Final Evaluation Findings

Rhode Island
Coastal Management Program

March 2010 to June 2019

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Office for Coastal Management
National Ocean Service
National Oceanic and Atmospheric Administration
United States Department of Commerce

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Summary of Findings

The Coastal Zone Management Act, 16 U.S.C. § 1451 *et seq.*, 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, 16 U.S.C. § 1458(a). This evaluation examines the operation and management of the Rhode Island Coastal Management Program administered by the Rhode Island Coastal Resources Management Council, the designated lead agency, for the period from March 2010 to June 2019. The evaluation focused on three target areas: program administration, ocean planning, and coastal hazards and climate resilience.

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

Program Administration

Accomplishment: The Rhode Island Coastal Program has (1) improved implementation and successfully addressed concerns noted in the previous evaluation findings regarding the ability to hold regular meetings with a quorum of members; (2) separated the functions of the Coastal Resources Management Council administrative hearing officer from the functions of the Coastal Resources Management Council legal counsel; and (3) provided coastal program staff with daily access to legal counsel.

Recommendation: The NOAA Office for Coastal Management recommends that the Rhode Island Coastal 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.

Recommendation: The NOAA Office for Coastal Management recommends that the Rhode Island Coastal Program continue to improve implementation of the program through activities such as providing training for the council, developing "job aids" for council members, and providing all materials to council members electronically.

Necessary Action: 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.

Recommendation: The NOAA Office for Coastal Management recommends these actions to improve compliance with existing regulations: (1) the Rhode Island Coastal 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 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.

Recommendation: The NOAA Office for Coastal Management recommends that the Rhode Island Coastal Program work 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.

Ocean Planning

Accomplishment: The Rhode Island Coastal Program is a national leader in ocean planning and is successfully implementing the Ocean Special Area Management Plan, which guided the permitting and construction of the nation's first ocean wind project. The coastal program then used this experience to lead the development of an ocean plan for the Northeast region.

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 SAMP process, and to continue to work with the

NOAA Office for Coastal Management, as needed, to revise the Ocean SAMP 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 (ROSA) and the Responsible Offshore Development Alliance (RODA).

Coastal Hazards and Climate Resilience

Accomplishment: The Rhode Island Coastal Program's innovative Beach SAMP and STORMTOOLS provide state and local governments, businesses, and the public with the information needed to analyze coastal hazard risks and make informed decisions.

Accomplishment: The Rhode Island Coastal Program has successfully worked with partners to advance knowledge on the state of coastal habitats and how they are changing from sea level rise, including developing monitoring and assessment protocols for salt marshes. The coastal program has also leveraged funding for and led multi-partner innovative habitat restoration projects to help coastal habitats and the surrounding communities be more resilient as sea levels rise.

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 16 U.S.C. § 1452(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 Management Program in fiscal year 2019. The evaluation team consisted of Carrie Hall, evaluation team lead, Allison Castellan, site liaison, and Betsy Nicholson, northern region director, from the NOAA Office for Coastal Management, as well as Michelle Jesperson, federal liaison, California Coastal Commission. The support of Rhode Island Coastal Management Program staff members was crucial in conducting this evaluation, and their support is most gratefully acknowledged.

NOAA sent a notification of the scheduled evaluation to the executive director of the Rhode Island Coastal Management Program, published a notice of "Intent to Evaluate" in the *Federal Register* on May 8, 2019 (84 FR 20107), and notified members of Rhode Island's congressional delegation. The coastal management program posted a notice of the public meeting and opportunity to comment in the *Providence Journal* on April 15, 2019.

The evaluation process included a review of relevant documents and a survey of stakeholders, which helped identify three target areas for the evaluation: program administration, ocean planning, and coastal hazards and climate 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 Tuesday, June 18, 2019, at 6:00 p.m. at the Department of Administration, Conference Room A, One Capitol Hill, Providence, Rhode Island 02908 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. The NOAA Office for Coastal Management received one written comment. The comment and NOAA Office for Coastal Management's response is included in Appendix A. NOAA then developed draft evaluation findings, which were provided to the Rhode Island Coastal Program for review, and the coastal program'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 recommendations, which are of two types.

Necessary Actions address programmatic requirements of the Coastal Zone Management Act and its implementing regulations, at 15 C.F.R. Part 923, of the state 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 non-adherence and interim sanctions, as specified in the Coastal Zone Management Act, 16 U.S.C. § 1458(c).

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

Evaluation Findings

Program Administration

Overview

The Rhode Island Coastal Management Program, administered by the State of Rhode Island through the Coastal Resources Management Council and its staff, is a well-functioning program and a national leader in ocean planning and hazards resilience, particularly through its Ocean and Beach Special Area Management Plans (SAMPs).

The coastal program is overseen by the Rhode Island governor-appointed 10-member Coastal Resources Management Council, with representatives of the public and state and local government, which makes permitting and policy decisions for the state that balance economic considerations and environmental protection. The council is supported by 30 staff members that carry out the day-to-day work of the program, including permitting reviews, making recommendations to the council, drafting policy, providing technical and planning assistance on a variety of coastal management issues, and managing the coastal program's budget. The stakeholders and partners that the evaluation team met with praised the coastal program staff for their high-quality work and level of service, describing them as "well respected," "talented," "accessible," "trusted," "responsive," "fair," "transparent," "great public servants," "eye to the public good," and "the best in the state."

Coastal Resources Management Council

Coastal program staff and the council have been working effectively together to implement the state's coastal program. The policy-making and regulatory decision-making process of the council is conducted in public and provides opportunities for public input through regular public hearings that are generally held on a twice-monthly basis, typically in the evening to make it easier for the public to participate. This council-based structure is particularly effective for meeting the Coastal Zone Management Act's policy of encouraging public participation in coastal management. *See* 16 U.S.C. § 1452(2)(I), highlighting the importance of giving timely and effective notification of, and opportunities for public and local government participation in, coastal management decision-making.

The current chair of the council has identified and begun to implement a number of changes to improve council processes. For example, the council chair has improved council processes to ensure that the rationale for decisions are well documented. When the council makes a decision that is against a staff recommendation, the council now clearly documents its

reasoning in the record. In addition, the council provides a clear written explanation, supported by coastal program regulations, of its motions to approve or deny a permit. The chair is also reinvigorating past efforts to improve educational opportunities for council members regarding the council's implementing regulations, the Coastal Zone Management Act and federal consistency process, and important coastal management issues. More formal trainings could be developed and NOAA's online training modules for Coastal Zone Management Act 101 (*coast.noaa.gov/digitalcoast/training/czma-101.html*) may be a helpful resource for council members as well as new and existing staff members.

Going forward, the council chair is looking at developing "job aids" to assist council members with conducting business, such as a list of key coastal program regulations to refer to when making a motion. The Rhode Island Sea Grant Legal Program, housed at Roger Williams University School of Law, is one of four Sea Grant legal programs in the nation and would be a good resource to provide assistance with this effort. In addition, the chair is interested in having all meeting materials provided to council members electronically to save on printing costs and to allow for improved review of site plans and design documents, as members will be able to pan in to look at details within the site plan. The NOAA Office for Coastal Management is supportive of this initiative and encourages the coastal program to invest in any additional information technology equipment that may be needed (e.g., large format scanners) to make it possible. Staff members have also worked to improve the council's processes. One council member highlighted that the synopses that were added to the front of staff reports were very helpful for quickly understanding the main issues with a project and where they should focus their review. The NOAA Office for Coastal Management believes that the implemented and proposed changes to council procedures that were discussed during the evaluation site visit have resulted, and will continue to result, in clearer, more transparent, and defensible decision-making and more knowledgeable and informed council members. Ultimately, these changes are improving the implementation of the coastal program.

The state successfully addressed the three necessary actions in the previous evaluation findings (2010). The first necessary action required that the coastal program address the structure of the council to ensure that the council could conduct a full schedule of meetings to implement the approved program. The coastal program's enabling legislation had not been updated to reflect the state's new separation of powers requirements that prevented eight legislators and their appointees from serving on the council. The coastal program worked with the state legislature to address this, and legislation was passed to formalize changes in appointments that reduced council membership from 16 to 10 members, now all appointed by the governor, and lowered the required quorum from seven to six to ensure that the council could make

timely decisions. The coastal program also works with the governor's office to ensure that council seats are filled in a timely manner.

The other two necessary actions required that the coastal program separate the functions of the council's administrative hearing officer from the functions of the council's legal counsel and that the services of an attorney be available to the coastal program staff on a daily basis. The council's attorney no longer serves as the hearing officer; the council, itself, serves in this role. An attorney from the council's law firm is now on site at the coastal program's office at least half of the day Monday through Friday to advise the staff, as needed, and is available by phone or email when not on site.

Succession Planning

The coastal program is facing significant loss of staff knowledge, expertise, and leadership as eight senior staff members (nearly a third of the staff) are planning to retire in the next 1-2 years. At the same time, the coastal program will need to be prepared to handle increasing coastal management challenges, such as the development of offshore wind off of southern New England, an expanding aquaculture industry, and impacts of a changing climate, while also effectively managing its existing workload. The stakeholder groups that the evaluation team met with all expressed concern over the upcoming loss of senior staff members and their leadership, expertise, institutional memory, and relationships, and the impact the loss may have on agency operations. Existing staff members have spent many years cultivating strong relationships with diverse stakeholders and partners, earning trust and respect throughout the state, nation, and internationally, which would take time for new staff to rebuild. Evaluation participants emphasized the superb level of service received from the staff and the need to maintain this high level of service and the coastal program's effective regulatory and policy role as coastal management challenges continue to face the state.

