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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO WATERS AND NAVIGATION -- COASTAL RESOURCES MANAGEMENT COUNCIL

Introduced By: Senators Gu, DiMario, Valverde, Britto, Euer, DiPalma, Kallman, Felag, Pearson, and Ruggerio

Date Introduced: March 29, 2024

Referred To: Senate Environment & Agriculture

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. The title of Chapter 46-23 of the General Laws entitled "Coastal Resources  
2 Management Council" is hereby amended to read as follows:

3 ~~CHAPTER 46-23~~

4 ~~Coastal Resources Management Council~~

5 CHAPTER 46-23

6 DEPARTMENT OF COASTAL RESOURCES

7 SECTION 2. Sections 46-23-1, 46-23-2, 46-23-4, 46-23-4.1, 46-23-6, 46-23-6.1, 46-23-  
8 6.2, 46-23-7, 46-23-7.1, 46-23-7.2, 46-23-7.4, 46-23-7.5, 46-23-8, 46-23-9, 46-23-10, 46-23-11,  
9 46-23-13, 46-23-14, 46-23-15, 46-23-15.1, 46-23-16, 46-23-18, 46-23-18.1, 46-23-18.2, 46-23-  
10 18.3, 46-23-18.4, 46-23-18.5, 46-23-18.6, 46-23-19, 46-23-20, 46-23-20.1, 46-23-20.2, 46-23-  
11 20.3, 46-23-20.4, 46-23-20.5, 46-23-20.6, 46-23-21, 46-23-22, 46-23-23, 46-23-24, 46-23-25 and  
12 46-23-26 of the General Laws in Chapter 46-23 entitled "Coastal Resources Management Council"  
13 are hereby amended to read as follows:

14 **46-23-1. Legislative findings.**

15 (a)(1) Under article 1, § 17 of the Rhode Island Constitution, the people shall continue to  
16 enjoy and freely exercise all the rights of fishery, and the privileges of the shore, to which they  
17 have been heretofore entitled under the charter and usages of this state, including, but not limited  
18 to, fishing from the shore, the gathering of seaweed, leaving the shore to swim in the sea and

1 passage along the shore; and they shall be secure in their rights to use and enjoyment of the natural  
2 resources of the state with due regard for the preservation of their values; and it is the duty of the  
3 general assembly to provide for the conservation of the air, land, water, plant, animal, mineral and  
4 other natural resources of the state, and to adopt all means necessary and proper by law to protect  
5 the natural environment of the people of the state by providing adequate resource planning for the  
6 control and regulation of the use of the natural resources of the state and for the preservation,  
7 regeneration, and restoration of the natural environment of the state.

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

19 (b)(1) That effective implementation of these policies is essential to the social and  
20 economic well-being of the people of Rhode Island because the sea and its adjacent lands are major  
21 sources of food and public recreation, because these resources are used by and for industry,  
22 transportation, waste disposal, and other purposes, and because the demands made on these  
23 resources are increasing in number, magnitude, and complexity; and that these policies are  
24 necessary to protect the public health, safety, and general welfare. Pursuant to 16 U.S.C. § 1452  
25 ("The Coastal Zone Management Act"), the general assembly hereby directs the ~~council~~department  
26 of coastal resources (referred to as "~~CRMC~~" the "department") to exercise effectively its  
27 responsibilities in the coastal zone through the development and implementation of management  
28 programs to achieve wise use of the land and water resources of the coastal zone.

29 (2) Furthermore, that implementation of these policies is necessary in order to secure the  
30 rights of the people of Rhode Island to the use and enjoyment of the natural resources of the state  
31 with due regard for the preservation of their values, and in order to allow the general assembly to  
32 fulfill its duty to provide for the conservation of the air, land, water, plant, animal, mineral, and  
33 other natural resources of the state, and to adopt all means necessary and proper by law to protect  
34 the natural environment of the people of the state by providing adequate resource planning for the

1 control and regulation of the use of the natural resources of the state and for the preservation,  
2 regeneration, and restoration of the natural environment of the state.

3 (c) That these policies can best be achieved through the creation of a ~~coastal resources~~  
4 ~~management council~~ [department of coastal resources](#) as the principal mechanism for management  
5 of the state's coastal resources.

6 (d) The general assembly recognizes and declares that maintenance dredging is required to  
7 remove natural silt accumulations; Rhode Island has not had a general maintenance dredging policy  
8 and programs for ports, port facilities, channels, harbors, public and private marinas and boating  
9 facilities, recreational facilities and habitat areas; other major coastal states have maintenance  
10 dredging policies and in-water maintenance dredge disposal sites; as a result of the lack of a general  
11 maintenance dredging policy and program and as a result there has been:

12 (1) A decrease in the depth of the Providence Channel from forty-four (44) feet in 1971 to  
13 twenty-four (24) feet in 1996;

14 (2) Navigational restrictions on ocean going vessels through the state's waterways and  
15 channels; and

16 (3) A decrease in the number of available slips and moorings at marinas throughout the  
17 state; and the lack of a maintenance dredging policy and programs have significant adverse  
18 environmental and economic effects on the state and therefore it is in the best interest of the state,  
19 the cities and towns of the state, and the citizens thereof for the state to have a general maintenance  
20 dredging policy and programs to resolve issues related to dredge maintenance and disposal and  
21 avoid future significant direct and indirect adverse impact on the environment and economy of the  
22 state.

23 (e) The [department of](#) coastal resources ~~management council~~ is hereby designated as the  
24 lead state agency for purposes of dredging in tidal waters and as such shall have the following  
25 duties and responsibilities:

26 (1) To coordinate the interest of the state with regard to dredging;

27 (2) To formulate and adopt a state policy with regard to dredging which integrates those  
28 interests;

29 (3) To cooperate with, negotiate, and to enter into agreements on behalf of the state with  
30 the federal government and with other public bodies and private parties with regard to dredging;

31 (4) To act as the initial and primary point of contact for all applications to the state for  
32 dredging projects in tidal waters;

33 (5) To develop, prepare, adopt pursuant to § 46-23-11, implement, and maintain a  
34 comprehensive plan for dredge material management; and

1 (6) To cooperate and coordinate with the departments of environmental management,  
2 transportation, administration, and health, and the economic development corporation in the  
3 conduct of these duties and responsibilities.

4 (f)(1) The legislature recognizes that under Article I, § 17, the submerged lands of the state  
5 are impressed with a public trust and that the state is responsible for the protection of the public's  
6 interest in these lands. The state maintains title in fee to all soil within its boundaries that lies below  
7 the high water mark, and it holds that land in trust for the use of the public. In benefiting the public,  
8 the state preserves certain public rights which include, but are not limited to, fishery, commerce,  
9 and navigation in these waters and the submerged lands that they cover.

10 (2) ~~Since~~ All the powers and duties previously vested in the coastal resources management  
11 council since its establishment in 1971, are hereby transferred to the department of coastal resources  
12 ("department"). ~~the CRMC~~ The department has ~~had~~ the authority to manage and plan for the  
13 preservation of the coastal resources of the state including, but not limited to, submerged lands.  
14 The legislature hereby declares that, in light of the unique size, scope, and overall potential impact  
15 upon the environment of large scale filling projects involving twenty-five (25) acres or more, any  
16 lease of tidal lands, or any license to use those lands, is subject to approval, disapproval, or  
17 conditional approval by the direct enactment of the general assembly by legislative action. The  
18 ~~CRMC~~ department shall review all requests for leases, licenses to use the land, and other authority  
19 to use the land made by any applicant prior to presentation of the request to the general assembly,  
20 and the ~~CRMC~~ department shall make recommendations on the request to the general assembly.  
21 With the exception of any and all projects to fill land of twenty-five (25) acres or more, the general  
22 assembly hereby recognizes and declares that the ~~CRMC~~ department is delegated the sole and  
23 exclusive authority for the leasing of submerged and filled lands and giving licenses for the use of  
24 that land. Accordingly, the ~~CRMC~~ department shall forthwith ~~will~~ develop, coordinate, and adopt  
25 a system for the leasing of submerged and filled lands, and licenses for the use of that land, and  
26 will ensure that all leases and licenses are consistent with the public trust. Pursuant thereto, the  
27 ~~CRMC~~ department shall impose a maximum fee of eighty thousand dollars (\$80,000) per annum  
28 for any transatlantic cable that makes landfall in Rhode Island. All such fees collected shall be  
29 deposited into the Bays, Rivers and Watersheds Fund, established pursuant to § 46-31-12.1, and  
30 shall be disbursed according to the purposes of that fund. Nothing contained in this subsection  
31 negates, repeals, or alters the provisions, processes, and requirements for the leasing of submerged  
32 land for the conduct of aquaculture as set out under chapter 10 of title 20. Therefore, nothing in this  
33 chapter shall be construed to limit or impair the authority of the state, or any duly established agency  
34 of the state, to regulate filling or dredging affecting tidal lands owned by the state or any other

1 entity, and nothing in this chapter shall be construed to limit or impair the obligation of the applicant  
2 to obtain all applicable regulatory approvals. Specifically, and without limiting the foregoing,  
3 nothing in this subsection negates, repeals, or alters the provisions, processes, and requirements for  
4 water quality certification contained in chapter 12 of this title.

5 (3) Definitions. As used in this chapter, the following words unless the context clearly  
6 requires otherwise, shall have the following meanings:

7 (i) "Department" means the department of coastal resources as established herein.

8 (ii) "Director" means the director of the department of coastal resources as established  
9 herein, or their duly authorized agent, unless stated otherwise.

10 ~~(i)(iii)~~ (iii) "Filled land" means portions of tidal lands which have been rendered by the acts of  
11 man to be no longer subject to tidal action or beneath tidal waters.

12 ~~(ii)(iv)~~ (iv) "Mean high water" means a line of contour representing the 18.6 year average as  
13 determined by the metonic cycle and/or its equivalent as evidenced by the records, tidal datum, and  
14 methodology of the United States Coastal Geodetic Survey within the National Oceanic and  
15 Atmospheric Administration.

16 ~~(ii)(v)~~ (v) "Tidal Lands" means those lands that are below the mean high water.

