

STATE OF RHODE ISLAND GOVERNMENT REGISTER

PUBLIC NOTICE OF PROPOSED RULEMAKING

INFRASTRUCTURE BANK

IN RE:

TITLE OF RULE:
OCEAN STATE CLIMATE ADAPTATION
AND RESILIENCE FUND POLICIES
AND PROCEDURES

RULE IDENTIFIER:
830-RICR-10-35-1

RULEMAKING ACTION:
PROPOSED ADOPTION

HEARING - INFRASTRUCTURE BANK

10:00 A.M.

JANUARY 5, 2023

Providence, Rhode Island

Sally Brassard, CSR/RPR

APPEARANCES OF COUNSEL :

FOR RHODE ISLAND INFRASTRUCTURE BANK:
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FOR SAVE THE BAY:
BY: KENDRA L. BEAVER, ESQUIRE
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ALSO PRESENT: Kimberly Koriioth, RI Infracture Bank
Stormwater and Resilience Analyst

Topher Hamblett, Save the Bay
Director of Advocacy

E-X-H-I-B-I-T-S

SAVE THE BAY NO.	DESCRIPTION	PAGE
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Exhibit A	Save The Bay Public Comments..	10
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INFRASTRUCTURE BANK NO.	DESCRIPTION	PAGE
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Exhibit 1	RI Government Register Public Notice of Proposed Rulemaking.	9
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Exhibit 2	Proposed Regulations for the Ocean State Climate Adaptation and Resilience Fund.....	9
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REPORTER'S NOTE: All exhibits attached to
original transcript.

(HEARING COMMENCED AT 10:02 A.M.)

MR. HOLT: I think we can get rolling here.

MS. KORIOTH: Welcome. Today is January 5th, 2023. My name is Kimberly Koriath, and I'm the Stormwater and Resilience Analyst of Rhode Island Infrastructure Bank. With me here today is legal counsel, Ryan Holt, Harrington & Vitale. We are here today for a public hearing for the proposed regulations for the Ocean State Climate Adaptation and Resilience Fund.

This hearing is being conducted under the authority of RIGL 46-12.2-4, and pursuant to the procedural requirements within RIGL 42-35, "Administrative Procedures." In accordance with these requirements, a public notice of this hearing was filed with the Rhode Island Secretary of State and published on the websites of the Secretary of State and Infrastructure Bank, with a copy attached to the record of this proceeding as Exhibit Number 1.

RIGL 46-23.3-7 requires the Infrastructure Bank, DEM and CRMC to jointly adopt regulations for the Ocean State Climate Adaptation and Resilience Fund. DEM and CRMC will have their own

1 hearing processes.

2 MS. KORIOTH: The purpose of this hearing
3 is: To afford interested parties an opportunity
4 to submit data, views or arguments orally, and/or
5 in writing on the proposed amendments. This
6 hearing is not intended as a means of providing a
7 forum for discussion, debating, arguing, or
8 otherwise having any dialogue at this time with
9 the staff of the Infrastructure Bank. Following
10 the closing of the formal public hearing there
11 will be an opportunity for a short and informal
12 question and answer period.

13 The procedure we will use for those
14 persons who wish to speak is as follows:

15 1. Five minutes will be allowed for a
16 presentation unless the number of speakers allows
17 for additional time. When you're called, please
18 identify yourself by name and affiliation, if any.
19 Make your presentation, and then provide a written
20 copy of your statement for the record if one is
21 available.

22 After today's hearing the submission of
23 any written data, views, arguments, or commentary
24 on the proposed regulations will be accepted until
25 the end of the public comment period - Saturday,

1 January 21st, 2023.

2 After the time has elapsed for the
3 submission of written commentary, the Agency has
4 three options regarding the proposed regulations:

5 1. File the proposed regulations as is;

6 2. File the proposed regulations with
7 minor changes or;

8 3. Make additional amendments to the
9 regulations and place proposed regulations on
10 public notice.

11 If filed, these proposed regulations
12 become effective 20 days after filing and have the
13 effect of law.

14 We will now hear remarks from the
15 speakers.

16 MR. HAMBLETT: Good morning. My name is
17 Topher Hamblett, I'm the Director of Advocacy for
18 Save the Bay, and I'm submitting comments on
19 behalf of Save the Bay. Thank you for the
20 opportunity to comment on the proposed OSCAR
21 regulations.