The NOAA Office for Coastal Management encourages the coastal program leadership and staff to plan for the loss of senior staff members and this transition. Since the site visit, the NOAA Office for Coastal Management worked with the coastal program staff to jump-start transition planning, which included preparations for transfer of knowledge from departing staff to existing staff, as well as identifying strengths and challenges of the program. NOAA facilitated a two-day workshop in October 2019, where leadership and staff identified the coastal program's core values that are important to preserve and maintain during the transition. The workshop also identified priority actions and next steps for the staff to take to prepare for the transition. The NOAA Office for Coastal Management acknowledges that succession planning and implementation takes time. The coastal program is encouraged to support staff members in finding the time needed to implement priority actions identified during the workshop, including

ensuring that the knowledge and relationships developed by departing staff members during their tenure are passed on to the remaining staff and new hires. This will provide continuity and minimize any disruption in service or coastal program performance during this change.

While outside of the period of this evaluation, the NOAA Office for Coastal Management is pleased to hear that the coastal program has already begun to implement some of the priority actions identified during the succession planning workshop. The coastal program is encouraged to continue moving forward with these activities, including

- Articulating important aspects of the coastal program's culture that will be important to retain
- Identifying and pursuing the critical skill sets and staffing needs of the coastal program moving forward
- Facilitating knowledge transfer from senior to more junior staff members. This could occur by
    - Identifying key records to transfer (digitizing where possible)
    - Having departing staff members record key work processes and refine and expand upon, as needed, knowledge journals many staff members created in preparation for the succession planning workshop
    - Providing more opportunities for junior staff members to lead while being mentored by senior staff members
    - Providing opportunities for junior staff members to shadow senior staff members during partner and council meetings
    - Providing training opportunities for the staff to learn new skills that will be needed as senior staff members depart
    - Instituting team approaches for key issues and projects to deepen the bench, allowing others to better understand issues and processes and to build relationships with key partners
    - Providing more opportunities for communication and sharing among staff members, such as continuing to hold regular staff meetings that include at least a portion of the meeting time spent on transition topics.
- Seeking opportunities to train young coastal professionals to engage in areas of coastal science, regulatory requirements, and stakeholder engagement in a manner appropriate and relevant for the coastal program. This could include exploring funding for a Coastal Fellow.
- Developing an on-boarding plan for new staff members when hired, including identifying training needs (about the coastal program, other state processes, the Coastal Zone Management Act, National Coastal Zone Management Program,

partners they need to build relationships with, emerging topics they need to understand, etc.).

In addition to concern over staff transitions, multiple stakeholders and partners that the evaluation team met with also expressed concern about adequate overall staffing levels for the coastal program. They noted that the coastal program plays a critical role in responding to increased offshore wind and aquaculture development, as well as hazard resilience as sea levels rise and storms become more frequent and intense. This role will require additional staff time and expertise. In addition, the coastal program has not been able to make as much progress as it could on other issues such as coastal access because of staffing constraints and a slowdown in the approval process caused by changes with the council. These issues all take significant staff time to address and require specific skills and knowledge. Coastal program leadership should continue ongoing work to identify key skill sets needed to address emerging issues, such as offshore wind and aquaculture, and ongoing issues, such as hazards and public access, and should pursue additional staff positions as needed.

The state's hiring process is anticipated to hinder recruitment of well-qualified staff members to replace retiring personnel because of the slow hiring process, as well as low pay and benefits for state employees compared to comparable positions outside of state government. The ability of staff members to facilitate knowledge transfer will be impacted by the coastal program's current inability to hire replacements before someone retires. The coastal program is encouraged to continue to work with the Division of Human Resources to identify support and creative solutions the division may be able to provide during the transition process, including early planning for backfilling positions, or possibly bringing retired staff members back as consultants for a short period to help train new staff.

Online Permitting System

The coastal program has an internal digital permitting database, but does not have the technology to process permits completely within a digital system or provide a public-facing interface. To apply for a permit, an applicant must come into the coastal program's office and pay with a check. Unlike other state agencies, such as the Department of Motor Vehicles, and buying fishing and hunting licenses, online electronic submissions and the ability to pay by credit card are not possible for the coastal program. In addition, because not all historical permitting records are digitized, it takes longer for the coastal program staff to search the paper records to respond to public inquiries, investigate enforcement issues, and find documentation to inform permitting actions. This 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. A new database will make

the permitting process more efficient and save significant staff time responding to inquiries benefiting the public and coastal program staff. These efficiency gains will be very important as senior staff retire and remaining staff may need to temporarily pick up additional duties while waiting to backfill the positions. The coastal program has also been able to rely on the institutional memories of a number of senior staff who can quickly provide context and information to junior staff regarding past permitting decisions. Now a number of senior staff are retiring. Digitizing older files will enable new permit analysts to more easily access needed information.

New technology has also enabled a number of coastal states to analyze their past permit conditions and look at how well they have been implemented. Coastal programs have then used this information to strengthen their permit conditions to ensure they are easily understandable and effective. Coastal programs are also using new GIS-based technology when processing permits to better understand and incorporate into their decisions, cumulative impacts along the coast.

The coastal program and permit applicants would benefit from the development of a new permit database and web interface for permit applications. The permit system should provide a customer-friendly system for applicants to submit their applications and pay online, and provide a platform for efficiently documenting and sharing applications and permit information with partner agencies who have review and coordination responsibilities. In addition, the system should include the capability of tracking and addressing enforcement issues. The system should also be GIS-based allowing analysts to quickly access maps of the parcel and area in question. A new improved digital permit system would significantly improve the coastal program's ability to process permits, ensure projects are built as required, and provide excellent customer service.

Enforcement

The coastal program's implementing statutes set the Coastal Resources Management Council's ability to levy fines for violations at a lower level than similar state agencies, such as the Rules and Regulations for Assessment of Administrative Penalties (250-RICR-130-001) that govern the Department of Environmental Management. The coastal program's maximum fine amount, which is set by statute, has not changed for over 20 years. For some permittees, the fines are too small to effectively deter noncompliance; instead they are considered by applicants as part of the cost of doing business. Raising the penalties for violations to the same level as similar state agencies should more effectively deter noncompliance. This issue was also raised in the previous evaluation findings (2010). The coastal program also relies on the public to report

noncompliance issues and does not have a proactive inspection program. Current staffing levels limit the coastal program's ability to address violations in a timely and effective manner.

Program Changes

The NOAA Office for Coastal Management strongly encourages coastal programs to regularly submit program changes for incorporation into their federally approved programs to ensure that programs remain approvable and that applicable policies can be used for federal consistency. The coastal program had been regularly submitting changes to its implementing legislation, regulations, and management procedures, but has put many updates on hold while it reformatted its policies and rules to comply with new state formatting requirements. Now that the reformatting work is complete, the coastal program is encouraged to work with the NOAA Office for Coastal Management to develop a schedule for submitting recent changes to its implementing legislation and regulations for incorporation into its federally approved program at regular intervals**.**

Federal Award Management

In recent years, the NOAA Office for Coastal Management has had concerns regarding management of the federal award. The coastal program should ensure that staff members are working on the tasks they are associated with in the award. New priorities may emerge after a cooperative agreement is signed. When this occurs, a change of scope should be submitted to NOAA for approval to adjust the scope of award tasks. The coastal program is successful in obtaining outside funding from a number of funding sources, including other federal awards. The coastal program should ensure that it has a good system set up for tracking and managing funds from multiple sources, including ensuring that an eligible match is identified and reported appropriately for each award, and that specific work performed under each award is clearly defined to avoid any appearance of double funding or matching the same activities under different awards. The coastal program should also look to improve timeliness in submitting performance reports and ensure that it adequately describes the work performed under the award. Staff members responsible for managing the federal awards are encouraged to pursue federal grants training.

Narragansett Bay National Estuarine Research Reserve

During the evaluation period, the coastal program and research reserve staff improved collaboration and worked together on common areas of interest, including resilience, marsh migration, and marsh restoration. The coastal program is encouraged to continue to build on this partnership. Opportunities include leadership and staff engaging in each other's planning processes (309 Assessment and Strategy and National Estuarine Research Reserve Management

Plan) to identify potential areas of collaboration, and ensuring that new staff members have the opportunity to meet staff from the other program and understand their mission.

Findings

Accomplishment: The Rhode Island Coastal Program has (1) improved implementation and successfully addressed concerns noted in the previous evaluation findings regarding the ability to hold regular meetings with a quorum of members; (2) separated the functions of the Coastal Resources Management Council administrative hearing officer from the functions of the Coastal Resources Management Council legal counsel; and (3) provided coastal program staff with daily access to legal counsel.