17 ~~**46-23-2. Coastal resources management council created—Appointment of members.**~~  
18 ~~**Department of coastal resources – Transfer of responsibilities and community advisory**~~  
19 ~~**committee.**~~

20 ~~(a) There is hereby created the coastal resources management council. The coastal~~  
21 ~~resources management council shall consist of ten (10) members. Nine (9) members shall be~~  
22 ~~appointed by the governor, with advice and consent of the senate, and one member shall serve ex~~  
23 ~~officio. All current appointments to the coastal resources management council made by the~~  
24 ~~governor with advice and consent of the senate are hereby validated and ratified and those~~  
25 ~~appointees shall serve for the remainder of their term.~~

26 ~~(1) Six (6) of the members shall be appointed or elected officials of local government: three~~  
27 ~~(3) of whom shall be appointed or elected officials in a municipality of fewer than twenty five~~  
28 ~~thousand (25,000) in population, three (3) of whom shall be appointed or elected officials in a~~  
29 ~~municipality of more than twenty five thousand (25,000) in population. The populations are to be~~  
30 ~~determined by the latest federal census. Elected or appointed municipal officials shall hold seats on~~  
31 ~~the council only so long as they remain in their elected or appointed office. Each municipal~~  
32 ~~appointment shall cease if the appointed or elected official shall no longer hold or change the office~~  
33 ~~which they held upon appointment. At least five (5) out of the six (6) appointed or elected members~~  
34 ~~must be appointed or elected in a coastal municipality. When the governor submits his or her~~

1 ~~appointments to the senate for advice and consent, the governor shall specify the appointed or~~  
2 ~~elected office that each municipal appointment holds; the population of the municipality~~  
3 ~~represented; and the member being replaced.~~

4 (2) ~~Three (3) members shall be appointed by the governor from the public, with the advice~~  
5 ~~and consent of the senate, one of the public members and his or her successors shall reside in a~~  
6 ~~coastal municipality.~~

7 (3) ~~All members shall serve until their successors are appointed and qualified; during the~~  
8 ~~month of January, the governor shall appoint, with the advice and consent of the senate, a member~~  
9 ~~to succeed the members whose term will then next expire for a term of three (3) years commencing~~  
10 ~~on the first day of February next following and until their successor is named and qualified. A~~  
11 ~~member shall be eligible for successive appointments. No more than two (2) persons on the council~~  
12 ~~shall be from the same municipality. A vacancy other than by expiration shall be filled in the~~  
13 ~~manner of the original appointment but only for the unexpired portion of the term.~~

14 (a) There is hereby established within the executive branch of the state government a  
15 department of coastal resources. The head of the department shall be the director of the department  
16 of coastal resources who shall be in the unclassified service and who shall be appointed by the  
17 governor, with the advice and consent of the senate, and shall serve at the pleasure of the governor.

18 (1) Whenever, in any general law, public law or regulation the words “coastal resources  
19 management council”, the “council” or “CRMC” shall appear, the same shall be deemed to refer to  
20 and to mean the “department of coastal resources.” Whenever, in any general law, public law or  
21 regulation the words “chairman” or “chairperson of the coastal resources management council”  
22 shall appear, the same shall be deemed to refer to and mean the “director of the department of  
23 coastal resources”.

24 (2) The director of the department of coastal resources (“director”) assuming any duties  
25 formerly imposed upon any other department, division, board, commission, or other agency shall  
26 perform those duties, notwithstanding that those duties were formerly performed by a board,  
27 council department, or a single officer. Any ruling, decision, or order made by the director with  
28 regard to matters within the director's jurisdiction shall be subject to any existing right of appeal to  
29 a court of competent jurisdiction.

30 (b) There is hereby established a community advisory committee for the department of  
31 coastal resources (“the committee”). The role of the advisory committee is to provide the  
32 department with input on policy initiatives and program improvements and the director shall  
33 schedule and hold public committee meetings at least two (2) times per year.

34 (1) The committee shall consist of ten (10) members. Nine (9) members shall be appointed

1 by the governor and one member shall serve ex officio. Members of the committee shall be  
2 knowledgeable in coastal law and/or policy and include members representing coastal, urban,  
3 indigenous, and environmental justice communities. No two (2) members shall reside in the same  
4 community; and

5 ~~(4)~~(2) The director of the department of environmental management, or their designee,  
6 shall serve ex officio. The ex-officio member shall not be counted as serving from any particular  
7 ~~municipality~~ community.

8 ~~(b)~~(3) In addition to the foregoing ~~voting~~ members, the ~~council~~ committee may include a  
9 varying number of other members ~~who may serve in an advisory capacity without the right to vote~~  
10 ~~and~~ who may be invited to serve by either the governor or the ~~voting members~~ director. These  
11 advisory members may represent the federal agencies such as the navy, coast guard, corps of  
12 engineers, public health service, and the Federal Water Pollution Control Administration, and such  
13 regional agencies as the New England River Basins Commission and the New England Regional  
14 Commission and any other group or interest not otherwise represented.

15 (c) ~~There may be established a coastal resources~~ The director may establish other advisory  
16 ~~committee which committee, appointed by the executive director of the coastal resources~~  
17 ~~management council; committees which~~ committees which may include, but not be limited to, representation from the  
18 following groups: ~~one of whom~~ may be a representative of the university of Rhode Island graduate  
19 school of oceanography and the college of resources development; ~~one of whom may be~~ a  
20 representative of the Sea Grant National College Program; ~~one of whom may be~~ ; a representative  
21 of the army corps of engineers; ~~one of whom may be~~ ; a representative of the federal environmental  
22 protection agency's Narragansett Bay laboratory; ~~one of whom shall be~~ a representative of the  
23 department; ~~coastal resources management council, one of whom may be~~ the director of the  
24 department of environmental management; ~~one of whom may be~~ a member of the Rhode Island  
25 Marine Trade Association; and ~~one of whom may be~~ a representative of a regional environmental  
26 group. The ~~council~~ director shall have the authority to appoint ~~these additional~~ members to ~~the~~  
27 other advisory ~~committee~~ committees, as is deemed necessary or advisable by the ~~advisory~~  
28 ~~committee or the council~~ director. It shall be the responsibility of the committee to advise the  
29 ~~coastal resources management council~~ department on environmental issues relating to ~~dredging and~~  
30 ~~permitting related thereto, including, but not limited to, those issues defined in §§ 46-23-18.1—~~  
31 ~~46-23-18.3, inclusive~~ coastal programs.

32 ~~(d) The council shall have the authority to form committees of other advisory groups as~~  
33 ~~needed from both its own members and others.~~

34 ~~46-23-4. Officers of the council—Quorum and vote required for action. Attorneys~~

1 **and employees of the department.**

2 ~~The governor shall select from the appointed members a chairperson and vice chairperson.~~  
3 ~~The council shall thereupon select a secretary from among its membership or staff. The council~~  
4 ~~may engage staff, including legal counsel, as it deems necessary. A quorum shall consist of six (6)~~  
5 ~~members of the council. A majority vote of those present shall be required for action.~~

6 (a) Staff attorney. There is hereby created the position(s) of staff attorney to the director of  
7 the department of coastal resources. The director is hereby empowered and directed to hire a staff  
8 attorney(s) consistent with this section. The director shall have at least one full-time attorney-at-  
9 law on staff. The staff attorney(s) shall be hired by and serve at the pleasure of the director and  
10 shall serve in the unclassified service.

11 (1) The position of staff attorney(s) shall be full-time and report directly to the director.  
12 The staff attorney(s) shall be an attorney(s)-at-law and shall not otherwise engage in the practice  
13 of law. The staff attorney(s) shall represent the director and staff on all matters including  
14 representation at department hearings.

15 (b) The director may engage staff, including legal counsel, as it deems necessary who shall  
16 not otherwise engage in the practice of law.

17 (c) Notwithstanding any other law to the contrary and upon the effective date of this  
18 section, all employees of the coastal resources management council shall be transferred to the  
19 department of coastal resources and retain civil service status, title, rate of pay and benefits.

20 **46-23-4.1. ~~Executive director of coastal resources management.~~ Coordination of**  
21 **agencies.**

22 ~~The governor shall appoint, with the advice and consent of the senate, an executive director~~  
23 ~~of coastal resources management who shall be an employee of the council and who shall not be a~~  
24 ~~member of the council. The executive director shall coordinate and liaison with the director of the~~  
25 ~~department of environmental management, and the executive director's staff shall be at the same~~  
26 ~~staff level as the other executive directors, and the executive director shall work directly with the~~  
27 ~~other division leaders. The executive director of coastal resources management shall be in the~~  
28 ~~unclassified service. The primary duty and responsibility of the executive director shall be to~~  
29 ~~continue planning for and management of the resources of the state's coastal region~~ directors.

30 **46-23-6. Powers and duties — Rights-of-way. Continuing authorities – Powers and**  
31 **duties – Rights-of-way.**

32 All prior actions taken by the coastal resources management council including, but not  
33 limited to, permits issued, enforcement actions taken, special area management plans, policies and  
34 all duly promulgated regulations remain valid and enforceable by the department. In order to



1 properly manage coastal resources the ~~council has~~ department is empowered to exercise all the  
2 functions, powers, and duties heretofore vested in the coastal resources management council,  
3 including, but not limited to, the following powers and duties:

4 (1) Planning and management.

5 (i) The primary responsibility of the ~~council~~ department shall be the continuing planning  
6 for and management of the resources of the state's coastal region. The ~~council~~ department shall be  
7 able to make any studies of conditions, activities, or problems of the state's coastal region needed  
8 to carry out its responsibilities.

9 (ii) The resources management process shall include the following basic phases:

10 (A) Identify all of the state's coastal resources, water, submerged land, air space, fin fish,  
11 shellfish, minerals, physiographic features, and so forth.

12 (B) Evaluate these resources in terms of their quantity, quality, capability for use, and other  
13 key characteristics.

14 (C) Determine the current and potential uses of each resource.

15 (D) Determine the current and potential problems of each resource.

16 (E) Formulate plans and programs for the management of each resource, identifying  
17 permitted uses, locations, protection measures, and so forth.

