COASTAL RESOURCES MANAGEMENT COUNCIL

SEMI-MONTHLY MEETING

TUESDAY, JULY 23, 2019

6:00 P.M.

AGENDA

State of Rhode Island and Providence Plantations
Coastal Resources Management Council
Oliver H. Stedman Government Center
4808 Tower Hill Road, Suite 116
Wakefield, RI 02879-1900

(401) 783-3370
Fax (401) 783-2069

AGENDA

Semi-Monthly Meeting – Full Council
Tuesday, July 23, 2019; 6:00 p.m.
Administration Building; Conference Room A
One Capitol Hill, Providence, RI 02908

Approval of the minutes of the previous meeting – June 25, 2019
Subcommittee Reports
Staff Reports

APPLICATIONS WHICH HAVE BEEN OUT-TO-NOTICE AND ARE BEFORE THE FULL COUNCIL FOR DECISION:

2019-01-074 **PAUL & BETTINA KILLION** -- Construct and maintain a residential boating facility consisting of a 4' x 30' ramp, 4' x 120' fixed timber pier, 3' x 20' access ramp and 10' x 15' (150sf) terminal float. The entire facility extends ~128' seaward of the cited MLW mark and requires a 78' length variance to RICRMP Section 1.3.1(D). Located at plat 165, lot 10; 135 Ferry Road, Bristol, RI.

PROPOSED RULEMAKING BEFORE THE FULL COUNCIL FOR DECISION:

Title of Rule: RICRMP: Ocean SAMP Chapter 11 Policies of the Ocean SAMP (650RICR200511)

Summary of Rulemaking Action:
The CRMC proposes to amend the policies and standards of Ocean Special Area Management Plan (Ocean SAMP) Chapter 11 to improve the predictability of state permitting and federal consistency review processes for offshore renewable energy projects. The proposed amendments apply to any renewable energy and offshore development activity located within state waters or federal waters within CRMC geographic location description (GLD) boundaries that are subject to federal consistency review.

Summary of proposed amendments to 650-RICR-20-05-11

1. Amend § 11.2(A) to clarify the purpose of the regulations and better differentiate between state permitting and federal consistency review authority.

2. Amend § 11.3(E) to add representation of seafood processing facilities onto CRMC Fishermen's Advisory Board (FAB) and increase FAB membership to twenty (20) to account for seafood processing representatives.

3. Further clarify 2011 and 2018 geographic location descriptions (GLD) as defined in § 11.3(F).

4. Move deleted text in § 11.3(H)(6) to correct placement in § 11.3(H)(5).

5. Delete anachronistic text and clarify NOAA approval of Ocean SAMP and federal consistency authority in § 11.5.

6. Add new § 11.9(C) using text moved from § 11.10.1(D). Delete § 11.10.1(D).

7. Add new § 11.9(D) for $20,000 administrative fee for projects subject to CRMC federal consistency review only (no state permit required).

8. Amend § 11.9.1(E) to add reference to NOAA-approved GLDs.

9. Add deleted text from § 11.10.1(Q) to § 11.9.3(J).

10. Amend § 11.9.4(C) to include CRMC required (in state waters) wind farm design standards to enhance compatibility with commercial fishing operations.

11. Amend § 11.9.4(H) to increase from 6 to 7 FAB votes for RI interests to account for adding representation from the seafood processing facilities on the FAB as per proposed amendment in § 11.3(E).

12. Delete repetitive text in § 11.9.7(H); same text in § 11.9.4(F).

13. Add new § 11.9.8 for application requirements in state waters using deleted text from § 11.10.5.

14. Add new § 11.9.9 for baseline assessment requirements and standards in state waters including deleted text from § 11.10.9.

15. Add new §§ 11.9.9(E) for baseline assessment standards and (F) for post construction assessment requirements.

16. Amend § 11.10.1(C) to further clarify significant adverse impacts and coastal effects to commercial fisheries, when mitigation may be considered, and federal consistency issues.

17. Amend § 11.10.1(D) to include pre-application meetings with FAB and further clarify formal meeting with FAB to meet federal consistency necessary data and information requirements.