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Ocean Planning

Ocean Special Area Management Plan

The Rhode Island Coastal Program is a state and regional leader in ocean planning. The Ocean Special Area Management Plan (Ocean SAMP) was developed to address the increased demand for the placement of structures and activities in state waters and to develop a comprehensive management and regulatory tool that would proactively engage the public and provide policies and recommendations for appropriate siting of offshore renewable energy. The Ocean SAMP, a marine spatial planning document, sets out a transparent decision-making process that incorporates the best available science and supports adaptive management. The Ocean SAMP was approved by the Coastal Resources Management Council in October 2010 at the beginning of the evaluation period, and NOAA approved its incorporation into Rhode Island's federally approved coastal management program in May 2011.

In 2013, the Rhode Island Office of Energy Resources prepared a biennial review of the Ocean SAMP for the coastal program. The results were used to inform the first five-year update process, which began in 2015. Since the update, activities have focused on the plan's implementation, including supplemental research, the development of a future scientific research agenda, and outreach via marine spatial planning trainings and an International Marine Spatial Planning Symposium. A 2016 report, *The Rhode Island Ocean Special Area Management Plan, 2008-2015: From Inception through Implementation (researchgate.net/publication/311066149_The_Rhode_Island_Ocean_Special_Area_Manageme*

nt_Plan_2008_-_2015_From_Inception_through_Implementation), found that the Ocean SAMP process was successful and emphasized the importance of the process: "building a broad base of leadership; allowing time to build trust; using the planning driver to maintain stakeholder engagement through plan implementation; including clear policy tools in the plan to facilitate streamlined decision-making; and preparing to work even harder during implementation than in the design and development phases." The report also found that "the relationships built during the process of creating the plan hold power, perhaps even as much power as the finalized plan itself."

Rhode Island first passed legislation in 2004 requiring that the state increase its use of renewable energy. The coastal program approved the Block Island Wind Farm through the streamlined permitting process the Ocean SAMP created. Constructing the wind farm employed 300 local workers, and in 2016 the five-turbine, 30-megawatt demonstration project came online. The project is helping the state meet its renewable energy goals and providing an alternative energy source for Block Island residents, ending their dependence on a diesel generator and reducing their electric rates by approximately 40 percent.

The evaluation team heard from a Deepwater Wind representative that the Ocean SAMP process, including the identification of the renewable energy zone, helped to "de-risk" the project. The Ocean SAMP process put in place a Fisheries Advisory Board and Habitat Advisory Board to help guide implementation of the plan. This type of engagement helped build stakeholder support, resulting in a smoother permitting process for the Block Island Wind project and stakeholder agreement on needed research and monitoring to observe impacts around the turbines. The ocean plan's identification of a renewable energy-siting zone and its collaborative processes enabled the project to move efficiently through the permitting process to be the first offshore wind project permitted in the United States.

The coastal program also completed a coastal effect analysis for a Geographic Location Description encompassing the Ocean SAMP planning boundary that included federal and state waters. NOAA approved the Geographic Location Description in 2011. The coastal program later submitted another coastal effects analysis supporting a new geographic location description covering federal waters off of southern Massachusetts, which NOAA approved in 2018. The 2018 geographic location description encompasses a portion of the U.S. Bureau of Ocean Energy Management's wind energy lease areas. By establishing both geographic location descriptions, the state has automatic federal consistency review of wind energy and cable pipeline projects occurring within the geographic location descriptions. Establishing the geographic location descriptions provides added certainty to the review process for offshore

wind because the coastal program has identified the specific federal actions they want to review for federal consistency purposes.

Offshore wind energy development is moving forward at a faster rate than many had anticipated, and extensive wind farm development has been proposed in federal waters along the North Atlantic coast. This area is currently utilized by other industries as well, including commercial and recreational fishing and shipping. Although much was learned from the Northeast Ocean Plan process, co-chaired by Rhode Island and NOAA, there has not been a large-scale cumulative impact analysis of multiple infrastructure projects proposed along the East Coast. During this evaluation period, the coastal program has been a central player in the siting and permitting process for Vineyard Wind, the first offshore wind project proposed in federal waters. Although the permitting process in federal waters differs from that in state waters, constituencies like fishermen expected a high degree of influence over the wind project design as they experienced in the Block Island Wind project. The evaluation team met with members of the Fisheries Advisory Board who were openly dissatisfied with the different process in federal waters and the results. This has resulted in decreased trust in their ability to influence wind project siting, increasing their fear of impacts, such as increased noise, vessel traffic, loss of gear, lack of communication from developers on their planned operations, lack of science and monitoring, and lack of knowledge on cumulative impacts given the number of projects likely to be constructed in federal waters. In response to these fears, the coastal program continued its high quality engagement by making time to understand fishermen's concerns and representing those concerns well in discussions with federal agencies and developers. We encourage the coastal program to continue to inform fishermen of the offshore wind process in federal waters, and take advantage of larger scale engagement opportunities for the fishing industry, such as new regional efforts, particularly the Regional Offshore Science Alliance (ROSA) and the Responsible Offshore Development Alliance (RODA).

A second ocean planning issue experienced by the coastal program is working within timelines for project review and federal consistency certification for projects proposed in federal waters. Per Bureau of Ocean Energy Management regulations (30 CFR Chapter V. § 585.612-613 and 30 CFR Chapter V. § 647-648), federal consistency review, with alternatives, is required from the state at the time of the construction operation plan, prior to the draft environmental impact statement. The coastal program and its constituents expressed that it is a challenge to respond this early in the process without having had the chance to work with ocean users, such as fishermen, on a preferred alternative to the wind field configuration. The coastal program has voiced its concerns and given recommendations to change Bureau of Ocean Energy Management regulations to require federal consistency determination later in the offshore wind process. The program submitted formal comments to NOAA's advanced notice of

proposed rulemaking, and also worked with other Northeast states through the Northeast Regional Ocean Council to submit recommendations for changes to the administration's Ocean Policy Committee. The NOAA Office for Coastal Management encourages the coastal program to continue to provide feedback through appropriate channels, particularly given that offshore wind is a new, developing industry in the U.S. and the scale and number of projects proposed.

The coastal program has been able to convert two positions to ocean engineers and recently has been able to fill both positions, helping provide the program with the specialized expertise needed to permit the large influx of wind energy development projects that are in process. With the large-scale ramp-up of wind energy in the Northeast and Mid-Atlantic, several evaluation participants noted that wind energy companies were expanding their workforce and hiring people with expertise related to ocean science and engineering. Going forward it may be difficult for the coastal program to compete for job applicants with wind energy expertise when applicants can make significantly more money in the private sector.

Northeast Region

The coastal program's executive director served as co-lead (with NOAA) on the Northeast Regional Planning Body, which was set up to respond to the Obama administration's National Ocean Policy. Under Rhode Island's leadership, and drawing on experience gained through Rhode Island's ocean planning process, the Northeast Regional Planning Body used a robust public process to develop a Northeast Ocean Plan. The state also led the development of the supporting Northeast Ocean Data Portal to guide and inform improved ocean and coastal management decisions based on stronger information and best practices along ten ocean ecosystem and use topics. The plan, the first regional plan in the nation under the National Ocean Policy, was completed and signed by the northeastern states in January 2016. The coastal program has also shared lessons learned from the offshore wind siting process with its northern counterparts in New Hampshire and Maine and other coastal states as they begin to pursue offshore wind development.

Findings

Accomplishment: The Rhode Island Coastal Program is a national leader in ocean planning and is successfully implementing the Ocean Special Area Management Plan, which guided the permitting and construction of the nation's first ocean wind project. The coastal program then used this experience to lead the development of an ocean plan for the Northeast region.

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 SAMP process, and to continue to work with the NOAA Office for Coastal Management, as needed, to revise the Ocean SAMP 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 (ROSA) and the Responsible Offshore Development Alliance (RODA).

Coastal Hazards and Climate Resilience

Rhode Island faces coastal hazards including flooding from sea level rise and storms, coastal erosion, and catastrophic flooding, and damage from hurricanes and extreme weather events. Sea level rise also leads to saltwater intrusion into groundwater, affecting drinking water, and raises groundwater tables causing septic system failures, which lead to more polluted runoff into coastal waters. The coastal program helps coastal communities and the state prepare for and become more resilient to coastal hazards through proactive planning, science-based regulations and permitting decisions, strong partnerships, innovative tools, and helpful technical assistance. The coastal program also bolsters the state's natural defenses to coastal hazards, particularly flooding and storm surge, through leading efforts to protect, restore, and monitor coastal habitat.

Beach SAMP, STORMTOOLS, and Other Hazard Resilience Policies

In October 2012, post-tropical storm Sandy hit the coast of Rhode Island. In response, early in 2013, the coastal program began conceptualizing the development of the Shoreline Change Special Area Management Plan, also known as the Beach SAMP. The coastal program partnered with the University of Rhode Island Coastal Resources Center and Rhode Island Sea Grant, which facilitated the planning effort. The Beach SAMP was designed to improve the coastal resilience of the state's 21 coastal communities to the threats of erosion and flooding caused by storm events or sea level rise and to educate homeowners on their hazard risks. The coastal program and its partners included extensive engagement with state and municipal officials, environmental groups, and public stakeholders during the plan's development, including hosting 14 public meetings. The Beach SAMP was not designed to be a prescriptive regulatory document but rather provides guidance and flexibility to local and state decision makers in their efforts to protect the health and welfare of residents. The council adopted the Beach SAMP in June 2018.