18 (F) Carry out these resources management programs through implementing authority and  
19 coordination of state, federal, local, and private activities.

20 (G) Formulation of standards where these do not exist, and reevaluation of existing  
21 standards.

22 (H) To develop comprehensive programs for dredging in tidal waters and related beneficial  
23 use, disposal, monitoring dewatering and transportation of dredge materials.

24 (I) To accept and administer loans and grants from the federal government and from other  
25 sources, public or private, for the carrying out of any of its functions, which loans or grants shall  
26 not be expended for other than the purposes for which provided.

27 (J) To encourage, participate in, or conduct studies, investigations, research, and  
28 demonstrations relating to dredging, disposal of dredge materials and transportation thereof in the  
29 tidal waters of the state as the ~~coastal resources management council~~ department may deem  
30 advisable and necessary for the discharge of its duties under this chapter.

31 (K) To collect and disseminate information relating to dredging, disposal of dredge  
32 materials and transportation thereof within the tidal waters of the state.

33 (L) To work with the appropriate federal and state agencies to develop as provided for in  
34 this chapter and in chapter 6.1 of this title, a comprehensive plan for dredging in tidal waters and

1 related beneficial use, disposal, monitoring dewatering and transportation of dredge materials.

2 (M) To apply for, accept and expend grants and bequests of funds, for the purpose of  
3 carrying out the lawful responsibilities of the ~~coastal resources management council~~ [department](#).

4 (iii) An initial series of resources management activities shall be initiated through this basic  
5 process, then each phase shall continuously be recycled and used to modify the ~~council's~~  
6 [department's](#) resources management programs and keep them current.

7 (iv) Planning and management programs shall be formulated in terms of the characteristics  
8 and needs of each resource or group of related resources. However, all plans and programs shall be  
9 developed around basic standards and criteria, including:

10 (A) The need and demand for various activities and their impact upon ecological systems.

11 (B) The degree of compatibility of various activities.

12 (C) The capability of coastal resources to support various activities.

13 (D) Water quality standards set by the director of the department of environmental  
14 management.

15 (E) Consideration of plans, studies, surveys, inventories, and so forth prepared by other  
16 public and private sources.

17 (F) Consideration of contiguous land uses and transportation facilities.

18 (G) Whenever possible consistency with the state guide plan.

19 (v) The ~~council~~ [department](#) shall prepare, adopt, administer, and cause to be implemented,  
20 including specifically through its powers of coordination as set forth in subdivision (3) of this  
21 section, a marine resources development plan and such special area management plans as the  
22 ~~council~~ [department](#) may determine to be appropriate or desirable as follows:

23 (A) Marine resources development plan.

24 (I) The purpose of the marine resources development plan shall be to provide an integrated  
25 strategy for: (a) improving the health and functionality of Rhode Island's marine ecosystem; (b)  
26 providing for appropriate marine-related economic development; and (c) promoting the use and  
27 enjoyment of Rhode Island's marine resources by the people of the state.

28 (II) The marine resources development plan shall include specific goals and objectives  
29 necessary to accomplish its purposes, performance measures to determine progress toward  
30 achieving such goals and objectives, and an implementation program.

31 (III) The marine resources development plan shall be prepared in cooperation with the  
32 department of environmental management, the statewide planning program, and the commerce  
33 corporation, with the involvement of such other state agencies as may be appropriate, and with such  
34 technical support as may be necessary and appropriate from the Narragansett Bay Estuary Program,

1 the Coastal Institute at the University of Rhode Island, and Rhode Island Sea Grant.

2 (IV) The plan shall be responsive to the requirements and principles of the federal coastal  
3 zone management act as amended, including, but not limited to, the expectations of the act for  
4 incorporating the federal Clean Water Act into coastal zone management programs.

5 (V) The marine resources development plan shall take into account local land use  
6 management responsibilities as provided for under title 45 and harbor management responsibilities,  
7 and the preparation of the plan shall include opportunities for involvement and/or comment by  
8 cities and towns.

9 (VI) The marine resources development plan shall be adopted by the ~~council~~ [department](#)  
10 in accordance with the provisions of this subsection by July 1, 2005, shall as appropriate incorporate  
11 the recommendations of the Governor's Narragansett Bay and Watershed Planning Commission,  
12 and shall be made consistent with systems level plans as appropriate, in order to effectuate the  
13 purposes of systems level planning. The council shall update the marine resources development  
14 plan at least once every five (5) years.

15 (VII) The ~~council~~ [department](#) shall administer its programs, regulations, and  
16 implementation activities in a manner consistent with the marine resources development plan.

17 (VIII) The marine resources development plan and any updates thereto shall be adopted as  
18 appropriate as elements of the state guide plan pursuant to § 42-11-10.

19 (B) Special area management plans.

20 (I) The ~~council~~ [department](#) shall adopt such special area management plans as deemed  
21 necessary and desirable to provide for the integration and coordination of the protection of natural  
22 resources, the promotion of reasonable coastal-dependent economic growth, and the improved  
23 protection of life and property in the specific areas designated ~~council~~ [by the department](#) as  
24 requiring such integrated planning and coordination.

25 (II) The integrated planning and coordination herein specified shall include, but not be  
26 limited to, federal agencies, state agencies, boards, commissions, and corporations, including  
27 specifically the commerce corporation, and cities and towns, shall utilize to the extent appropriate  
28 and feasible the capacities of entities of higher education, including Rhode Island Sea Grant, and  
29 shall provide for the participation of advocacy groups, community-based organizations, and private  
30 persons.

31 (III) The ~~council~~ [department](#) shall administer its programs, regulations, and  
32 implementation activities in a manner consistent with special area management plans.

33 (IV) Special area management plans and any updates thereto shall be adopted as  
34 appropriate as elements of the state guide plan pursuant to § 42-11-10.

1 (2) Implementation.

2 (i) The ~~council~~ department is authorized to formulate policies and plans and to adopt  
3 regulations necessary to implement its various management programs. With respect to such policies  
4 and plans which relate to matters where the ~~coastal resources management council~~ department and  
5 the department of environmental management have concurrent jurisdiction and upon formulation  
6 of the plans and regulations, the ~~council~~ department shall, prior to adoption, submit the proposed  
7 plans or regulations to the director of the department of environmental management for ~~the~~  
8 ~~director's~~ their review. The director of the department of environmental management shall review  
9 and submit comments to the ~~council~~ department within thirty (30) days of submission to the director  
10 of the department of environmental management by the ~~council~~ department. The comments of the  
11 director or the department of environmental management shall include findings with regard to the  
12 consistency of the policies, plans and/or regulations with the requirements of laws administered by  
13 the department of environmental management. The ~~council~~ director shall consider the ~~director's~~  
14 director of the department of environmental management's comments prior to adoption of any such  
15 policies, plans or regulations and shall respond in writing to findings of the director of the  
16 department of environmental management with regard to the consistency of said policies, plans  
17 and/or regulations with the requirements of laws administered by the department of environmental  
18 management.

19 (ii)(A) The ~~council~~ department shall have exclusive jurisdiction below mean high water for  
20 all development, operations, and dredging, consistent with the requirements of chapter 6.1 of this  
21 title and except as necessary for the department of environmental management to exercise its  
22 powers and duties and to fulfill its responsibilities pursuant to §§ 42-17.1-2 and 42-17.1-24, and  
23 any person, firm, or governmental agency proposing any development or operation within, above,  
24 or beneath the tidal water below the mean high water mark, extending out to the extent of the state's  
25 jurisdiction in the territorial sea, shall be required to demonstrate that its proposal would not:

26 (I) Conflict with any resources management plan or program;

27 (II) Make any area unsuitable for any uses or activities to which it is allocated by a  
28 resources management plan or program adopted by the ~~council~~ department; or

29 (III) Significantly damage the environment of the coastal region.

30 (B) The ~~council~~ department shall be authorized to approve, modify, set conditions for, or  
31 reject any such proposal.

32 (iii) The authority of the ~~council~~ department over land areas (those areas above the mean  
33 high water mark) shall be limited to two hundred feet (200') from the coastal physiographic feature  
34 or to that necessary to carry out effective resources management programs. This shall be limited to

1 the authority to approve, modify, set conditions for, or reject the design, location, construction,  
2 alteration, and operation of specified activities or land uses when these are related to a water area  
3 under the agency's jurisdiction, regardless of their actual location. The ~~council's~~ department's  
4 authority over these land uses and activities shall be limited to situations in which there is a  
5 reasonable probability of conflict with a plan or program for resources management or damage to  
6 the coastal environment. These uses and activities are:

7 (A) Power generating over forty (40) megawatts and desalination plants.

8 (B) Chemical or petroleum processing, transfer, or storage.

9 (C) Minerals extraction.

10 (D) Shoreline protection facilities and physiographical features, and all directly associated  
11 contiguous areas which are necessary to preserve the integrity of the facility and/or features.

12 (E) Coastal wetlands and all directly associated contiguous areas which are necessary to  
13 preserve the integrity of the wetlands including any freshwater wetlands located in the vicinity of  
14 the coast. The actual determination of freshwater wetlands located in coastal vicinities and under  
15 the jurisdiction of the ~~coastal resources management council~~ department shall be designated on  
16 such maps that are agreed to in writing and made available for public use by the ~~coastal resources~~  
17 ~~management council~~ department and the ~~director~~, department of environmental management,  
18 within three (3) months of [August 6, 1996]. The ~~CRMC~~ department shall have exclusive  
19 jurisdiction over the wetlands areas described in this section notwithstanding any provision of  
20 chapter 1, title 2 or any other provision, except as provided in subsection (iv) of this section. ~~Within~~  
21 ~~six (6) months of [August 6, 1996] the council~~ The department in cooperation with the director  
22 shall develop and maintain rules and regulations for the management and protection of freshwater  
23 wetlands, affected by an aquaculture project, outside of those freshwater wetlands located in the  
24 vicinity of the coast and under the exclusive jurisdiction of the director of the department of  
25 environmental management. For the purpose of this chapter, a "coastal wetland" means any salt  
26 marsh bordering on the tidal waters of this state, whether or not the tidal waters reach the littoral  
27 areas through natural or artificial watercourses, and those uplands directly associated and  
28 contiguous thereto which are necessary to preserve the integrity of that marsh. Marshes shall  
29 include those areas upon which grow one or more of the following: smooth cordgrass (spartina  
30 alterniflora), salt meadow grass (spartina patens), spike grass (distichlis spicata), black rush (juncus  
31 gerardi), saltworts (salicornia spp.), sea lavender (limonium carolinianum), saltmarsh bulrushes  
32 (scirpus spp.), hightide bush (iva frutescens), tall reed (phragmites communis), tall cordgrass  
33 (spartina pectinata), broadleaf cattail (typha latifolia), narrowleaf cattail (typha angustifolia), spike  
34 rush (eleocharis rostellata), chairmaker's rush (scirpus americana), creeping bentgrass (agrostis

1 palustris), sweet grass (hierochloe odorata), and wild rye (etlymus virginicus).