18. Add new § 11.10.1(D)(1) to clarify CZMA federal consistency review process as it relates to BOEM and the filing of a construction and operation plan (COP).

19. Amend § 11.10.1(E) to further clarify CZMA process and mitigation requirements.

20. Delete § 11.10.1(F) as first sentence is repetitive in § 11.10.1(C) and second sentence added to § 11.10.1(C).

21. Amend new § 11.10.1(F) to add shore-side seafood processing facilities as a fisheries user group and further clarify mitigation process and requirements in CZMA federal consistency review process.

22. Amend § 11.10.1(I) to clarify CZMA federal consistency review process as it relates to BOEM and the filing of a construction and operation plan (COP).

23. Add new § 11.10.1(O) for construction noise abatement requirements and standards to minimize adverse impacts to fishery resources.

24. Add new § 11.10.1(P) for cable burial requirements and standards to avoid significant adverse impacts to commercial fishing activities.

25. Amend § 11.10.5(A) to clarify when necessary data and information may be filed for CRMC federal consistency review.

26. Amend § 11.10.5(C) to remove anachronistic text and clarify the timing of a COP and SAP filing in the BOEM process.

27. Amend § 11.10.5(C)(1) to clarify SAP process for projects in state waters.

28. Amend § 11.10.5(C)(1)(g) to clarify that when NDI is missing the CRMC must follow federal regulations for a delay in CZMA federal consistency review process.

29. Delete §§ 11.10.5(C)(1)(h) and (j) through (q) and move to § 11.9.8(A).

30. Delete §§ 11.10.5(C)(2)(h) through (o) and move to § 11.9.8(B).

31. Delete § 11.10.5(C)(2)(o)(1) and move to § 11.9.8(B)(8).

32. Delete § 11.10.6 and move to § 11.9.8(C).

33. Delete § 11.10.7 and move to § 11.9.8(D).

34. Delete § 11.10.8 and move to § 11.9.8(E).

35. Amend § 11.10.9(A) to clarify baseline assessment requirements for projects subject to CZMA federal consistency review and move deleted text to new § 11.9.9.

36. Other minor edits and corrections as noted in track changes within the document.

2019-01-074 PAUL & BETTINA KILLION

CRMC DECISION WORKSHEET
2019-01-074
Paul & Bettina Killion

Hearing Date:			
Approved as Recommended			
Approved w/additional Stipulations			
Approved but Modified			
Denied		Vote	

APPLICATION INFORMATION

File Number	Town	Project Location	Category	Special Exception	Variance
2019-01-074	Bristol	135 Ferry Road Plat 165 Lot 10	A*	☐	X
		Owner Name and Address			
Date Accepted	1/28/19	Paul & Bettina Killion 135 Ferry Road Bristol, RI 02809	Work at or Below MHW		X
Date Completed	6/7/19		Lease Required		☐

PROJECT DESCRIPTION

Construct and maintain a residential boating facility consisting of a fixed pier, ramp and float

KEY PROGRAMMATIC ISSUES

Coastal Feature: Coastal wetland, Coastal beach

Water Type: Type 2, Low Intensity Use, Bristol Harbor

CRMP: 1.1.6, 1.1.7, 1.1.11, 1.1.13, 1.2.1(B), 1.2.2(A), 1.2.2(C), 1.2.3, 1.3.1(D)

SAMP: N/A

Variances and/or Special Exception Details:

RICRMP § 1.3.1(D)(11)(l), 78' length variance
RICRMP § 1.3.1(D)(11)(v), lateral access variance

Specific Staff Stipulations (beyond Standard stipulations): Should the Council approve the project with additional lateral access requirements, staff requests revised plans reflecting such changes provided prior to Assent issuance.