As part of the Beach SAMP development, the coastal program worked with partners to improve baseline coastal information and mapping. For example, with funding from NOAA's Coastal and Ocean Climate Applications Program, the coastal program partnered with Rhode Island Sea Grant, The Nature Conservancy, and Save the Bay in 2012 to use the Sea Level Affecting

Marshes Model (SLAMM), along with lidar elevation data, to assess projected sea level rise impacts to coastal salt marshes within various sea level rise scenarios. Based on this analysis, the coastal program and its partners identified opportunities for land conservation, restoration, and adaptation. The coastal program engaged with all 21 coastal cities and towns to discuss the study's results and provided technical assistance to assist community efforts to provide for marsh migration corridors as sea levels rise. The SLAMM maps were incorporated into the Beach SAMP.

A key innovative part of the Beach SAMP is Chapter 5, "Coastal Hazard Application Guidance," which establishes a multi-scenario approach to permitting and designing structures that ensures owners have a full understanding of future hazard risks. The coastal program revised its permitting regulations to implement this approach. The chapter outlines a five-step process for permit applicants to follow to analyze a proposed project's risk from coastal hazards based on the project's location and elevation along the shoreline. The coastal program developed STORMTOOLS, a suite of tools, to allow homeowners to analyze a proposed project's risk to coastal hazards. As part of the hazards analysis, homeowners need to identify risks under different storm surge and sea level rise scenarios and consider options for more resilient construction or relocation to reduce risk. To help applicants walk through this process, the coastal program created an online worksheet that was launched in late June 2019. Applicants for projects in the coastal zone, including new buildings and additions over 600 feet, need to submit the worksheet as part of the council's permitting review process and sign that they have reviewed the hazard analysis and wish to proceed with development. The permit, including the signed hazards analysis, remains with the title of the land. The process is designed to educate property owners on the risk they inherit when building or performing other activities in a coastal area and to promote increased resilience in a project, if an applicant chooses to do so. The coastal program developed STORMTOOLS in partnership with the University of Rhode Island's Ocean Engineering Department and Coastal Resources Center to help implement the Beach SAMP. The coastal program was awarded two competitive Project of Special Merit Awards from NOAA that supported the project's development. The STORMTOOLS website provides interactive tools to allow all residents of the state to understand their risk from coastal inundation. STORMTOOLS can also be used by builders to offer customers design options and to show how selected design changes would reduce risks under different scenarios; by permitting staff members to provide information to homeowners; and by local and state planners who are researching the costs and benefits of different policy options.

STORMTOOLS includes Stormtools Design Elevation maps and the Coastal Environmental Risk Index. Stormtools Design Elevation (SDE) maps allow homeowners and commercial and government project managers to look at risks associated with different storm surge scenarios

with or without sea level rise projections of 3, 5 or 7 feet. Unlike existing Federal Emergency Management Agency (FEMA) Base Flood Elevation maps, which do not account for sea level rise, the SDE maps incorporate future conditions with the addition of sea level rise. SDE maps also enable users to see risks associated with different types of storms that could occur along the coast throughout the selected life of the project.

The Coastal Environmental Risk Index (CERI) was developed to assess individual structure damage from flood inundation, including sea level rise, using the state's emergency (E-911) database and the Army Corps of Engineers' North Atlantic Coast Comprehensive Study damage function curves. CERI has been designed as an online GIS-based tool, and is fully compatible with current flooding maps, including those from FEMA. The CERI model shows the percent damage to each structure following a modeled event within the analysis area. CERI provides users with options to modify their project to minimize risk and create a more hazard-resilient project. In November 2019, the coastal program released a new mobile device app for Android or iOS operating systems that can utilize the phone's location and allow for easy analysis in the field.

As part of the development of STORMTOOLS, shoreline change maps were updated for the south shore, and new shoreline change maps were made for Block Island. An analysis of shoreline change throughout the remaining Rhode Island shorelines determined that current maps were accurate. The maps were incorporated into the Beach SAMP. The evaluation team met with the Rhode Island Emergency Management Agency staff, who noted that the agency participated in select meetings during the development of the Beach SAMP. Agency staff members consider STORMTOOLS to be a very useful tool. There are opportunities for agency and coastal program staff members to develop shared talking points and messaging on sea level rise and disaster preparedness and to assist local governments in developing capacity to better use the tools. Agency staff members also noted there were potential opportunities to work with the coastal program to lower the scores of the 11 coastal communities participating in the National Flood Insurance Program's Community Rating System and bring in new communities to lower flood insurance costs for homeowners. In addition, FEMA's new Building Resilient Infrastructure and Communities Grant Program, which was developed in 2019, will provide competitive funding for pre-disaster mitigation projects that implement state and local hazard mitigation plans. This is a new opportunity for agency and coastal program staff members to work together to help local governments strengthen their hazard mitigation plans and develop competitive projects that will improve the state's resilience.

The coastal program worked with the Rhode Island Builders Association and state legislature to obtain two statutory changes that complement the new Beach SAMP policies and increase

coastal hazard resilience. Senate bill S2561A was signed into law in July 2016, and it amended R.I. Gen. Laws § 45-24-31 to change the definition of "building height" and define the term "freeboard" in the Zoning Enabling Act to account for obstacles to construction in flood zone areas and to encourage safe and stable design for those structures. The legislation allowed for freeboard of up to five feet to be excluded from the building height calculation and avoid the need for a local zoning variance. During the 2018 legislative session, the coastal program provided technical assistance to the building industry's sponsorship of Senate bill S2413A that further amend the definition of "building height" in R.I. Gen. Laws § 45-24-31 for property located in FEMA-designated special flood hazard areas, specifying that the building height would be measured from the base flood elevation. This measure was signed into law in July 2018. Both of these legislative measures permit new and existing structures located within special flood hazard areas to be constructed with enhanced coastal hazard resilient designs, facilitating the use of some of the resilient construction practices that could be considered through the Beach SAMP's coastal hazard application process.

Through the development of the Beach SAMP and STORMTOOLS, the coastal program has been a leader in reducing coastal risks in the state. Building on these efforts, there are opportunities to continue to reduce risks and improve the state's resilience, including strengthening partnerships with other state agencies, continuing to support STORMTOOLS and user education, pursuing opportunities to use coast-wide data and tools to improve Community Rating System scores, and working with communities to strengthen and implement hazard mitigation plans.

Habitat Restoration to Promote Resilience

The coastal program manages the Rhode Island Coastal and Estuarine Habitat Restoration Program and Trust Fund and provides grants for projects that seek to restore or enhance coastal or estuarine habitats such as coastal wetlands, submerged aquatic vegetation beds, shellfish beds, vegetated coastal upland, and anadromous fish runs that have been degraded by human impacts. The program places a priority on those projects that seek to enhance coastal habitats' resilience to climate change and sea level rise—for example, projects that remove barriers to future wetland migration with sea level rise, or that enhance shoreline vegetation where habitat is threatened by increased coastal erosion. Since 2010, the coastal program has awarded over $1.8 million in grants, resulting in over 2,200 acres of restored coastal habitat, including salt marsh, beaches, dunes, shellfish beds, and river systems. The coastal program also coordinates the Rhode Island Habitat Restoration Team, a group of representatives from state and federal agencies and nonprofit organizations who work together to conduct restoration planning and prioritization, implement projects, conduct monitoring and research, provide technical assistance, leverage resources, and conduct public outreach and education.

The coastal program began working with Save the Bay in 2010 to develop guidance for non-structural shoreline protection and to make recommendations for shoreline adaptation policy development. A report, *Coastal Erosion and Adaptation on the Rhode Island Coastline*, was published in May 2013. A workshop was then held with over 100 experts who provided input and helped refine the report. As part of this effort, 13 demonstration projects were constructed by Save the Bay, and three more designed (engineered plans developed) in coastal communities. The projects address coastal erosion and stormwater flooding issues through the use of bank re-contouring, biodegradable materials, vegetation, and non-structural stormwater management practices, and include enhancements to vegetated shoreline buffers, coastal wetlands, beaches, and dune habitats. For each demonstration project, the municipality was engaged as part of the planning and design process, and in some instances provided in-kind engineering and construction services. Completed projects are highlighted on a University of Rhode Island Coastal Resources Center website: *uri.maps.arcgis.com/apps/Shortlist/index.html?appid=cbd9d6ae7a9d40b0b648432e95e66aec.* The effort has laid the groundwork for additional projects going forward. The coastal program provided overall oversight of the project and managed an award from the NOAA Habitat Restoration Center, which supported the project.

The coastal program is providing leadership and coordinating efforts in the state to develop and implement marsh and habitat restoration monitoring and assessment protocols. In addition to the SLAMM modeling project discussed previously, the coastal program funded a two-year effort to monitor 39 marshes throughout the state to evaluate current marsh conditions and the potential impacts of sea level rise. The Rhode Island Salt Marsh Assessment was completed by Save the Bay, and this work has helped inform ongoing restoration and planning efforts. In 2016, the coastal program, Narragansett Bay National Estuarine Research Reserve, and Save the Bay released "A Strategy for Developing a Salt Marsh Monitoring and Assessment Program for the State of Rhode Island" *(http://www.crmc.ri.gov/news/pdf/SMMAP_RI_Strategy.pdf)*, which presents a three-tiered strategy for developing a comprehensive, statewide monitoring and assessment program. The results from this monitoring and assessment program will be used to evaluate the overall status and condition of the state's salt marshes, track changes over time, evaluate management outcomes, and prioritize areas where resources should be directed toward management actions.