2 (F) Sewage treatment and disposal and solid waste disposal facilities.

3 (G) Beneficial use, dewatering, and disposal of dredged material of marine origins, where  
4 such activities take place within two hundred feet (200') of mean high water or a coastal  
5 physiographic feature, or where there is a reasonable probability of conflict with a plan or program  
6 for resources management or damage to the coastal environment.

7 (iv) Notwithstanding the provisions of subsections (ii) and (iii) above, the department of  
8 environmental management shall maintain jurisdiction over the administration of chapter 1, title 2,  
9 including permitting of freshwater wetlands alterations and enforcement, with respect to all  
10 agricultural activities undertaken by a farmer, as that term is defined in § 2-1-22(j), wherever  
11 located; provided, however, that with respect to activities located partially or completely within  
12 two hundred feet (200') of the coastal physiographic feature, the department [of environmental](#)  
13 [management](#) shall exercise jurisdiction in consultation with the ~~council~~ [department](#).

14 (3) Coordination. The ~~council~~ [department](#) has the following coordinating powers and  
15 duties:

16 (i) Functioning as a binding arbitrator in any matter of dispute involving both the resources  
17 of the state's coastal region and the interests of two (2) or more municipalities or state agencies.

18 (ii) Consulting and coordinating actions with local, state, regional, and federal agencies  
19 and private interests.

20 (iii) Conducting or sponsoring coastal research.

21 (iv) Advising the governor, the general assembly, and the public on coastal matters.

22 (v) Serving as the lead state agency and initial and primary point of contact for dredging  
23 activities in tidal waters and in that capacity, integrating and coordinating the plans and policies of  
24 other state agencies as they pertain to dredging in order to develop comprehensive programs for  
25 dredging as required by subparagraph (1)(ii)(H) of this section and chapter 6.1 of this title. The  
26 Rhode Island resource recovery corporation prior to purchasing cover material for the state landfill  
27 shall first contact the ~~CRMC~~ [department](#) to see if there is a source of suitable dredged material  
28 available which shall be used in place of the purchase cover material. Other state agencies engaged  
29 in the process of dump closures shall also contact the ~~CRMC~~ [department](#) to see if there is a source  
30 of suitable dredged material available, which shall be used in place of the purchase cover material.  
31 In addition, cities and towns may contact the ~~CRMC~~ [department](#) prior to closing city or town  
32 controlled dump sites to see if there is a source of suitable dredge material available, which may be  
33 used in place of the purchase cover material.

34 (vi) Acting as the state's representative to all bodies public and private on all coastal and

1 aquaculture related matters.

2 (4) Operations. The ~~council~~ [department](#) is authorized to exercise the following operating  
3 functions, which are essential to management of coastal resources:

4 (i) Issue, modify, or deny permits for any work in, above, or beneath the areas under its  
5 jurisdiction, including conduct of any form of aquaculture.

6 (ii) Issue, modify, or deny permits for dredging, filling, or any other physical alteration of  
7 coastal wetlands and all directly related contiguous areas which are necessary to preserve the  
8 integrity of the wetlands, including, but not limited to, the transportation and disposal of dredge  
9 materials in the tidal waters.

10 (iii) Grant licenses, permits, and easements for the use of coastal resources which are held  
11 in trust by the state for all its citizens, and impose fees for private use of these resources.

12 (iv) Determining the need for and establishing pierhead, bulkhead, and harbor lines.

13 (v) Enforcing and implementing riparian rights in the tidal waters after judicial decisions.

14 (vi) The ~~council~~ [department](#) may require an owner or operator of a commercial wharf or  
15 pier of a marine commercial facility, as defined in 300.3 of the Rhode Island coastal resources  
16 management program, but not including those facilities defined in 300.4 of the Rhode Island coastal  
17 resources management program, and which is capable of offloading cargo, and is or will be subject  
18 to a new use or a significant intensification of an existing use, to demonstrate that the commercial  
19 wharf or pier is fit for that purpose. For the purposes of this subsection, a “*commercial wharf or*  
20 *pier*” means a pier, bulkhead, wharf, docking facility, or underwater utilities. The ~~council~~  
21 [department](#) may order said owner or operator to provide an engineering certification to the ~~council's~~  
22 [department's](#) satisfaction that the commercial wharf or pier is fit for the new use or intensification  
23 of an existing use. If the ~~council~~ [department](#) determines that the commercial wharf or pier is not fit,  
24 it may order the owner or operator to undertake the necessary work to make the commercial wharf  
25 or pier safe, within a reasonable time frame. If the ~~council~~ [department](#) determines that the  
26 commercial wharf or pier, because of its condition, is an immediate threat to public health and  
27 safety it may order the commercial wharf or pier closed until the necessary work to make the  
28 commercial wharf or pier safe has been performed and approved by the ~~council~~ [department](#). All  
29 work performed must conform to the ~~council's~~ [department's](#) management program. The ~~council~~  
30 [department](#) is also given the authority to develop regulations to carry out this provision and to  
31 impose administrative penalties of five thousand dollars (\$5,000) per day up to a maximum of  
32 twenty thousand dollars (\$20,000) consistent with § 46-23-7.1 where there has been a violation of  
33 the orders under this provision.

34 (5) Rights-of-way.

1 (i) The ~~council~~ [department](#) is responsible for the designation of all public rights-of-way to  
2 the tidal water areas of the state, and shall carry on a continuing discovery of appropriate public  
3 rights-of-way to the tidal water areas of the state.

4 (ii) The ~~council~~ [department](#) shall maintain a complete file of all official documents relating  
5 to the legal status of all public rights-of-way to the tidal water areas of the state.

6 (iii)(A) The ~~council~~ [department](#) has the power to designate for acquisition and  
7 development, and posting, and all other functions of any other department for tidal rights-of-way  
8 and land for tidal rights-of-way, parking facilities, and other council related purposes.

9 (B) Further, the ~~council~~ [department](#) has the power to develop and prescribe a standard sign  
10 to be used by the cities and towns to mark designated rights-of-way.

11 (iv) In conjunction with this subdivision, every state department controlling state-owned  
12 land close to or adjacent to discovered rights-of-way is authorized to set out the land, or so much  
13 of the land that may be deemed necessary for public parking.

14 (v) No use of land for public parking shall conflict with existing or intended use of the land,  
15 and no improvement shall be undertaken by any state agency until detailed plans have been  
16 submitted to and approved by the governing body of the local municipality.

17 (vi) In designating rights-of-way, the ~~council~~ [department](#) shall consider the following  
18 matters in making its designation:

19 (A) Land evidence records;

20 (B) The exercise of domain over the parcel such as maintenance, construction, or upkeep;

21 (C) The payment of taxes;

22 (D) The creation of a dedication;

23 (E) Public use;

24 (F) Any other public record or historical evidence such as maps and street indexes;

25 (G) Other evidence as set out in § 42-35-10.

26 (vii) A determination by the ~~council~~ [department](#) that a parcel is a right-of-way shall be  
27 decided by substantial evidence.

28 (viii) The ~~council~~ [department](#) shall be notified whenever by the judgment of the governing  
29 body of a coastal municipality, a public right-of-way to tidal water areas located in such  
30 municipality has ceased to be useful to the public, and such governing body proposes an order of  
31 abandonment of such public right-of-way. Said notice shall be given not less than sixty (60) days  
32 prior to the date of such abandonment.

33 (6) Pre-existing residential boating facilities.

34 (i) The ~~council~~ [department](#) is hereby authorized and empowered to issue assent for pre-



1 existing residential boating facilities constructed prior to January 1, 1985. These assents may be  
2 issued for pre-existing residential boating facilities, even though such facilities do not meet current  
3 standards and policies of the ~~council~~ [department](#); provided, however, that the ~~council~~ [department](#)  
4 finds that such facilities do not pose any significant risk to the coastal resources of the state of  
5 Rhode Island and do not endanger human safety.

6 (ii) In addition to the above criteria, the applicant shall provide clear and convincing  
7 evidence that:

8 (A) The facility existed in substantially the same configuration as it now exists prior to  
9 January 1, 1985;

10 (B) The facility is presently intact and functional; and

11 (C) The facility presents no significant threat to the coastal resources of the state of Rhode  
12 Island or human safety.

13 (iii) The applicant, to be eligible for this provision, shall apply no later than January 31,  
14 1999.

15 (iv) The ~~council~~ [department](#) is directed to develop rules and regulations necessary to  
16 implement this subdivision.

17 (v) It is the specific intent of this subsection to require that all pre-existing residential  
18 boating facilities constructed on January 1, 1985, or thereafter conform to this chapter and the plans,  
19 rules and regulations of the ~~council~~ [department](#).

20 (7) Lease of filled lands which were formerly tidal lands to riparian or littoral owners.

21 (i) Any littoral or riparian owner in this state who desires to obtain a lease from the state  
22 of Rhode Island of any filled lands adjacent to his or her upland shall apply to the ~~council~~  
23 [department](#), which may make the lease. Any littoral or riparian owner who wishes to obtain a lease  
24 of filled lands must obtain pre-approval, in the form of an assent, from the ~~council~~ [department](#). Any  
25 lease granted by the ~~council~~ [department](#) shall continue the public's interest in the filled lands  
26 including, but not limited to, the rights of navigation, fishery, and commerce. The public trust in  
27 the lands shall continue and run concurrently with the leasing of the lands by the state to private  
28 individuals, corporations, or municipalities. Upon the granting of a lease by the ~~council~~ [department](#),  
29 those rights consistent with the public trust and secured by the lease shall vest in the lessee. The  
30 council may approve a lease of filled lands for an initial term of up to fifty (50) years, with, or  
31 without, a single option to renew for an additional term of up to fifty (50) years.