22 I'll briefly summarize our comment letter,
23 which we submitted to the Infrastructure Bank by
24 e-mail yesterday. Save The Bay worked with the
25 General Assembly, regulatory agencies,

1 municipalities and community groups to win passage
2 of the statute and then secure OSCAR'S first \$4
3 million for grants. We appreciate the Rhode
4 Island Infrastructure Bank's support for the OSCAR
5 legislation, and it's willingness to play an
6 administrative role in the implementation of the
7 program.

8 We believe it's imperative that the
9 regulations guiding project selection and grant
10 funding adhere to the OSCAR statute. We object to
11 the regulations as drafted because they do not
12 carry out the intent of the statute: They attempt
13 to add additional criteria or requirements (i.e.
14 "overall spending targets by project type;
15 preferences for projects that align with the
16 state's prevailing economic development plan)"
17 that is not consistent with the intent of the
18 statute. The intent of the statute is to award
19 funds for projects that provide ecological
20 benefits to coastal or riverine habitats: The
21 fund was not established to further economic
22 development.

23 Further, the attempt to empower each
24 agency with the authority to waive, vary or add
25 requirements is not permitted by the law. CRMC

1 and DEM may jointly include additional criteria in
2 evaluating projects consistent with the statutory
3 intent, but may not do so individually. Moreover,
4 the Bank does not have the statutory authority to
5 even determine which projects are funded, let
6 alone change or waive requirements.

7 Attached please find our comments and a
8 redline version of the regulations for your
9 consideration. As you will see, some of the
10 comments are directed at clarifying the language,
11 however, our main concern and objection to the
12 draft regulations is that they do not effectuate
13 the plain language or legislative intent of the
14 statute and exceed the statutory authority
15 provided to the three agencies.

16 Thank you for considering Save The Bay's
17 comments on these draft regulations, and we would
18 welcome the opportunity to work with you to
19 address our concerns.

20 MS. KORIOTH: Thank you for your comment.
21 We will note it for the record. Is there anyone
22 else who wishes to comment?

23 (NO RESPONSE)

24 MR. HOLT: Why don't we wait five minutes
25 just to see if anybody else shows up.

1 MS. KORIOTH: We'll wait five.

2 MR. HOLT: Let's go off the record for
3 five minutes.

4 (BRIEF RECESS WAS TAKEN AT 10:07 A.M.)

5 MR. HOLT: We can go back on now.

6 (TESTIMONY RESUMED AT 10:17 A.M.)

7 MS. KORIOTH: Since there are no other
8 comments at this time, and since all interested
9 parties have been heard, we will now enumerate all
10 the exhibits and receive comments for the public
11 record.

12 Exhibit Number 1 is a copy of the "Public
13 Notice of Proposed Rulemaking" advertising the
14 public notice of this hearing for the proposed
15 regulations.

16 Exhibit 2 is a copy of the "Proposed
17 Regulations for the Ocean State Climate Adaptation
18 and Resilience Fund."

19 EXHIBITS 1 AND 2 - INFRASTRUCTURE BANK
20 MARKED

21 MS. KORIOTH: On behalf of the Rhode
22 Island Infrastructure Bank, I would like to thank
23 you for attending and for your comments. Since
24 there are no further statements to be presented at
25 this time, and since all interested parties

1 present have been heard, I declare this public
2 meeting is closed.

3 MR. HOLT: His comments should be part of
4 the record.

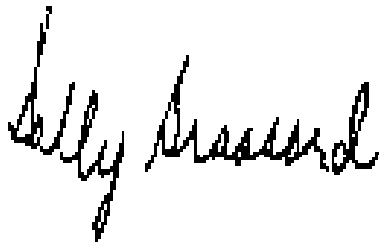
5 EXHIBIT A - SAVE THE BAY MARKED
6 (HEARING CONCLUDED AT 10:20 A.M.)
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C-E-R-T-I-F-I-C-A-T-I-O-N

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PROVIDENCE, SC.

I, do hereby certify that the foregoing is
a true, accurate, and complete transcript of my
notes taken of the above-entitled proceeding.

IN WITNESS WHEREOF, I have hereunto set my
hand this 8th day of January, 2023.



SALLY BRASSARD, CSR/RPR
NOTARY PUBLIC NO: 35591
COMMISSION EXPIRES: 1/16/25