The coastal program worked with the Natural History Survey, the project lead, and others to develop and implement statewide coastal wetlands monitoring, assessment, and restoration strategies, including development and piloting of the Rhode Island Marsh Rapid Assessment Method (MarshRAM), which was funded by a U.S. Environmental Protection Agency Wetlands

Program Development Grant to the Department of Environmental Management. MarshRAM is designed to efficiently document attributes, ecosystem functions and services, landscape setting, disturbances, integrity, and migration potential of salt marshes across the state. The method is intended to generate a reference condition gradient and categories of marsh condition, against which individual marshes can be evaluated for supporting management decisions.

The coastal program worked with the Narraganset Bay National Estuarine Research Reserve, NOAA, and numerous other partners to develop the "Rhode Island Coastal Wetland Restoration Strategy" *(crmc.ri.gov/habitatrestoration/RICWRestorationStrategy.pdf)*, published in 2018. The strategy identifies criteria for prioritizing coastal wetlands for restoration, and discusses moving towards broader ecological interventions such as elevation enhancement (thin-layer placement) as sea levels rise, and the need for monitoring and assessment of restoration efforts. The strategy calls for the development of a permanent statewide coastal wetland restoration program to implement the strategic objectives, which will act as a clearinghouse for restoration research, methods, and assessment information, and for tracking restoration and intervention efforts in the state. The development of a statewide coastal wetland restoration program is a great opportunity to coordinate efforts across the state, share information, and maximize restoration opportunities.

The coastal program worked with multiple partners, including Save the Bay, which was responsible for construction, to investigate the use of applied sediment (thin-layer placement) in marsh restoration enhancement and to complete the first two thin-layer placement projects in New England: Quonochontaug marsh (which the evaluation team was able to visit) and Ninigret salt marsh. The Quonachontaug marsh project restored nearly 30 acres of salt marsh and enhanced three acres of eelgrass beds. Dredging of the existing channel and other areas of the pond to improve tidal flushing and water quality was completed in February 2019. The dredged soil was then placed on top of the marsh using thin-layer placement to build the marshes' elevation, and native plants were installed to help stabilize the marsh. The site is being closely monitored to determine project results. The coastal program played a critical role in the coordination of project partners and fiscal management of the project. The project is considered a model for testing thin-layer placement efforts as a strategy to maintain saltmarsh habitat and tidal wetlands; results have been presented at numerous conferences and will be published in relevant journals and scientific publications. NOAA contributed $982,000 to the $2.2 million project through a NOAA Coastal Resilience Grant award. The coastal program also received a $3.25 million award from the National Fish and Wildlife Foundation Hurricane Sandy Resilience award to support the Ninigret salt marsh project.

The coastal program is pursuing innovative habitat restoration projects and as part of this effort is supporting a robust monitoring program to determine if projects are achieving their goals. The coastal program worked with the Narragansett Bay National Estuarine Research Reserve, Save the Bay, the Rhode Island Natural History Survey, and the University of Rhode Island Environmental Data Center to collect and analyze data related to marsh elevation and condition at control and project sites. The coastal program also coordinated with regional and national monitoring and research efforts such as the Saltmarsh Habitat and Avian Research Program at the University of Connecticut and the Narragansett Bay National Estuarine Research Reserve's research initiative to investigate the use of applied sediment in marsh restoration and enhancement. The University of Rhode Island Environmental Monitoring Collaborative, of which the coastal program is a member, developed an online platform to host both data and project information.

Findings

Accomplishment: The Rhode Island Coastal Program's innovative Beach SAMP and STORMTOOLS provide state and local governments, businesses, and the public with the information needed to analyze coastal hazard risks and make informed decisions.

Accomplishment: The Rhode Island Coastal Program has successfully worked with partners to advance knowledge on the state of coastal habitats and how they are changing from sea level rise, including developing monitoring and assessment protocols for salt marshes. The coastal program has also leveraged funding for and led multi-partner innovative habitat restoration projects to help coastal habitats and the surrounding communities be more resilient as sea levels rise.

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.

Metric 1: Public Access

Goal: At least one designated public right-of-way for each mile of shoreline.

Objective: By 2017, 15 new public rights-of-way are designated by the Coastal Resources Management Council.

Strategy: A Coastal Resources Management Council public right-of-way (ROW) designation clarifies the status of a public ROW and provides shore goers 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 Coastal Resources Management Council 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, 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 crmc.ri.gov/publicaccess.html.

Performance Measure: The number of public ROWs identified or reviewed by the Coastal Resources Management Council ROW subcommittee and assigned "designated" status.

Target: 15 public ROWs are identified or reviewed by the Coastal Resources Management Council ROW subcommittee and assigned "designated" status.

Year 1: 0
Year 2: 0
Year 3: 0
Year 4: 0
Year 5: 1

Total: 1 public ROW identified or reviewed by the Coastal Resources Management Council ROW subcommittee and assigned "designated" status

Discussion: The coastal program made very limited progress toward this metric during the evaluation period. The coastal program reported that work toward this measure was slowed because of changes in membership of the council and ROW subcommittee and because of challenges earlier in the evaluation period in scheduling council meetings to hear the discussion. In the latter part of this time frame, the coastal program slowed work on this as staff members were focused on wind energy development. The coastal program was able to approve an additional four ROWs in February 2018, a year after this evaluation period. The coastal program is in a better position going forward now that the council has been restructured and members are appointed, but staffing remains a concern as new emerging issues such as wind energy are taking up significant staff time.

Metric 2: Sea Level Rise Vulnerability and Assessment

Goal: Rhode Island's coastal cities and towns are prepared for the effects of sea level rise.

Objective 1: By 2017, ten coastal communities have incorporated information about sea level rise (such as vulnerable public infrastructure and coastal habitats) into their municipal planning efforts.

Strategy: The rate of relative sea level rise along the Rhode Island coast is accelerating. Future sea level rise will bring with it increased risk to coastal populations, public and private property, and public infrastructure because of increased coastal flooding and erosion. The coastal program and Rhode Island Sea Grant have developed resources, including a statewide digital elevation and bathymetry data tool and a Sea Level Affecting Marshes Model (SLAMM). The coastal program through its partnerships with Rhode Island Sea Grant and the Narragansett Bay National Estuarine Research Reserve will offer technical assistance to help municipalities use these resources to plan for rising sea levels and identify areas and assets that are particularly vulnerable.

Performance Measure: The number of coastal communities that have received technical assistance from the coastal program to map and identify areas and assets vulnerable to sea level rise.

Target: Ten coastal communities have received technical assistance from the coastal program to map and identify areas and assets vulnerable to sea level rise.

Year 1: 5
Year 2: 21
Year 3: 21
Year 4: 21
Year 5 21

Total: The coastal program worked with all 21 coastal communities each of the past four years.

Discussion: The coastal program was very successful in working with all the coastal communities in the state, and the program's work in this area is discussed in the "Coastal Hazards and Climate Resilience" section of the findings.

Metric 3: Coastal Habitat Restoration

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

Objective 2: By 2017, at least 15 acres of coastal habitat are restored with funding or technical assistance from the coastal program.

Strategy: Coastal and estuarine habitats provide a variety of ecological services in Rhode Island, supporting fisheries, tourism, and recreation and improving the resilience 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 Coastal Resources Management Council 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 coastal program also coordinates the Rhode Island Habitat Restoration Team, a group of restoration practitioners and representatives from various agencies and organizations that meet regularly to share resources and technical expertise. More detailed information on the coastal habitat restoration metric can be found in the Coastal Resources Management Council's annual Habitat Restoration Trust Fund Report at crmc.ri.gov/habitatrestoration.html.

Performance Measure: The number of acres of coastal habitat restored using funding or technical assistance from the coastal program.

Target: 15 acres of coastal habitat restored using funding or technical assistance from the coastal program.

Year 1: 50 acres of coastal habitat
Year 2: 120 acres of coastal habitat
Year 3: 28 acres of coastal habitat
Year 4: 1,968 acres of coastal habitat
Year 5: 1 acre of coastal habitat

Total: 2,167 acres of coastal habitat restored.

Discussion: The coastal program was able to greatly exceed its target for the evaluation metric, and habitat restoration efforts are discussed in the "Coastal Hazards and Climate Resilience" section. In retrospect, the target set should have been set at a higher level, since it was tripled the first year.

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 Management Program. These evaluation findings contain one necessary action which must be completed by March 31, 2024 and five recommendations that must be considered before the next regularly scheduled program evaluation but which 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 Management Program, which may have implications for the state's financial assistance awards. However, it does not make any judgment about or replace any financial audits.

signed by Keelin S. Kuipers *for*
Jeffrey L. Payne, Ph.D.
Director, NOAA Office for Coastal Management

dated March 10, 2020
Date

Appendix A: Response to Written Comments

Kendra Beaver, Staff Attorney
Save the Bay

Save the Bay provided a letter with comments on the coastal program's implementation and in addition provided an Appendix with proposed changes to state legislation 650-RICR-20-00-1. Comments on the coastal program are below.