32 (ii) The lessor of the lease, at any time, for cause, may by express act cancel and annul any  
33 lease previously made to the riparian owner when it determines that the use of the lands is violating  
34 the terms of the lease or is inconsistent with the public trust, and upon cancellation the lands, and

1 rights in the land so leased, shall revert to the state.

2 (8) “*Marinas*” as defined in the coastal resources management program in effect as of June  
3 1, 1997, are deemed to be one of the uses consistent with the public trust. Subdivision (7) is not  
4 applicable to:

5 (i) Any riparian owner on tidal waters in this state (and any successor in interest to the  
6 owner) which has an assent issued by the ~~council~~ [department](#) to use any land under water in front  
7 of his or her lands as a marina, which assent was in effect on June 1, 1997;

8 (ii) Any alteration, expansion, or other activity at a marina (and any successor in interest)  
9 which has an assent issued by the council, which assent was in effect on June 1, 1997; and

10 (iii) Any renewal of assent to a marina (or successor in interest), which assent was issued  
11 by the council and in effect on June 1, 1997.

12 (9) “*Recreational boating facilities*” including marinas, launching ramps, and recreational  
13 mooring areas, as defined by and properly permitted by the ~~council~~ [department](#), are deemed to be  
14 one of the uses consistent with the public trust. Subdivision (7) is not applicable to:

15 (i) Any riparian owner on tidal waters in this state (and any successor in interest to the  
16 owner) which has an assent issued by the council to use any land under water in front of his or her  
17 lands as a recreational boating facility; any alteration, expansion or other activity at a recreational  
18 boating facility (and any successor in interest) which has an assent issued by the council, which  
19 assent was in effect as of June 1, 1997; and

20 (ii) Any renewal of assent to a recreational boating facility (or successor in interest), which  
21 assent was issued by the council and in effect on June 1, 1997.

22 **46-23-6.1. Newport “cliff walk” — Public right-of-way — Legal studies.**

23 The ~~council~~ [department](#) is hereby directed to carry out any and all legal studies which it  
24 shall deem necessary in order to designate the Newport “cliff walk”, so called, as a public right-of-  
25 way pursuant to § 46-23-6(5).

26 **46-23-6.2. Abandonment of rights-of-way.**

27 No city or town shall abandon a right-of-way designated as such by the ~~council~~ [department](#)  
28 unless the ~~council~~ [department](#) approved the abandonment.

29 **46-23-7. Violations.**

30 (a)(1) In any instances wherein there is a violation of the coastal resources management  
31 program, or a violation of regulations or decisions of the ~~council~~ [department](#), the ~~commissioner of~~  
32 ~~coastal resources management~~ [director](#) shall have the power to order any person to cease and desist  
33 or to remedy any violation of any provisions of this chapter, or any rule, regulation, assent, order,  
34 or decision of the ~~council~~ [department](#) whenever the ~~commissioner of coastal resources management~~

1 [director](#) shall have reasonable grounds to believe that such violation has occurred.

2 (2) ~~Council~~ [Department](#) staff, conservation officers within the department of  
3 environmental management, and state and municipal police shall be empowered to issue written  
4 cease and desist orders in any instance where activity is being conducted which constitutes a  
5 violation of any provisions of this chapter, or any rule, regulation, assent, order, or decision of the  
6 ~~council~~ [department](#).

7 (3) Conservation officers within the department of environmental management, ~~council~~  
8 [department](#) staff, and state and municipal police shall have authority to apply to a court of  
9 competent jurisdiction for a warrant to enter on private land to investigate possible violations of  
10 this chapter; provided, that they have reasonable grounds to believe that a violation has been  
11 committed, is being committed, or is about to be committed.

12 (b) Any order or notice issued pursuant to subsection (a) shall be eligible for recordation  
13 under chapter 13 of title 34, and shall be recorded in the land evidence records in the city/town  
14 wherein the property subject to the order is located, and any subsequent transferee of the property  
15 shall be responsible for complying with the requirements of the order and notice.

16 (c) The ~~coastal-resources-management-council~~ [department](#) shall discharge of record any  
17 notice filed pursuant to subsection (b) within thirty (30) days after the violation has been remedied.

18 **46-23-7.1. Administrative penalties.**

19 Any person who violates, or refuses or fails to obey, any notice or order issued pursuant to  
20 § 46-23-7(a); or any assent, order, or decision of the ~~council~~ [department](#), may be assessed an  
21 administrative penalty by the ~~chairperson or executive~~ director in accordance with the following:

22 (1) The ~~chairperson or executive~~ director is authorized to assess an administrative penalty  
23 of not more than ten thousand dollars (\$10,000) for each violation of this section, and is authorized  
24 to assess additional penalties of not more than one thousand (\$1,000) for each day during which  
25 this violation continues after receipt of a cease-and-desist order from the ~~council~~ [department](#)  
26 pursuant to § 46-23-7(a), but in no event shall the penalties in aggregate exceed fifty thousand  
27 dollars (\$50,000). Prior to the assessment of a penalty under this subdivision, the property owner  
28 or person committing the violation shall be notified by certified mail or personal service that a  
29 penalty is being assessed. The notice shall include a reference to the section of the law, rule,  
30 regulation, assent, order, or permit condition violated; a concise statement of the facts alleged to  
31 constitute the violation; a statement of the amount of the administrative penalty assessed; and a  
32 statement of the party's right to an administrative hearing.

33 (2) The party shall have twenty-one (21) days from receipt of the notice within which to  
34 deliver to the ~~council~~ [department](#) a written request for a hearing. This request shall specify in detail

1 the statements contested by the party. The ~~executive~~ director shall designate a person to act as  
2 hearing officer. If no hearing is requested, then after the expiration of the twenty-one (21) day  
3 period, the ~~council~~ department shall issue a final order assessing the penalty specified in the notice.  
4 The penalty is due when the final order is issued. If the party shall request a hearing, any additional  
5 daily penalty shall not commence to accrue until the ~~council~~ department issues a final order.

6 (3) If a violation is found to have occurred, the ~~council~~ department may issue a final order  
7 assessing not more than the amount of the penalty specified in the notice. The penalty is due when  
8 the final order is issued.

9 (4) The party may within thirty (30) days appeal the final order, of fine assessed by the  
10 ~~council~~ department to the superior court which shall hear the assessment of the fine de novo.

11 **46-23-7.2. Proceedings for enforcement.**

12 The superior court shall have jurisdiction to enforce the provisions of this chapter, the  
13 coastal resource management program, or any rule, regulation, assent, or order issued pursuant  
14 thereto. Proceedings under this section may follow the course of equity, and shall be instituted and  
15 prosecuted in the name of and at the direction of the ~~chairperson and council~~ director by the attorney  
16 general or counsel designated by the ~~council~~ director. Proceedings provided in this section shall be  
17 in addition to, and may be utilized in lieu of, other administrative or judicial proceedings authorized  
18 by this chapter.

19 **46-23-7.4. Penalty for blocking or posting of rights-of-way.**

20 Any person who shall post or block any tidal water, public right-of-way, as designated by  
21 the ~~council~~ department, shall be punished by a fine not exceeding one thousand dollars (\$1,000) or  
22 by imprisonment for not more than three (3) months or both; and each day the posting or blocking  
23 continues or is repeated shall be deemed a separate offense. The ~~chairperson of the council, through~~  
24 ~~council's legal counsel~~ director or the attorney general, may apply to any court of competent  
25 jurisdiction for an injunction to prevent the unlawful posting or blocking of any tidal water, public  
26 right-of-way.

27 **46-23-7.5. Prosecution of criminal violations.**

28 The ~~chairperson and anyone designated by the chairperson~~ director, without being required  
29 to enter into any recognizance or to give surety for cost, may institute proceedings in the name of  
30 the state. It shall be the duty of the attorney general and/or the solicitor of the city or town in which  
31 the alleged violation has occurred to conduct the prosecution of all the proceedings. The  
32 ~~chairperson~~ director may delegate his or her authority to bring prosecution by complaint and  
33 warrant to any law enforcement officials authorized by law to bring complaints for the issuance of  
34 search or arrest warrants pursuant to chapters 5 and 6 of title 12.

1           **46-23-8. Gifts, grants, and donations.**

2           The ~~council~~ [department](#) is authorized to receive any gifts, grants, or donations made for  
3 any of the purposes of its program, which shall be deposited as general revenues, and to disburse  
4 and administer the gifts, grants, or donations amounts appropriated in accordance with the terms  
5 thereof. The ~~council~~ [department](#) is authorized to receive any sums provided by an applicant for use  
6 by the ~~council~~ [department](#) in its hearing process, which shall be deposited as general revenues, and  
7 to disburse and administer the general revenue amounts appropriated in accordance with the rules  
8 and regulations promulgated by the ~~council~~ [department](#).

9           **46-23-9. Subpoena.**

10          The ~~council~~ [department](#) is hereby authorized and empowered to summon witnesses and  
11 issue subpoenas in substantially the following form:

12           Sc.  
13           To \_\_\_\_\_ of  
14 \_\_\_\_\_ greeting:

15           You are hereby required, in the name of the state of Rhode Island, to make your appearance  
16 before the ~~commission on~~ \_\_\_\_\_ [department of coastal resources](#) in  
17 the \_\_\_\_\_ city of  
18 \_\_\_\_\_ on the  
19 \_\_\_\_\_ day of  
20 \_\_\_\_\_ to give evidence of what you know relative to a  
21 matter upon investigation by the ~~commission on~~ \_\_\_\_\_ [department of](#)  
22 [coastal resources](#) and produce and then and there have and give the following:

23           Hereof fail not, as you will answer to default under the penalty of the law in that behalf  
24 made and provided.

