local hazard mitigation plans to consider sea level rise. Coastal zone management staff provide technical assistance to communities and other state agencies for the inclusion and analysis of the required sea level rise scenarios in local planning efforts, especially for major project planning efforts. This also includes the provision of technical assistance to local communities and other state agencies for compliance of local planning efforts with the Connecticut Coastal Management Act.

Between 2018 and 2023, Connecticut Coastal Zone Management staff anticipate a) one state-level policy or plan completed; b) two local-level policies or plans completed; and c) one project completed at the local level to reduce future damage from coastal hazards with assistance from coastal zone management funding or staff. These combined efforts will feed into our target for this metric.

Performance Measure: Between 2018 to 2023, number of a) state-level policies and plans completed; b) local-level policies and plans completed; 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 coastal zone management funding or staff.

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

Results:

- Year 1 – 4
- Year 2 – 0
- Year 3 – 0
- Year 4 – 0
- Year 5 –Not available

Total: 4

Discussion: The development and/or updating of plans and policies relies on the preparation and adoption schedules of different communities, and there may be lag times between preparation and adoption.

Conclusion

This evaluation concludes that the Connecticut Coastal Management Program 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.

These evaluation findings contain five recommendations that must be considered before the next regularly scheduled program evaluation but that 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 Connecticut Coastal Management Program, which may have implications regarding the state's financial assistance awards. However, it does not make any judgment about or replace any financial audits.

Jeffrey L. Payne, PhD
Director, NOAA Office for Coastal Management

Date

Appendix A: Response to Written Comments

Two written comments were received during the public comment period.

Comment 1:

Mr. Robert Fromer offered the following comments related to the issuance of permits related to waterfront developments in Connecticut's coastal zone.

I have reviewed CZMA [Coastal Zone Management Act], the Connecticut Coastal Management Act ("CCMA") and Program as approved by the United States Secretary of Commerce/NOAA and the attached legislative history leading to adoption of CCMA. The Connecticut Legislature clearly found that museums are not water-dependent uses requiring access to water bodies but, rather "water enhanced" uses because they ca [sic] be located anywhere and their value increases with water access.

[The Department of Energy and Environmental Protection] shall establish criteria for granting, denying, limiting, conditioning or modifying permits giving due regard for the impact of regulated activities and their use on... water-dependent use opportunities as defined in section 22a-93. Section 22a-361(c), CGS.

I found that the Connecticut Department of Energy and Environmental Protection ("DEEP") has performed dismally in considering the impact of Sections 22a-359 to 22a-361, CGS dredging, structures, placement of fill, obstruction or encroachment, or mooring area or facilities permits on water-dependent use opportunities.

In applications for section 22a-359-361 permits submitted by the United States Coast Guard ("CG") for the National Coast Guard Museum ("Museum") in New London, DEEP issued a determination that the permit was consistent with CCMA even though the Legislature explicitly found the opposite. For example, the CG had other locations such as Fort Trumbull, which in 2006, it had originally approved as the preferred location upon the recommendations of a select CG committee.

The Commissioner of DEEP could and should have denied the permit on the grounds that the Museum is not a water-dependent use on a site suitable for such use. I submitted evidence that Cross Sound Ferry sort the New London location for expansion of its ferry operations.

Furthermore, a Virtual Museum emanating from the CG Academy could better serve its future budgetary and financial interests. No brick and mortar required, costs would be drastically reduced, and the museum's reach would be limitless; an approach the Smithsonian and other museums have been employing for years. If a Virtual Museum is good enough for the Smithsonian, then it is good enough for the CG.

Another example demonstrating the poor performance of DEEP in considering the impact of water dependency on two applications for Sections 22a-359 to 22a- 361 permits or Certificates of Permission to establish restaurants on the Connecticut and Thames Rivers.

In this case, the applicant filed for Certificate of Permission (“COP”) to operate a restaurant on the Waterfront behind the Maritime Museum, New London. Small boats on the Thames River would pull up for food and drink service. The Land and Water Resources Bureau denied approval of the Certificate because the restaurant was not a water-dependent use.

When the city’s Mayor learned of the denial, he politically intervened by contacting the director of the Bureau. The mayor and the applicant claimed that the boats bringing customers to the restaurant would make it water-dependent, which is contrary to CCMA, its legislative history and the Maratta I administrative decision in 1991.

The Bureau altered its denial and granted a COP replete with numerous conditions.

Based on the above, DEEP has demonstrated poor performance of the Connecticut Coastal Management Program.

NOAA Response:

The evaluation team thanks Mr. Fromer for his comments.