"In our experience, CRMC [Coastal Resources Management Council] staff serves stakeholders and those affected by CRMC regulations well, by readily sharing information, responding to inquiries, and making staff available to discuss issues of concern. In our experience, CRMC staff reviews and pulls information upon request and, if possible, e-mails relevant information. When we report a potential violation of the Coastal Resources Management Program (CRMP), CRMC staff responds immediately to let us know they will check it out as soon as possible. In contrast with our working relationships with other state agencies, CRMC personnel are much more willing to share their findings in order to encourage concerned parties to work collectively to resolve issues. STB and CRMC meet routinely with STB to discuss our differences and common goals. Although we do not always agree with CRMC staff, we appreciate their responsiveness and transparency.

We respectfully submit the following comments concerning the agency's accomplishments and recommendations for program compliance for your consideration.

1. Government coordination and decision-making: STB is including the following topics under this section for review: Follow - Up Actions Required by 2010 Review, Declaratory Judgment and Points Reform, Budget and Annual Enforcement Report, Statutory Penalties, and Penalty Regulations.

A. Follow-up Actions Required by the 2010 Review. STB is particularly concerned about two "Necessary Action[s]" that have not been adequately addressed and are inextricably connected. NOAA stated in its last review that:

I. "NECESSARY ACTION: 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."

II. "NECESSARY ACTION: The services of an attorney must be available to the CRMC staff on a daily basis. The CRMC must arrive at a solution to meet that requirement by December 1, 2010, so that staff has timely and sufficient legal assistance. If the solution requires additional time beyond December 1, 2010, to implement (e.g., must fulfill all state hiring or contracting procedures, or it is not feasible given state budget cycles), a later deadline must be negotiated and agreed to by OCRM [NOAA Office for Coastal Management]."

I. Necessary Action. CRMC staff members do not have access to legal counsel at hearings.
It is STB's understanding that, in response to "I. Necessary Action", CRMC hired two attorneys who are in private practice and share the duties of representing both the staff and Council. They each work part-time at CRMC headquarters, so that one attorney is generally physically present at CRMC offices. However, we do not believe that they have separate functions and it appears that both attorneys provide advice to staff and the Council. CRMC did not hire a separate attorney for staff. CRMC staff does not have legal representation at hearings.

The lack of legal representation for staff undermines the consistent implementation of the coastal program. The case of the Bonnet Beach Club sewer line is a good example. STB objected to the project for various reasons including the applicant's refusal to provide a detailed analysis of the alternatives considered. The sewer line will be located in an area that is already routinely flooded in a Type 1, Conservation Area. The CRMC Decision Worksheet, signed by the Executive Director, states that a special exception is required for the construction of a sewer line on a barrier beach and a variance for the sewer line within Bonnet Point Road. The April 22, 2019 staff report stated that "it is the Staff Engineer's opinion that the installation of an OWTS [onsite wastewater treatment system] is a reasonable alternative." The Staff Biologist's Report, dated April 30, 2019, further states that Criteria 2 and 3 of a special exception must be met. Criteria 3 is that there is no reasonable alternative means or location serving the compelling public purpose.

During the May 14, 2019 hearing on the sewer line, the Council first voted on whether a special exemption was required and, with minimal discussion, voted that it was not required despite the specific findings in the staff biologists report to the contrary. Staff also raised concerns related to sea level rise and the fact that alternatives existed. In addition, there was significant public opposition demonstrated during the meeting. With little discussion, the Council unanimously approved the project and included a convoluted list of stipulations that were

unclear even to those who voted on the assent. We are waiting for a copy of the final decision. It is our view that the presence of an attorney representing the staff would have encouraged the Council to heed staff recommendations concerning the need for a special exception, consistent with the CRMP, and would have improved the transparency of the decision-making process.

II. Necessary Action. This action contemplated a full-time state employee for staff. The two attorneys mentioned in the prior comment do not separate the functions of one representing staff and the other representing the Council. Staff is not provided with necessary advice in conducting investigations, pursuing violations, drafting permit recommendations, preparing for hearings and otherwise implementing the CRMP. CRMC staff should have access to an independent attorney "in preparation for, and at, hearings." Save The Bay is not aware of any requests of or other efforts made by the Executive Director or the Chair to secure a separate attorney for staff or to represent staff at hearings.

In the 2010 Review, NOAA stated that the intent of the first action set forth above was "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." Clearly, the intent has not been achieved. The perception of conflicts-of-interests and a lack of impartiality persists, exacerbated by the fact that a series of governors has refused to appoint hearing officers as required by law. R.I. Gen. Laws§ 46-23-20.l(a) provides that the governor "shall" appoint two hearing officers and one "shall" be designated as the chief hearing officer. Appointments are mandatory. Section § 46-23-20.l(e) allows a subcommittee to hear a contested case only if a finding is made that "hearing officers are otherwise engaged and unable to hear a matter in a timely fashion..." This section does not contemplate that hearing officers would not be appointed; subcommittees are only permitted if appointed hearing officers are busy and unable to conduct a timely hearing. Section § 46-23-20 recognized that there would be a delay between the promulgation of the statute and the appointment of hearing officers; however, an almost thirty-year delay was not anticipated and it does not change the 1990 mandatory duty. Further, it is questionable whether some decisions are valid, in that the committees do not always contain a member from the impacted community as required by law. (Whenever the chairperson of the coastal resources management council or, in the absence of the chairperson, the commissioner of coastal resources makes a finding that the hearing officers are otherwise engaged and unable to hear a matter in a timely fashion, he or she may appoint a subcommittee which will act as hearing officers in any contested case coming before the council. The subcommittee shall consist of at least one member; provided, however, that in all contested cases an additional member shall be a resident of the coastal community affected…")

Independent hearing officers were required for the Department of Environmental Management (DEM) through legislation passed in 1989 (R.I. Gen. Laws.§ 42-17.7-1). In May of 1990, DEM's newly established Office of Adjudication commenced hearings conducted by hearing officers in accordance with the Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters, a practice that has continued to this day. Similarly, the General Assembly in 1990 enacted legislation requiring the appointment and use of qualified hearing officers for CRMC cases, but hearing officers were never appointed.

Further, the legislature not only mandated the appointment of hearing officers but enunciated that they must be "attorneys-at-law, who, prior to their appointment, shall have practiced law for a period of not less than five (5) years." R. I. Gen. Laws§ 46-23 20.l{a). Moreover, in order to promote impartial decisions, the hearing officers must not be otherwise engaged in the practice of law. R. I. Gen. Laws§ 46-23-20.l(c).

Council members deciding contested cases are not experienced environmental attorneys and not required to have any training in adjudicating cases or coastal-related issues and are also otherwise employed, undermining the credibility and transparency of Council decisions and perpetuating the public perception of potential conflicts of interest. Hearings could continue to be held in the evenings when requested by stakeholders of the public to allow maximum participation.

The Council's lack of knowledge and training is particularly problematic when variances or special exceptions come before the Council and the staff defers to the Council on whether the applicant has met the goals and policies of the CRMP. The staff should make written recommendations to the Council who should defer to staff, with limited exceptions, based on their knowledge and professional expertise. Save The Bay is working cooperatively with CRMC on this and other issues that may be addressed without legislation through amendments to the CRMC Management Procedures and the CRMP (Attachment 1, A and B).

B. Declaratory Judgment and Points of Reform. Legislative changes were made to the composition of the Council in response to STB's Petition for Declaratory Judgement filed in the spring of 2018. R.I. Gen. Laws§ 46- 23-2 was amended to provide the governor with the authority to appoint ten members and specify in the appointment papers filed, the appointed or elected office that each municipal appointment holds; the population of the municipality represented; and the member being replaced. At the time of STB's petition, several of the members on the Council did not meet statutory requirements and the number of appointees exceeded the governor's statutory authority.

While the Legislature amended the CRMC statute to clarify the appointments issue, it did not impose qualifications for Council members or change the Council structure. STB believes that without requiring qualifications (in coastal- related issues or administrative law), the Council structure undermines the effective implementation of the CRMP. Furthermore, STB submits that the Council structure conveniently avoids accountability, promotes inconsistent decisions, and diminishes public confidence in the entire coastal program.

It is STB's view that agency performance would be significantly improved and public confidence in the coastal program enhanced if the agency were legislatively reformed to exist as a full, cabinet-level agency led by an executive director, appointed by the governor with consent of the RI Senate. Community representatives on the Council could continue to serve in an advisory capacity as it relates to policy.

It is our understanding that the Council Chair and Executive Director do not agree with STB that the Council should be relegated to an advisory role on policy. That said, STB staff has met with the Council Chairperson and Executive Director on several occasions to discuss legislative improvements that could be made to the functions and structure of the Council without eliminating the Council or removing it from its current role in adjudicating cases. (See Attachment 2, CRMC Reform Outline).

We urge NOAA to support the attached revisions to the CRMP and CRMC's Management Procedures in order to move forward in implementing important agency reforms.