25           Dated at \_\_\_\_\_ the \_\_\_\_\_ day \_\_\_\_\_ of \_\_\_\_\_  
26 in the year \_\_\_\_\_.

27           **46-23-10. Cooperation of departments.**

28           All other departments and agencies and bodies of state government are hereby authorized  
29 and directed to cooperate with and furnish such information as the ~~council~~ [department](#) shall require.

30           **46-23-11. Rules and regulations.**

31           The rules and regulations promulgated by the ~~council~~ [department](#) shall be subject to the  
32 Administrative Procedures Act (["chapter 35 of title 42"](#)).

33           **46-23-13. Application and hearing fees.**

34           The ~~council~~ [department](#) shall be authorized to establish reasonable fees for applications

1 and hearings. All fees collected by the ~~council~~ [department](#), including fees collected for leases, shall  
2 be deposited as general revenues. The state controller is hereby authorized and directed to draw his  
3 or her orders upon the general treasurer for payment of such sum or sums as may be necessary from  
4 time to time and upon receipt by him or her of duly authenticated vouchers presented by the  
5 ~~commissioner of coastal resources management~~ [director](#)

6 **46-23-14. Expert testimony.**

7 The ~~council~~ [department](#) shall be authorized to engage its own expert and outside  
8 consultants, and the ~~council~~ [department](#) shall be empowered to use that testimony in making its  
9 decisions.

10 **46-23-15. Federal grants and interstate cooperation.**

11 The ~~council~~ [department](#) is authorized to accept any federal grants. It is further given the  
12 power to administer land and water use regulations as necessary to fulfill their responsibilities under  
13 the Federal Coastal Zone Management Act, 16 U.S.C. § 1451 et seq., and to acquire fee simple and  
14 less than fee simple interests under any federal or state program. The ~~council~~ [department](#) is  
15 authorized to coordinate and cooperate with other states in furtherance of its purposes. The ~~council~~  
16 [department](#) may expend those grants and appropriations. The ~~coastal resources management~~  
17 ~~council~~ [department](#) for the purposes of the federal Coastal Zone Management Act, 16 U.S.C. §  
18 1451 et seq., is the coastal zone agency under §§ 301 through 313 and §§ 318 and 6217 of said act.

19 **46-23-15.1. Coordination of harbor safety and enforcement patrols.**

20 Coastal municipalities which share a common boundary along their public waters may  
21 enter into a binding memorandum of agreement allowing for harbor masters and other officials  
22 charged with enforcement of harbor management plan harbor ordinances from one coastal  
23 municipality to enforce the harbor ordinances of the bordering coastal municipality upon the public  
24 waters of the bordering coastal municipality when the coastal municipalities have harbor  
25 management plans approved by the ~~coastal resources management council~~ [department](#) and the  
26 memorandum of agreement is approved by the respective town or city councils. This binding  
27 memorandum of agreement shall specify how each coastal municipality is to receive any fines  
28 collected under this reciprocal enforcement agreement and the jurisdiction in which any disputes  
29 arising out of this reciprocal enforcement agreement shall be litigated.

30 **46-23-16. Length of permits, licenses, and easements.**

31 The ~~council~~ [department](#) is authorized to grant permits, licenses, and easements for any term  
32 of years or in perpetuity. Permits, licenses, or easements which are issued by the ~~council~~ [department](#)  
33 for the filling of the submerged or submersible lands of the state of Rhode Island remain subject to  
34 the public trust, and no title is conveyed by such documents. All such permits, licenses, and

1 easements shall clearly state that no title is being conveyed. Permits, licenses or easements issued  
2 by the ~~council~~ [department](#) are valid only with the conditions and stipulation under which they are  
3 granted and imply no guarantee of renewal. The initial application or an application for renewal  
4 may be subject to denial or modification. If an application is granted, said permit, license and  
5 easement may be subject to revocation and/or modification for failure to comply with the conditions  
6 and stipulations under which the same was issued or for other good cause. The division of coastal  
7 resources of the department of environmental management shall transfer all of the records and files  
8 of the former division of harbours and rivers to the ~~council~~ [department](#).

9 **46-23-18. Prohibited activities.**

10 (a) No person, either as principal, agent or servant nor any firm, corporation, or any other  
11 entity shall, without a permit issued by the ~~coastal resources management council~~ [department](#),  
12 construct a marina within two thousand feet (2000') of a shellfish management area as defined by  
13 rules and regulations of the department of environmental management. Such permit shall include  
14 any permit required under subsection (b).

15 (b) No person, either as principal, agent, or servant, or any firm, corporation or any other  
16 entity, shall, within the tidal waters of the state, conduct or cause to conduct dredging,  
17 transportation and/or disposal of dredge materials without a permit issued by the ~~coastal resources~~  
18 ~~management council~~ [department](#), a water quality certification issued by the department of  
19 environmental management pursuant to chapter 12 of this title and any permit required by the army  
20 corps of engineers. In addition, no person, either as principal, agent, or servant, nor any firm,  
21 corporation or any other entity, shall dispose of dredge materials other than in tidal waters without  
22 any permit, approval or certification that may otherwise be required.

23 **46-23-18.1. Permitting.**

24 (a) Any person, either as principal, agent, or servant, or any firm, corporation or any other  
25 entity desiring to conduct any activity or activities specified in § 46-23-18 shall file an application  
26 for a permit with the ~~coastal resources management council~~ [department](#) upon forms furnished by  
27 ~~coastal resources management council~~ [the department](#).

28 (b) A hearing shall be held on the application within thirty (30) days of filing.

29 (c) The applicant shall bear the burden of proving that the activity or activities specified in  
30 the application will cause no significant adverse impact upon the environment or natural resources  
31 of the state, and the ~~coastal resources management council~~ [department](#) shall be empowered to deny  
32 the application if the applicant does not demonstrate, in addition to other requirements of this  
33 chapter, that the activity or activities will not:

34 (i) Significantly adversely affect any shellfish management area as designated by the

1 department of environmental management or the marine fisheries council;

2 (ii) Be in a significant conflict with the marine ecology within or adjacent to the state's  
3 territorial waters; or

4 (iii) Significantly harm or destroy existing fishing grounds.

5 (d) With respect to an application seeking a permit from the ~~coastal resources management~~  
6 ~~council~~ department to conduct or cause to conduct dredging, transportation and/or disposal of  
7 dredge material, the applicant shall also satisfy the ~~council~~ department that the proposal in the  
8 application is consistent with a comprehensive program developed pursuant to § 46-23-6(1)(ii)(H).

9 (e) In determining whether an applicant has met the burden of proof under subsection (c),  
10 the ~~coastal resources management council~~ department shall apply standards that conform with the  
11 federal Environmental Protection Agency's applicable standards and guidelines for the  
12 management of dredge materials, including, but not limited to, the federal Environmental  
13 Protection Agency's rules, regulations and guidelines for deviating from said standards.

14 (f) The applicant shall, at least three (3) days before commencing any dredging, give  
15 written notice to the ~~coastal resources management council~~ department of the intent to commence  
16 the activities specified in the permit.

17 **46-23-18.2. Rules and regulations.**

18 The ~~council, upon recommendation by the coastal resources advisory committee,~~  
19 department shall issue and maintain reasonable rules and regulations governing the dredging,  
20 transporting and disposal of all dredge materials in accordance with this chapter.

21 **46-23-18.3. Sites for disposal of spoil from dredge operations, selection.**

22 (a) The ~~council~~ department, upon recommendation of the ~~coastal resources~~ community  
23 advisory committee, on or before the first day of January, 1999 and periodically thereafter as  
24 necessary, ~~shall and~~ consistent with the comprehensive programs required in § 46-23-6(1)(ii)(H),  
25 shall identify and establish one or more in-water disposal sites to be used for the purpose of disposal  
26 of dredge materials from marinas and yacht clubs.

27 (b) The ~~council~~ department, upon recommendation of the coastal resources advisory  
28 committee, on or before the first day of January, 2002 and periodically thereafter as necessary, shall  
29 consistent with the comprehensive programs required in § 46-23-6(1)(ii)(H) identify and establish  
30 one or more in-water disposal sites to be used for the purpose of disposal of dredge materials from  
31 all sources not otherwise delineated in (a) above.

32 **46-23-18.4. Enforcement.**

33 The provisions of ~~§§ 46-23-18 through 46-23-18.3~~ this chapter shall be enforced by the  
34 ~~coastal resources management council~~ department. Nothing herein shall be deemed to abrogate the



1 department of environmental management's authority to enforce its water quality standards adopted  
2 pursuant to § 46-12-3(7) or (24).

3 **46-23-18.5. Fees for disposal.**

4 The ~~council~~ [department](#) is authorized to impose a fee of not less than eleven dollars and  
5 sixty-five cents (\$11.65) per cubic yard for the disposal of dredge materials at the sites established  
6 by the ~~council~~ [department](#) pursuant to § 46-23-18.3, with eleven dollars and sixty-five cents  
7 (\$11.65) being deposited into the general fund. The amount of the fee established by the ~~council~~  
8 [department](#) pursuant to the section shall be reviewed by the ~~council~~ [department](#) on an annual basis  
9 and revised as the ~~council~~ [department](#) deems necessary, but in no event shall the fee be set at an  
10 amount less than eleven dollars and sixty-five cents (\$11.65) per cubic yard of material.

11 **46-23-18.6. ~~Coastal Resources Management Council Dredge Fund~~ Department of**  
12 **coastal resources dredge fund.**

13 There is hereby created a separate fund to be held by the ~~coastal resources management~~  
14 ~~council~~ [department](#) to be known as the dredge fund. Any amount charged above the eleven dollars  
15 and sixty-five cents (\$11.65) must be deposited into the fund and shall not be deposited into the  
16 general fund of the state, but shall be kept by the general treasurer of the state in a separate fund  
17 for the ~~coastal resources management council~~ [department](#), and shall be paid out by the treasurer  
18 upon the order of the ~~council~~ [director](#), without the necessity of appropriation or re-appropriation by  
19 the general assembly. Funds must be used to create additional dredging and disposal options.