The Coastal Zone Management Act (CZMA) is a voluntary partnership between the federal government and a state. The state and all units of local government in the state still retain their sovereign rights and jurisdictional authorities after NOAA has approved the state’s coastal management program. A programmatic evaluation under Section 312 of the CZMA considers the totality of actions and activities undertaken during the specific period covered by the review as an indication of whether the state coastal management program still meets the policies and provisions of the CZMA as it did when originally approved and through subsequent program change approvals. If a state is found to be not in compliance with its approved management program or the terms of any CZMA grant or cooperative agreement, enforcement authority given to NOAA in the CZMA consists solely of 1) suspension and reallocation of CZMA financial assistance to address the reasons for a finding of noncompliance; and 2) withdrawal of coastal management program approval and withdrawal of CZMA financial assistance.

Thus, a programmatic evaluation under Section 312 of the CZMA is not intended to resolve specific disputes over individual state or local permitting decisions, or to collect evidence regarding specific actions taken, or to issue a finding about whether a governmental entity was correct or incorrect in specific project-related decisions. NOAA, through the CZMA, cannot and does not overturn or supersede state or local decisions or “force” a state or local government to enforce or implement a state or local law or regulation. Citizens who do not agree with decisions made by the city or the state have available appropriate recourse through state law.

Comment 2:

Mr. Randolph (Randy) Dinter

I am writing to you regarding the performance of Connecticut's D.E.E.P. relative to the South end development in the City of Stamford, CT. To understand its significance, one must look to the beginning. When Helco Electric, Inc., who owned a large parcel of property bordering the waterfront of the West branch of Stamford Harbor, sold it to Antares Development LLC, Antares began to evolve an ambitious development plan. They worked with the City of Stamford, the D.E.E.P., and others to plan a G.D.P. proposal. The city was concerned about keeping the large, regional, full-service boatyard on a 14.3-acre peninsula due to its economic significance and importance to the harbor. The boat yard was surrounded by docks with 170 slips for boats up to 60'. It could store up to 600 boats ashore (60 plus inside) and serviced up to 1500 boats yearly. To this end a condition 7 was added to the G.D.P to secure continued operation of this valuable resource. A letter dated 8/29/2006 from Brian Thompson of the D.E.E.P. to Antares acknowledged this proposal but warned that replacing all or portions of the boatyard would be inconsistent with C.A.M. regulations ("CGS section 22a – 90 thru 22a – 112 inclusive").

Antares Development soon lost control of the development to "Building and Land Technology" when they came into financial difficulties. The new developer soon evicted the tenant ("Brewers Yacht Haven") from the 14.3-acre peninsula. During a winter night late in 2012, the buildings on the site were razed in violation of the G.D.P.'s condition 7. Stamford's zoning board then placed a "cease and desist" order on the property. Governor Dannel Malloy came to Stamford to announce that \$125 million would be given to the hedge fund, "Bridgewater" to move from Westport to the vacant 14.3-acre peninsula. This made it clear that a site for a replacement boatyard would be needed. No longer easy to find in the city. A parcel of land less than one third the size of the former boatyard site, but owned by the developer, was chosen. It was separated from the East branch of Stamford harbor by a small strip of land owned by the city. It was known as the Magee Avenue site. The D.E.E.P. gave approval for dredging and bulkheading in five short weeks. However, the developer neither owned or had legal access to the waterfront property which had been slated to be part of a city park. The unusually short time to get this approval is significant. The vast difference in size comparison as well as the lack of economic viability of the proposed boatyard were clearly out of line with the intent of C.A.M. regulations. After a contentious public meeting in front of Stamford's Planning Board, "Bridgewater" withdrew from the situation.

The developer then sought permission to install an interlocking steel bulkhead around the 14.3-acre site. Stamford's Harbor Management Commission found the plan presented as inconsistent with C.A.M. regulations as the bulkheading was too close to the low tide boundary and took a generous portion of public domain at the N.W. corner of the property. This matter was also pointed out at a well-attended public meeting in front of D.E.E.P. adjudicators in Stamford. However, D.E.E.P. approved this proposal.

The developer purchased another parcel of land on the West branch of Stamford Harbor on Davenport St. This location is poorly sited and has a limited footage (approx. 300') to the harbor

toward the main channel. This allows docks and slip spaces for boats 30' and less, with only some 30 slips available. The upland area for the proposed boatyard would be less than 6 acres as the developer planned to redevelop buildings street ward. When the zoning board questioned the developer as to rental or lease agreements with the proposed boatyard operator chosen, they were told that this information was proprietary. The significance of this came to the forefront when the economic viability of the proposed boatyard was challenged. A flawed claw-back agreement with a 15-year term was signed by Stamford's mayor and the developer. A comparison study to reflect the relative capabilities of the proposed Davenport yard with the former Brewers Yacht Haven boatyard was required by the Zoning Board. This fell apart when the consultant was found to be compromised at her hiring by city employees. Terms were made that she was not to speak with the former boatyard operators regarding the scope and intensity of the work done by Brewers Yacht Haven at the 14.3-acre site.