C. Budget and Annual Enforcement Report. We appreciate the expertise and hard work of CRMC's limited staff. However, it is STB's view that limited staff and the agency's expansive jurisdiction undermines the CRMC's ability to protect and restore Rhode Island's coastal resources. STB continues to urge the Governor and General Assembly to strengthen CRMC capacity by adding additional staff (See Attachment 3, STB Testimony on the Budget).

Among other issues, STB is particularly concerned about a lack of staff to review applications and conduct compliance inspections on Emergency Permits. In the aftermath of Hurricane Sandy, voluminous applications for permits were submitted within a short period. Due to staffing constraints, we are concerned that staff does not have time to conduct a stringent review of all applications and the standards are relaxed when the agency is granting Emergency Permits. Furthermore, CRMC simply does not have the staff to follow up on the permits issued to check for compliance with the permit conditions. The problem is exacerbated by the fact that local authorities or the applicant's contractors make the determination of percentage of damage to a structure leading to inconsistent and often incorrect assessments. Thus,

emergency permits can often be a source of violations of the CRMP. As projected future flooding, sea-level rise, and storm intensity increases in Rhode Island, it is likely that the need for these Emergency Permits will increase. It is imperative that the agency be adequately equipped to ensure that each Emergency Permit issued complies with the CRMP and construction and maintenance upholds permit conditions.

While the CRMC has gained national recognition as a leader in anticipating the impacts of climate change, planning tools are no substitute for enforcement of regulations designed to protect natural resources, public safety, and critical coastal infrastructure. Timely and effective enforcement depends upon staffing levels that - at present - are insufficient. We believe that NOAA can lend its powerful voice in urging the General Assembly to address these staffing deficiencies. It is important to note that due to looming retirements of senior staff there is grave risk that the agency will be unable to train younger staff members to take on supervisory and decision-making roles. Vacancies that may be created by retirements of key staff will be difficult to fill with qualified staff and low salaries will make it hard to recruit qualified persons from private practices.

On a final note, CRMC has not been provided with the resources necessary to upgrade its computer system. The agency's aging computer system hinders its ability to readily track information for compliance. The agency's efforts to collect, analyze, and provide information is limited by technology. STB urges NOAA to require a substantial upgrade of CRMC's computer system in order to track permits and enforcement activity and provide the public with timely and accurate information on annual enforcement activity. We submit that all stakeholders would agree that the state could enhance customer service by providing CRMC with funds for the technology to provide files online for the public to review.

Establish Penalty Regulations and Increase Statutory Amount of Penalty. In an effort to enhance transparency, the Council should adopt regulations that govern the imposition of penalties for enforcement of the CRMP. The calculation of penalties and amounts imposed should be determined based on properly promulgated penalty regulations (similar to DEM's Administrative Penalty Regulations) to ensure that penalties are imposed fairly and consistently. It is unclear how R.I. Gen. Laws§ 46-23-20.l(a) is interpreted by the Council given the lack of enforcement data. Violators of the CRMP may gain an advantage over those who comply with the law, penalties may not be sufficient to deter future noncompliance, and a violator may not be required to pay the economic benefit it may have gained from non-compliance or restore a site. (The economic benefit from noncompliance should be imposed for all violations and should be specifically required to be calculated through properly promulgated penalty regulations. See, Rule 10 (c) of the Department of Environmental Management Rules

and Regulations for the Assessment of Administrative Penalties). For example, a property owner who cuts a buffer and obtains a water view may be fined a minimal amount while the owner enjoys the view for a number of years. An unobstructed water view is likely to enhance the value of property. Without a substantial penalty and requirement that the buffer be completely restored and replanted (rather than simply allowed to regrow), there is no deterrent for cutting the buffer. In addition to environmental damage, it is simply unfair to an abutting owner who complies with the CRMP and does not cut the buffer or enjoy a water view.

Further, in some enforcement cases, after-the-fact permits are granted. "After-the-fact" permits should not be issued. After a violation occurs on a site, the site should be fully restored before an application is processed. The bottom line is that it should cost more, in terms of time and money, to violate the law than to violate and later ask for forgiveness from the Council. Staff is needed to strengthen enforcement efforts.

Maximum Penalty to Deter Violations. The maximum penalty for violations of the coastal program is insufficient and legislation should be introduced to increase the maximum penalty that may be imposed. In the 2010 Review, NOAA suggested that CRMC work with the Governor and the General Assembly to increase the maximum administrative penalty for CRMC notices of violation and Cease and Desist orders. No progress has been made to date. Rhode Island leaders have not shown interest in providing funding for environmental agencies or strengthening environmental protection regulations. Currently, the Chairperson or Executive Director has 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 are authorized to assess additional penalties of not more than five hundred dollars ($500) for each day during which the violation continues. However, the maximum penalty that may be imposed in the aggregate is ten thousand dollars ($10,000). Again, additional staff is needed to conduct compliance inspections, patrol the shoreline and testify at hearings. Although the Executive Director and Council rarely impose the maximum penalty, they must have the authority in egregious situations to impose a penalty that exceeds the current statutory aggregate in order to compel timely restoration and deter future violations.

2. Coastal Hazards- Illegal walls and "maintenance" of walls. The Council has refused to enforce the CRMP as it relates to the removal of illegal walls. For nearly a decade, illegal walls have remained in place. STB has sent several letters to Council Chairs over the years asking them to enforce the violations issued. In most cases It is clear that walls should be removed and

properties restored, but unclear why there has been a refusal by several Councils to move forward on these cases for a nearly a decade.

Further complicating the "hardened shoreline" issue is the Council's failure to apply the maintenance regulations as written. For example, in Application 2015 11 007, Hang Ten LLC and the Town of South Kingstown (Hang Ten) applied for a Maintenance Certification Request (MCR). STB, along with other environmental organizations, submitted a Petition for Declaratory Ruling when it became apparent that the Council was considering permitting the complete demolition of an old dumped-stone sea wall, proposing a new and expanded wall in Type I waters on the Matunuck Headlands as a maintenance" application. (We requested a declaratory ruling concerning the interpretation and application of the regulations, including: (1) the applicability of §300.14.B.S(a)(i) to declare that the existing wall may not be demolished and replaced with a new wall unless the application meets all current programmatic requirements; (2) confirming that the CRMP prohibits construction of shoreline protection facilities in Type I waters along this twenty mile barrier/headland complex (Salt Pond SAMP §98 B.l.) in accordance with §300.7.D.l; and (3) confirming that the proposal by Hang Ten to demolish the existing shoreline protection facility and replace it with a new structure using a new engineering design and new materials constitutes a significant alteration to design of the existing structure contrary to §300.14.A.1.)

STB supported the findings of the staff report recommending denial of the application on this barrier/headland complex in Narragansett as maintenance. The wall should not have been treated as maintenance because it did not meet the definition of maintenance. Maintenance of structures under Section 300.14 A is defined a rebuilding, reconstructing, repairing or re-establishing to previously permitted conditions. If a structure has been destroyed, it must meet current applicable requirements. As stated in section 300.14 B, applicants proposing to demolish structures are required to meet current requirements. The regulations are clear: the applicant may not destroy the existing wall and rebuild it without triggering current requirements and current regulations prohibit the construction of the wall. The new wall was permitted as a "maintenance application" even though it significantly altered the existing design and size of the structure and was not the minimum required to maintain functional viability, but rather an entirely new revetment prohibited under 300.7 of the CRMP.

In an attempt to accommodate the application, an alternative path was devised to avoid the prohibition on hardened sea wall by reclassifying this section of shoreline as "manmade". This segment of shoreline was not classified as "manmade" under CRMP 210.6 prior to the submission of the application. Reclassifying a shoreline through a "maintenance" application

should not have been permitted and creates a dangerous substantive and procedural precedent.

The Council ignored the specific findings of the CRMP that structural shoreline protection facilities are prohibited along Type I shorelines. "[S]horeline protection structures eventually result in the loss of beaches and adversely impact public access and walls are particularly relevant in the face of rising sea levels." SAMP 980.B.1, 6 and 7, and staff findings on this case (March 26, 2012 Staff report for CRMC File 2011-12-017, page 2). The wall was not maintained as required by the 1983 MCR and should not have been processed as "maintenance."

3. Coastal Habitat: The Coastal and Estuarine Habitat Restoration Trust Fund. Habitat Monitoring, Assessment and Restoration and, OSCAR.

CRMC has effectively managed the RI coastal and estuarine Habitat Trust Fund and successfully leveraged millions of additional federal dollars to facilitate design, planning, construction, and monitoring of coastal and estuarine restoration projects. The fund has been used to support approximately 130 habitat restoration projects. CRMC has established a timely and efficient grant process and works cooperatively with many state and federal partners as part of its Technical Review Team, including STB, to review grants and provide feedback to grant applicants.

CRMC has taken a leadership role on implementing a salt marsh monitoring and assessment program in coordination with the Narragansett Bay Estuarine Research Reserve and the RI Natural History Survey. The assessment program presents a strategy for developing a comprehensive, statewide monitoring and assessment program. The proposed SMMAP is a three-tiered framework for assessing changes in salt marsh condition, acreage and vegetation over space and time. Since the plan was finalized in 2016, CRMC has collaborated with project partners on implementing the three tiers of monitoring including working with a wetlands biologist from the RI Natural History Survey on the development of a rapid salt marsh assessment. With funding from the Trust Fund, the Narragansett Bay Estuarine Research Reserve has established sentinel sites throughout the state. The monitoring data is informing restoration and adaption strategies and will document long-term trends.