20 **46-23-20. Administrative hearings.**

21 All contested cases, all contested enforcement proceedings, and all contested  
22 administrative fines shall be heard by the administrative hearing officers, ~~or by subcommittees as~~  
23 ~~provided in § 46-23-20.1~~, pursuant to the regulations promulgated by the ~~council~~ [department](#);  
24 provided, however, that no proceeding and hearing prior to the appointment of the hearing officers  
25 shall be subject to the provisions of this section. Notwithstanding the foregoing, the ~~commissioner~~  
26 ~~of coastal resources management~~ [director](#) shall be authorized, in ~~his or her~~ [director's](#) discretion, to  
27 resolve contested licensing and enforcement proceedings through informal disposition pursuant to  
28 regulations promulgated by the ~~council~~ [department](#).

29 **46-23-20.1. ~~Hearing officers — Appointment — Compensation — Subcommittee~~**  
30 **Hearing officers -- Appointment -- Compensation.**

31 (a) The governor, with the advice and consent of the senate, shall appoint ~~two (2) hearing~~  
32 ~~officers~~ [at least one hearing officer](#) who shall be ~~attorneys~~ [an attorney](#)-at-law, who, prior to their  
33 appointment, shall have practiced law for a period of not less than five (5) years for a term of five  
34 (5) years; provided, however, [if more than one hearing officer is to be appointed](#) that the initial

1 appointments shall be as follows: ~~one hearing officer~~ if additional hearing officers are appointed,  
2 they shall each be appointed for a term of three (3) years and ~~one hearing officer~~ if additional  
3 hearing officers are appointed, they shall each be appointed for a term of five (5) years. The  
4 appointees shall be addressed as hearing officers.

5 (b) The governor shall designate one of the hearing officers as chief hearing officer. The  
6 hearing officers shall hear proceedings as provided by this section, and the ~~council~~ department,  
7 with the assistance of the chief hearing officer, ~~may~~ shall promulgate such rules and regulations as  
8 shall be necessary or desirable and consistent with the department of environmental management  
9 administrative adjudication regulation to effect the purposes of this section.

10 (c) A hearing officer shall be devoted full time to these administrative duties, and shall not  
11 otherwise practice law while holding office nor be a partner nor an associate of any person in the  
12 practice of law.

13 (d) Compensation for hearing officers shall be determined by the unclassified pay board.

14 (e) ~~Whenever the chairperson of the coastal resources management council or, in the~~  
15 ~~absence of the chairperson, the commissioner of coastal resources makes a finding that the hearing~~  
16 ~~officers are otherwise engaged and unable to hear a matter in a timely fashion, he or she may~~  
17 ~~appoint a subcommittee which will act as hearing officers in any contested case coming before the~~  
18 ~~council. The subcommittee shall consist of at least one member; provided, however, that in all~~  
19 ~~contested cases an additional member shall be a resident of the coastal community affected. The~~  
20 ~~city or town council of each coastal community shall, at the beginning of its term of office, appoint~~  
21 ~~a resident of that city or town to serve as an alternate member of the aforesaid subcommittee should~~  
22 ~~there be no existing member of the coastal resources management council from that city or town~~  
23 ~~available to serve on the subcommittee. Any member of the subcommittee actively engaged in~~  
24 ~~hearing a case shall continue to hear the case, even though his or her term may have expired, until~~  
25 ~~the case is concluded and a vote taken thereon. Hearings before subcommittees shall be subject to~~  
26 ~~all rules of practice and procedure as govern hearings before hearing officers. Notwithstanding any~~  
27 other law to the contrary, if a hearing officer is not appointed, confirmed and engaged within sixty  
28 (60) days of the effective date of this section, or the position of hearing officer is vacant for more  
29 than sixty (60) days, the director shall hire a hearing officer, who shall be in the unclassified service,  
30 for a term of five (5) years and shall meet the requirements set forth in subsections (c) and (d) of  
31 this section.

32 (f) If at least one hearing officer has been appointed, confirmed and engaged or hired by  
33 the director and is unable to hear a matter in a timely manner as required by law, the director may  
34 hire a hearing officer employed by the state in such capacity, who shall have practiced law for a

1 [period of not less than five \(5\) years and meets the requirements set forth in subsection \(c\) of this](#)  
2 [section to adjudicate pending contested cases.](#)

3 **46-23-20.2. Clerk.**

4 The ~~commissioner of coastal resources management~~ [director](#) or ~~his or her~~ designee shall  
5 serve as clerk to the hearing officers. The clerk shall have general charge of the office, keep a full  
6 record of proceedings, file and preserve all documents and papers, prepare such papers and notices  
7 as may be required, and perform such other duties as required. The ~~commissioner~~ [director](#) shall  
8 have the power to issue subpoenas for witnesses and documents and to administer oaths in all cases  
9 before any hearing officer or pertaining to the duties of his or her office.

10 **46-23-20.3. Prehearing procedure.**

11 (a) Prior to the commencement of any hearing, the hearing officer may in his or her  
12 discretion direct the parties or their attorneys to appear before him or her for such conferences as  
13 shall be necessary. At the conferences, the hearing officer may order any party to file, prior to the  
14 commencement of any formal hearing, exhibits that the party intends to use in the hearing, and the  
15 names and addresses of witnesses that the party intends to produce in its direct case, together with  
16 a short statement of the testimony of each witness. Following entry of an order, a party shall not be  
17 permitted, except in the discretion of the hearing officer, to introduce into evidence, in the party's  
18 direct case, exhibits which are not filed in accordance with the order. At the conference, the hearing  
19 officer may designate a date before which he or she requires any party to specify what issues are  
20 conceded, and further proof of conceded issues shall not be required. The hearing officer shall also  
21 require the parties to simplify the issues, to consider admissions of fact and of documents which  
22 will avoid unnecessary proof, and to limit the number of expert witnesses. The hearing officer shall  
23 enter an order reciting the concessions and agreements made by the parties, and shall enter an order  
24 on such other matters as are pertinent to the conduct of the hearing, and unless modified, the hearing  
25 shall be conducted by the order.

26 (b) The hearing officer may also order the parties to file, prior to the commencement of  
27 any hearing, the testimony of any or all of their respective witnesses, and to submit the testimony  
28 to the hearing officer and the opposing party or the opposing counsel by such date as the hearing  
29 officer shall determine. The witness shall testify under oath, and all of the testimony shall be in a  
30 question and answer format. Save for good cause shown, said testimony shall be the direct  
31 examination of the witness; provided, however, that the witness shall be available at the hearing  
32 for cross-examination by the opposing party or opposing counsel.

33 (c) The ~~council~~ [department](#), with the assistance of the chief hearing officer, shall  
34 promulgate, by regulation, such other prehearing procedures and/or hearing procedures as deemed

1 necessary, including the use of portions of the superior court civil rules of discovery where such  
2 are not inconsistent with the applicable provisions of the Administrative Procedures Act, chapter  
3 35 of title 42.

4 **46-23-20.4. Hearings — Orders.**

5 (a) Subject to the provisions of this chapter, every hearing for the adjudication of a violation  
6 or for a contested matter shall be held before a hearing officer ~~or a subcommittee~~. ~~The~~ If more than  
7 one hearing officer is appointed, the chief hearing officer shall assign a hearing officer to each  
8 matter ~~not assigned to a subcommittee~~. After due consideration of the evidence and arguments, the  
9 hearing officer shall make written proposed findings of fact and proposed conclusions of law which  
10 shall be made public when submitted to the ~~council~~ department for review. The ~~council~~ director  
11 may, in ~~its~~ their discretion, adopt, modify, or reject the findings of fact and/or conclusions of law;  
12 provided, however, that any modification or rejection of the proposed findings of fact or  
13 conclusions of law shall be in writing and shall state the rationales therefor.

14 (b) The director of the department of environmental management and the ~~coastal resources~~  
15 ~~management council~~ director shall promulgate such rules and regulations, not inconsistent with  
16 law, as to assure uniformity of proceedings as applicable.

17 **46-23-20.5. Ex parte consultations.**

18 ~~Council members~~ The department shall have no communication directly or indirectly, with  
19 a hearing officer relating to any issue of fact or of law on any matter then pending before the hearing  
20 officer.

21 **46-23-20.6. Oaths — Subpoenas — Powers of hearing officers.**

22 The hearing officers are hereby severally authorized and empowered to administer oaths,  
23 and the hearing officers, in all cases of every nature pending before them, are hereby authorized  
24 and empowered to summon and examine witnesses and to compel the production and examination  
25 of papers, books, accounts, documents, records, certificates and other legal evidence that may be  
26 necessary or proper for the determination and decision of any question before or the discharge of  
27 any duty required by law of the hearing officer. All subpoenas and subpoena duces tecum shall be  
28 signed by a hearing officer or the ~~commissioner of coastal resources~~ director, and shall be served  
29 as subpoenas are served in civil cases in the superior court; and witnesses so subpoenaed shall be  
30 entitled to the same fees for attendance and travel as are provided for witnesses in civil cases in the  
31 superior court. In cases of contumacy or refusal to obey the command of the subpoena so issued,  
32 the superior court shall have jurisdiction upon application of the ~~council~~ department with proof by  
33 affidavit of the fact, to issue a rule or order returnable, in not less than two (2) nor more than five  
34 (5) days, directing the person to show cause why he or she should not be adjudged in contempt.

1 Upon return of such order, the justice, before whom the matter is brought for hearing, shall examine  
2 under oath the person, and the person shall be given an opportunity to be heard, and if the justice  
3 shall determine that the person has refused without reasonable cause or legal excuse to be examined  
4 or to answer legal or pertinent questions, he or she may impose a fine upon the offender or forthwith  
5 commit the offender to the adult correctional institutions, there to remain until he or she submits to  
6 do the act which he or she was so required to do, or is discharged according to law.

7 **46-23-21. Notice of permit — Recordation.**

8 A notice of permit shall be eligible for recordation under chapter 13 of title 34 as  
9 determined by the ~~executive~~ director, and shall be recorded at the expense of the applicant in the  
10 land evidence records of the city or town where the property subject to permit is located, and any  
11 subsequent transferee of the property shall be responsible for complying with the terms and  
12 conditions of the permit. The clerk of the various cities and towns shall record any orders, findings,  
13 or decisions of the ~~council~~ [department](#) at no expense to the ~~council~~ [department](#).