STAFF RECOMMENDATION(S)

Engineer		Recommendation:	
Biologist	TAS	Recommendation:	**No Objections**
Other Staff		Recommendation:	

6/11/19
Engineering Supervisor Sign-Off date

6/11/19
Supervising Biologist Sign-off date

6/12/19
Executive Director Sign-Off date

TS 7/15/19
Staff Sign off on Hearing Packet (Eng/Bio) date

Name: Paul & Bettina Killion
CRMC File No.: *2019-01-074*
Staff Report

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

COASTAL RESOURCES MANAGEMENT COUNCIL

INTER-OFFICE MEMORANDUM

DATE: 6 June 2019

TO: Grover J. Fugate, Executive Director

FROM: T. Silvia

SUBJECT: CRMC File No. 2019-01-074

REVIEW PLANS: "Site Plan and Specifications", Plat 165, Lot 10, Bristol (Sheet DK-1 last revised 5/14/19) and "Dock Profile & Details" (Sheet DK-2 dated 12/17/18) by Ron T. Blanchard, RPE

RECOMMENDATION: Approval

Applicant's Name:	Paul & Bettina Killion
Project:	Construct & maintain a residential boating facility
Location:	135 Ferry Road, Bristol, plat 165, lot 10
Water Type/Name:	Type 2, Low Intensity Use, Bristol Harbor
Coastal Feature:	Coastal wetland/coastal beach

STAFF REPORT

A) Site Conditions (Figure 1):

1—The project site is located in the southeastern corner of Bristol Harbor, near Type 1 Walker Island. Residential development is typical of this area and a municipal sewer line crosses the parcels parallel to the shoreline, which contains a mix of grandfathered and more recently approved docks. The coastal feature for this parcel consists of patchy coastal wetland and partially vegetated coastal beach. Just inland is the 20' sewer easement and variable width buffer zone required on the parcel.

2—The site was subject to previous CRMC enforcement action for buffer zone violations under a prior owner: #05-0089 cutting buffer zone/construction (restoration plantings required/installed) and #08-0118 (mowing buffer zone) which was last resolved as of 12/2014. The existing dwelling is located landward of CRMC's 200' jurisdictional area.

3—The Council should note that the subtidal environment immediately east of Walker Island is a shoal area with numerous rocks and an application submitted adjacent to the subject parcel was cancelled (CRMC and federal review agency staff advised denial recommendations were likely due to minimal (less than 1') water depth). However, the subject application is proposed just south of Walker Island, in waters a bit more conducive to boating (as is the case north of the Island as well).

B) Buffer Zone:

1—Staff conducted a site visit on 3/6/19 as part of this application review and noted that the site had been mowed to the coastal feature with some areas of mature trees/landscaping remaining. Based on permit history and aerial photography review, it was determined that the buffer zone was in violation and the matter was reviewed with CRMC Enforcement staff.

2—As the applicant is a new owner of the site, staff contacted his consultant to discuss resolution and the applicant has re-installed proper buffer zone markers and agreed to allow the area to revegetate. A written response and revised plans were provided which show the variable width buffer (60-70') running inland from the stones located along the sewer easement, consistent with prior restoration requirements. A path access through the buffer zone to the dock location shall be allowed as part of this resolution and all vegetation on/adjacent to the coastal feature (seaward of the sewer easement) is to remain undisturbed.

C) Proposed Dock:

1—The applicant proposes a 4' x 30' access ramp leading to a fixed 4' x 120 timber pier, 3' x 20' ramp and 10' x 15' (150sf) terminal float.

2—RICRMP Section 1.3.1 (D) contains numerous dock design standards, including Table 7 criteria. The applicant has designed the project consistent with this Section, including elevation over the coastal wetland (4'), minimum property line setback (25') and minimum water depth (18"), with two exceptions (described below). There is no submerged aquatic vegetation (SAV) at this location.

3—RICRMP § 1.3.1(D)(11)(v) requires that "Lateral access shall be provided under, around or over as appropriate for the site conditions at all new residential docks." and past CRMC practice has been to approve designs which provide stair access over the structure or 5' clearance below the structure at the MHW mark. This design provides only 3' of vertical clearance at the MHW mark. The applicant submits that lateral access is not typical along this stretch of shoreline and notes that clearance is provided below the wetlands. Staff notes the coastal feature is also beach along much of this shoreline and that lateral access is typically provided along the MHW mark, not seaward of the wetlands as proposed. Staff finds no site constraint for providing 5' elevation at the MHW mark (provided revised plans are received) or for providing stairs over the structure to accommodate lateral access.