Additionally, CRMC in coordination with the RI Natural History Survey developed the Rhode Island Coastal Wetland Restoration Strategy, which provides a strategy for restoration and management efforts. STB has partnered with CRMC for over 20 years on the majority of our restoration projects and this strategy provides a blueprint for future restoration, adaptation and protection efforts.

CRMC in the past five years has coordinated many large-scale habitat restoration grants including two sediment placement projects at two salt ponds in Charlestown, Rhode Island. The salt marsh enhancement projects are among the first of their kind in New England and CRMC has been instrumental in securing the funding, coordinating the partners and hiring the engineering consultants and contractors to implement the projects. STB has collaborated with CRMC on these marsh adaptation projects on the monitoring, implementation and adaptive management. As a partner we have convened an interagency team to monitor the sediment placement projects including the Narragansett Bay Estuarine Research Reserve, EPA's Atlantic Ecology Division, URI, the Natural History Survey and the USFWS. CRMC has shared results of these pilot projects throughout the region with natural resource managers and regulatory staff.

CRMC has also helped coordinate interagency review of salt marsh restoration and adaptation permit applications. The interagency review has simplified and streamlined the permitting process for small-scale salt marsh adaptation projects, allowing projects to be implemented in a timely fashion before further marsh degradation occurs.

CRMC has been a leader in coastal adaptation planning and implementation. With funding from NOAA, STB and CRMC conducted an assessment of potential coastal adaptation projects, including infrastructure and pavement removal, bank regrading and natural feature restoration. We implemented over ten pilot coastal adaptation projects from 2012 to 2014 and have conducted multiple workshops over the past several years with municipalities, land trusts, engineers and natural resource managers on strategies to adapt to shoreline erosion and sea level rise through coastal adaptation measures. Most recently, CRMC successfully received a grant from NFWF to begin the next phase of coastal adaptation projects through funding engineering plans for ten additional projects. Working in coordination with URI's Coastal Resources Center, Roger Williams School of Law and STB, the project partners are conducting outreach to municipalities to help them identify potential projects.

STB has proposed legislation creating the Ocean State Climate Adaptation and Resilience (OSCAR) fund The legislation proposes an additional nickel per-barrel fee on imported petroleum products (1/10 penny per gallon) under the uniform Oil Spill Prevention and Response (OSPAR) program established by R.I. Gen. Laws§ 46-12.7-4.l. The fee will generate approximately $1.9 million/year.

The OSCAR bill, if passed, would transfer an additional $250,000 of the fees collected under OSCAR into the Habitat Trust Fund. The bill also provides for grants to cities and towns and the state for projects that invest in measures to adapt infrastructure on public lands to the impacts

of climate change. Eligible projects must also protect or enhance natural systems and habitats in order to improve the resilience of these systems in the face of rapid climate change. It has no matching requirement, addresses gaps in funding and could be used to leverage federal funds. Project types include: infrastructure relocation or removal, floodplain restoration, stormwater management, and the creation of stream, wetland, and coastal buffers. Under the bill, CRMC would be co-administrator of the OSCAR, along with DEM.

Public Access.

In 2015, CRMC identified five new Rights-of-Way (ROW) that were supported by local communities and ripe for dedication. CRMC did not have the legal resources required to conduct the necessary title work. Working cooperatively with CRMC, STB connected two Roger Williams Law School students with the City Solicitors from Portsmouth and North Kingston and under the supervision of the Solicitors, the students conducted title searches of the 5 potential ROW sites. The work was completed in 2015, yet CRMC has yet to schedule a subcommittee hearing on designating the ROWs.

STB has also been working with CRMC to ensure the public is aware of ROWs and that they are accessible for all. STB conducted an extensive review of all ROWs. From 2016-2017 we visited each of the existing designated ROWs and documented data related to parking, obstructions, signage, and more. We found that more than half of ROWs had not been maintained, and more than a third of the 226 ROWs were at least partly obstructed to foot traffic. The primary cause of obstruction was vegetation overgrowth, but we documented the purposeful efforts of abutters, neighbors, or others at nine ROW.

In 2018, we updated the Public Access Report and provided the report coastal communities. STB intends to pursue action, working with CRMC and the RI Attorney General's office, in communities that do not take action on their own. We are disappointed with the pace of these efforts to improve public access to the shore and believe that limited staff at CRMC has hampered the agency's efforts to move ahead with maintenance, enforcement, and new development of public access rights-of-way. We urge NOAA to encourage CRMC to move ahead on these public access initiatives and support requisite staffing levels.

Concluding Comments

STB would like to recognize the expertise, experience and responsiveness of the staff and Executive Director of the CRMC. The agency enjoys well-deserved recognition for its planning work and coastal habitat restoration activities. In our view, the most critical need at the agency

is separate, dedicated legal counsel to advise staff on a day-to-day basis and to represent staff at Council hearings. Additionally, agency staff is severely constrained in its ability to fulfill its responsibilities implementing the CRMP and deal with a multitude of new responsibilities related to the development of offshore wind power and climate change impacts. We urge NOAA to press the governor and General Assembly to hire a staff attorney as stated in the 2010 review, and provide additional funding for that position and four other positions needed to effectively implement the coastal program. We believe the implementation of coastal regulations should be in the hands of full time trained staff, with the assistance of an in-house attorney. This is the case in most other coastal states. Regardless of agency structure, hearings should be adjudicated by an independent hearing officer, not unqualified political appointees. It is our view that NOAA's input will be invaluable to the General Assembly as it considers agency reforms and budget constraints."

NOAA Office for Coastal Management Response: The NOAA Office for Coastal Management thanks Save the Bay for its comments regarding coastal program staff and Save the Bay's work with the coastal program, as well as thoughtful comments on how implementation of the program could be improved.

With regard to Save the Bay's comments on the necessary actions contained in the previous evaluation findings (2010), the office has determined that the coastal program has successfully addressed the two necessary actions by separating the functions of the council's administrative hearing officer from the functions of the council's legal counsel, ensuring the staff members have access to legal counsel on a daily basis. The office concurs that having an attorney on staff would be beneficial for the program and is supportive of coastal program efforts to pursue approval of this additional position. Save the Bay has also expressed a preference for having independent hearing officers make permitting decisions instead of the council. NOAA has approved coastal programs with different decision-making structures, including programs that use councils and those that use hearing officers to make permitting decisions. Over the decades, NOAA has found that Rhode Island and other coastal programs with council structures are able to provide for extensive public input and have strong public support. NOAA has also found that councils and hearing officers can effectively carry out their duties and that both councils and hearing officers are capable of poor decisions. The coastal program's council structure has facilitated its ability to move nimbly; the program is often a national leader on the front lines of innovation and the first to tackle new and emerging issues. Save the Bay also raised concerns regarding the council's operation. As discussed in the "Program Administration" section and through a recommendation, NOAA is supportive of continuing efforts to improve the functioning of the council and believes recent and proposed changes, including additional training, will continue to improve the program's implementation.

Save the Bay raised concerns about council member qualifications and that they did not believe all council members were qualified to serve on the council. They recommend that members have a background in coastal and natural resource management, planning, zoning, or a related field. The NOAA Office for Coastal Management agrees that experience in coastal management or related fields is beneficial but believes that if members are provided training and have a willingness to learn that the council can be operated effectively with members from a wide variety of backgrounds. Members from different backgrounds can also bring different skills and perspectives to coastal management. Save the Bay also raised questions about whether some decisions are valid, "in that the committees do not always contain a member from the impacted community as required by law." The NOAA Office of Coastal Management will not comment on the state of Rhode Island's legal authorities on this matter.

Save the Bay also stated that the coastal program's relationships with stakeholders and partners from the urban core along the northern end of the Narragansett Bay were not as strong as the program's relationships along the South Coast. They raised concerns that this has created a perception that the coastal program favors the South Coast and fishermen over the northern urban core areas, which include low-income, minority communities. The NOAA Office of Coastal Management is supportive of efforts to engage stakeholders throughout the coast.

Save the Bay raised concerns with the implementation of the permitting program. The NOAA Office for Coastal Management discusses permitting issues under the "Program Administration" section and has included a recommendation addressing improved enforcement, including pursuing additional staff and increasing the maximum administrative penalty for notices of violation and cease-and desist orders, and also a necessary action regarding a new online system for processing and managing permits and enforcement activity. Save the Bay raised concerns regarding enforcement and the removal of illegal seawalls and the council's failure to apply the maintenance regulations as written. The findings include a recommendation to strengthen the coastal program's enforcement program. With regard to the specific case of Hang Ten LLC and the Town of South Kingstown, the NOAA Office for Coastal Management does not make judgments on specific permitting decisions during the evaluation process but looks at the implementation of the program more broadly.

Save the Bay raised concerns regarding the slow progress of approving dedication of rights-of-way. The NOAA Office for Coastal Management concurs that progress on coastal access has been very slow during the evaluation period in part due to changes to the council structure and in part due to lack of staff capacity. The office has included a recommendation for the coastal program to consider skills and staffing needs going forward for both new and emerging issues

and ongoing long-term issues such as public access and to pursue opportunities for additional staffing.