The developer then proposed to add dredging, docks and slips for 170 boats at the 14.3-acre peninsula to make up for the number of slips lost to Stamford harbor. This proposal would have no connection, financial or otherwise to the proposed Davenport boatyard. This was approved by the D.E.E.P. and Stamford's Zoning board. The Magee Ave. property originally offered as a boat storage area was upgraded to a secure storage and service facility for smaller, trailered boats by the Zoning Board. In spite of the questionable economic survival of this proposal, (without subsidy probably little past 15 years), it was approved by the D.E.E.P. and Stamford's Zoning Board. The D.E.E.P. approval of this application characterized it as a stand-alone project with no acknowledgment as a replacement for the former regional boatyard. Stamford's Harbor Management Commission, Planning Board, and vocal public opposition to the Zoning Board's decision were constant in their disapproval. The D.E.E.P. approvals allowed this political scheme to go forward.

- A decade later there is no proposal for development of the 14.3 (now at least 15) acre site.
- Over 200 maritime related jobs are gone along with at least 8 maritime businesses.
- The 170 slips approved at the site have not been built.
- The Magee Ave. portion of the boatyard has not been built.

Questions still remain as to the proper remediation of the vacant site due to the poor quality of reporting usually required of this activity.

What changed at Connecticut's D.E.E.P. since the D.E.E.P. letter of 8/29/2006?

NOAA Response:

The evaluation team thanks Mr. Dinter for his comments.

As stated in response to comment 1, above, a programmatic evaluation under Section 312 of the Coastal Zone Management Act (CZMA) is not intended to resolve specific disputes over local permitting decisions, or to collect evidence regarding specific actions taken, or to issue a finding about whether a governmental entity was correct or incorrect in specific project-related decisions. NOAA, through the CZMA, cannot and does not overturn or supersede state or local decisions or “force” a state or local government to enforce or implement a state or local law or regulation. Citizens who do not agree with decisions made by the city or the state have available appropriate recourse through state law.

Appendix B: Dredged Material Disposal Dispute Discussion

Summary

During the evaluation site visit, the evaluation team heard from several sources about the disposal of dredged material in Long Island Sound. The disposal of dredged material into Long Island Sound is a long-standing issue. New York opposes open-water disposal in the Sound, particularly at the Eastern Long Island Sound Dredged Material Disposal Site (ELDS). Connecticut supports open-water disposal at the Long Island Sound disposal sites designated by the U.S. Environmental Protection Agency (EPA) until viable upland disposal can occur.

NOAA Response:

NOAA's Office for Coastal Management led a robust mediation effort to try and resolve the matter, resulting in an agreement signed by the governors of New York and Connecticut with the objective of the U.S. Army Corps of Engineers developing a Long Island Sound Dredged Material Management Plan that would move toward the goal of upland disposal. New York was not satisfied with the Long Island Sound Dredged Material Plan or EPA's subsequent designation of the ELDS. This led to New York objecting to numerous dredged material disposal applications to the Army Corps for projects in Connecticut, especially for disposal at the ELDS. In addition, New York unsuccessfully sued EPA in federal district court, where the court determined that EPA's designation of the ELDS was not arbitrary or capricious. See *Rosado v. Wheeler*, Case No. 1:17-cv-04843 (E.D.N.Y.).

New York also challenged, in federal district court, NOAA's Coastal Zone Management Act (CZMA) appeal decision that overrode New York's objection to Electric Boat Corporation's application to the Army Corps to dispose of 890,000 cubic yards of dredged material at the ELDS. See *Rodriguez, et al. v. Raimondo, et al.*, Civil Action No. 22-CV-00788 (KAM)(TAM). However, in January 2023, NOAA and New York filed a stipulation of voluntary dismissal of the action under the Administrative Procedure Act, terminating New York's action and ending the litigation.

The issue of disposal of dredged material in Long Island Sound remains unresolved. New York opposes open-water disposal under the Long Island Sound Dredged Material Management Plan and EPA designation of the ELDS, resulting in CZMA objections to numerous applications to the Army Corps for dredged material disposal from projects in Connecticut.