14 **46-23-22. Solid waste disposal licenses — Hearings.**

15 The ~~chairperson of the coastal resources management council~~ [director](#) and the  
16 ~~commissioner of the environmental protection branch~~ [director](#) of the department of environmental  
17 management shall coordinate concurrent hearings on solid waste disposal license applications;  
18 provided, however, that the ~~chairperson~~ [director](#) and the ~~commissioner of the environmental~~  
19 ~~protection branch~~ [director](#) of the department of environmental management may designate a  
20 hearing officer ~~or subcommittee~~ to hear all matters pertaining to the application and; provided  
21 further, that the hearing officer may be from the department of environmental management, the  
22 ~~coastal resources management council hearing officer, a subcommittee~~ [department](#), or an ad hoc  
23 hearing officer. The ~~commissioner of coastal resources management with the approval of the~~  
24 ~~chairperson~~ [director](#) may waive jurisdiction in those instances where the ~~commissioner~~ [director](#)  
25 finds that there is no substantive coastal resources issue or that another agency or branch has  
26 adjudicated or addressed the issue.

27 **46-23-23. Municipal comprehension plan consideration.**

28 The ~~coastal resources management council~~ [department](#) shall conform to the requirements  
29 of the Comprehensive Planning and Land Use Regulation Act, § 45-22.2.

30 **46-23-24. Lien on property.**

31 The ~~executive~~ director may record the notice of fee or final order of fine as a lien on the  
32 subject property in the land evidence records of the town or city in which said property is located.  
33 Recordation of said fee or final order of fine shall be the only manner by which said lien may be  
34 perfected against the subject property.

1           **46-23-25. Issuance of beach vehicle registration permits.**

2           (a) The ~~coastal resources management council~~ [department](#) may issue beach vehicle  
3 registration permits in accordance with § 31-8-1.1 of the general laws and adopt regulations that  
4 the ~~council~~ [department](#) deems necessary to carry out the provisions of this section. The ~~council~~  
5 [department](#) may appoint responsible citizens or corporations of the state, engaged in operating  
6 sporting goods stores to act as agents with authority to issue permits in the manner and under the  
7 conditions as set forth below. Before an appointment shall occur, that citizen or corporation of the  
8 state shall deliver to the ~~council~~ [department](#) a bond with a surety company authorized to do business  
9 in the state of Rhode Island. The requirements and conditions of the bond shall be established by  
10 the regulations.

11           (b) Any person or corporation appointed by the ~~council~~ [department](#) as provided in section  
12 (a) above shall, upon the application of any person entitled to receive a permit under this chapter  
13 and upon payment of the specified permit fee, register and issue to the person a beach vehicle  
14 registration permit in the form prescribed and furnished by the ~~council~~ [department](#). The permit shall  
15 bear the name, place of residence, and signature of the registrant, and the vehicle make, model,  
16 year, and license plate number and shall authorize the registrant to own and operate a beach vehicle  
17 in the state of Rhode Island during those seasons and in those manners and according to those  
18 conditions as shall be provided by regulations established by the ~~council~~ [department](#).

19           **46-23-26. The public's rights and privileges of the shore.**

20           (a) The public's rights and privileges of the shore are established by Article I, Sections 16  
21 and 17 of the Rhode Island Constitution.

22           (b) For purposes of this chapter, the "recognizable high tide line" means a line or mark left  
23 upon tidal flats, beaches, or along shore objects that indicates the intersection of the land with the  
24 water's surface level at the maximum height reached by a rising tide. The recognizable high tide  
25 line may be determined by a line of seaweed, oil or scum along shore objects, a more or less  
26 continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or  
27 characteristics, or other suitable means that delineate the general height reached by the water's  
28 surface level at a rising tide. If there is more than one line of seaweed, oil, scum, fine shell, or  
29 debris, then the recognizable high tide line means the most seaward line. In the absence of residue  
30 seaweed or other evidence, the recognizable high tide line means the wet line on a sandy or rocky  
31 beach. The line encompasses the water's surface level at spring high tides and other high tides that  
32 occur with periodic frequency, but does not include the water's surface level at storm surges in  
33 which there is a departure from the normal or predicted reach of the water's surface level due to  
34 the piling up of water against a coast by strong winds, such as those accompanying a hurricane or

1 other intense storms.

2 (c) Notwithstanding any provision of the general laws to the contrary, the public's rights  
3 and privileges of the shore may be exercised, where shore exists, on wet sand or dry sand or rocky  
4 beach, up to ten feet (10') landward of the recognizable high tide line; provided, however, that the  
5 public's rights and privileges of the shore shall not be afforded where no passable shore exists, nor  
6 on land above the vegetation line, or on lawns, rocky cliffs, sea walls, or other legally constructed  
7 shoreline infrastructure. Further, no entitlement is hereby created for the public to use amenities  
8 privately owned by other persons or entities, including, but not limited to: cabanas, decks, and  
9 beach chairs.

10 (d) Any landowner whose property abuts the shore shall, with respect to the public's  
11 exercise of rights and privileges of the shore as defined in this chapter, be afforded the liability  
12 limitations pursuant to chapter 6 of title 32.

13 (e) The ~~coastal resources management council (CRMC)~~ [department](#) in collaboration with  
14 the department of environmental management (DEM), shall develop and disseminate information  
15 to educate the public and property owners about the rights set out in this section.

16 (f) The ~~CRMC~~ [department](#) in collaboration with the DEM, and the attorney general, shall  
17 determine appropriate language and signage details for use at shoreline locations.

18 SECTION 3. Chapter 46-23 of the General Laws entitled "Coastal Resources Management  
19 Council" is hereby amended by adding thereto the following sections:

20 **46-23-27. Severability.**

21 If any provision of this chapter or the application thereof to any person or circumstances is  
22 held invalid, that invalidity shall not affect other provisions or applications of the chapter, which  
23 can be given effect without the invalid provision or application, and to this end the provisions of  
24 this chapter are declared to be severable.

25 **46-23-28. Effective date.**

26 Within thirty (30) business days of the date of passage of this act, the department shall put  
27 out for notice and comment revisions of its coastal resources management program (referred to as  
28 "red book") and management procedures in order to implement the programmatic change from the  
29 council to the department.

30 Within seven (7) days of promulgation of the revised coastal resources management  
31 program (referred to as "red book") and management procedures, the department shall submit a  
32 coastal zone management act program change request to the National Oceanic and Atmospheric  
33 Administration (NOAA) for the approval of the amendments to this statute and the management  
34 procedures. The remaining sections of this statute shall take effect upon NOAA's approval.

1 SECTION 4. Sections 46-23-2.1, 46-23-5, 46-23-6.3 and 46-23-12 of the General Laws in  
2 Chapter 46-23 entitled "Coastal Resources Management Council" are hereby repealed.

3 ~~**46-23-2.1. Members — Term of office — Vacancies.**~~

4 ~~(a) The term of office of the appointed members shall be three (3) years, only so long as~~  
5 ~~the members shall remain eligible to serve on the council under the appointment authority.~~

6 ~~(b) The members are eligible for successive appointments.~~

7 ~~(c) Elected or appointed municipal officials shall hold seats on the council, only so long as~~  
8 ~~they remain in their elected or appointed office.~~

9 ~~(d) A vacancy other than by expiration shall be filled in the manner of the original~~  
10 ~~appointment but only for the unexpired portion of the term. The governor shall have the power to~~  
11 ~~remove his or her appointee for just cause.~~

12 ~~**46-23-5. Expenses of members.**~~

13 ~~(a) The members of the council and the chairperson shall not be compensated for their~~  
14 ~~service on the board, but the members and chairperson shall be reimbursed for their actual expenses~~  
15 ~~necessarily incurred in the performance of their duties.~~

16 ~~(b) [Deleted by P.L. 2005, ch. 117, art. 21, § 34.]~~

17 ~~**46-23-6.3. Tolling of expiration periods.**~~

18 ~~(a) Notwithstanding any other provision set forth in this chapter, all periods pertaining to~~  
19 ~~the expiration of any approval or permit issued pursuant to any state statute or any regulation~~  
20 ~~promulgated thereto pertaining to the development of property shall be tolled until June 30, 2016.~~  
21 ~~For the purposes of this section, "tolling" means the suspension or temporary stopping of the~~  
22 ~~running of the applicable permit or approval period.~~

23 ~~(b) Said tolling need not be recorded in the land evidence records to be valid, however, a~~  
24 ~~notice of the tolling must be posted in the municipal planning department and near the land evidence~~  
25 ~~records.~~

26 ~~(c) The tolling shall apply only to approvals or permits in effect on November 9, 2009, and~~  
27 ~~those issued between November 9, 2009, and June 30, 2016, and shall not revive expired approvals~~  
28 ~~or permits.~~

29 ~~(d) The expiration dates for all permits and approvals issued before the tolling period began~~  
30 ~~will be recalculated as of July 1, 2016, by adding thereto the number of days between November~~  
31 ~~9, 2009, and the day on which the permit or approval would otherwise have expired. The expiration~~  
32 ~~dates for all permits and approvals issued during the tolling period will be recalculated as of July~~  
33 ~~1, 2016, by adding thereto the number of days between the day the permit or approval was issued~~  
34 ~~and the day the permit or approval otherwise would have expired.~~



1            ~~**46-23-12. Representation from coastal communities.**~~

2            ~~Upon the expiration of a term of a member appointed by the governor, as an appointed or~~  
3 ~~elected official of local government from a coastal municipality as set out in § 46-23-2, the governor~~  
4 ~~shall appoint an appointed or elected official of a coastal municipality which, at the time of the~~  
5 ~~governor's appointment, has no appointed or ex officio representation on the council.~~

6            SECTION 5. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO WATERS AND NAVIGATION -- COASTAL RESOURCES MANAGEMENT  
COUNCIL

\*\*\*

- 1 This act would replace the coastal resources management council with a state department
- 2 of coastal resources and transfer all of the powers and duties between the two (2) authorities.
- 3 This act would take effect upon passage.

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