4—RICRMP § 1.3.1(D)(11)(l) requires a facility "not extend beyond that point which is: …fifty (50) feet seaward of mean low water…". The project is proposed to be 128' seaward of the cited MLW mark, requiring a 78' length variance. This design would achieve over 2' of water at the terminus at MLW, consistent with past CRMC dock permits which typically achieve 18" - 3' at the terminus. Based on the plans, the proposed dock would be shorter than the two longest docks along this immediate shoreline and is situated to best avoid the rock/shoal conditions noted above.

D) Other Considerations:

1—The application concluded a thirty-day public notice period without comment on 3/1/19 and was deemed PCN eligible for permitting at the February 7, 2019 ACOE review meeting.

2—The RICRMP Section 1.1.6(D) requires dock applications seeking length variances greater than 75' in non-open waters of Narragansett Bay to be reviewed by the full Council and the applicant has provided written variance burdens of proof for such.

3—The submitted plans indicate there are no mooring fields located within 50' of the proposed structure.

E) Summary:

1—With the exception of the lateral access issue noted above, it is staff's opinion that the applicant has designed the project consistent with RICRMP dock requirements and has minimized the requested variance necessary to achieve a reasonable water depth given the site conditions.

2—In addition, the applicant has readily agreed to remedy the existing buffer violation to staff's satisfaction.

3—Staff recommends approval of this project with revised plans for appropriate lateral access.

Signed: _____ Staff Biologist

135 Ferry Rd #2019-01-074

Write a description for your map. Figure 1

GENERAL SPECIFICATIONS:

IN THE EVENT THAT ANY PILE PENETRATION CANNOT BE ATTAINED THE CONTRACTOR SHALL CONTACT THE DESIGN ENGINEER. FOR ANY LOCATION WHERE PILE DEPTH CAN NOT BE ACHIEVED THE CONTRACTOR SHALL RECORD THOSE LOCATIONS AND SUBMIT RECORDS TO THE DESIGN ENGINEER.

ALL WOOD PILINGS SHALL BE 12" DIAMETER SOUTHERN PINE WITH A MINIMUM TIP DIAMETER OF 8". MINIMUM PILE DIAMETER AT MUDLINE SHALL BE 10". PRESSURE TREATMENT SHALL BE 2.5 LB/CF CCA. PILES SHALL BE DRIVEN TO DEPTHS AS INDICATED ON THE PLAN. PILES MAY BE DRIVEN USING A VIBRATORY HAMMER AS LONG AS THE MINIMUM PILE PENETRATION CAN BE ATTAINED.

ALL OTHER STRUCTURAL MEMBERS SHALL BE SOUTHERN PINE OR EQUIVALENT. MINIMUM TREATMENT FOR CROSS BRACING SHALL BE 2.5 LB/CF OF CCA. DIAGONAL BRACING SHALL NOT BE CUT BELOW THE MHW LINE. ALL CUTTING OF SUCH MEMBERS SHALL BE DONE ON THE END ABOVE MHW. FOR ALL OTHER MEMBERS (STRINGERS, HEADERS, WOOD DECKING AND ANY POST OR RAILS) TREATMENT SHALL BE 0.6 LB/CF CCA.

ALL METAL CONNECTION MATERIALS SHALL BE HOT DIPPED GALVANIZED. BOLTS SHALL BE A MINIMUM OF 304SS STEEL. ALL BOLTED CONNECTIONS FOR HEADERS AND BRACING MEMBERS SHALL BE LOCATED A MINIMUM OF 4" FROM THE END OF THE MEMBER, AND 2" FROM THE EDGE OF THE MEMBER. MEMBERS THAT ARE SPLIT OR CRACKED IN THE AREA OF THE BOLT LOCATION SHALL NOT BE USED. FOR ALL 1" BOLTS PROVIDE 2" WASHERS BOTH SIDES.

DECKING FOR FIXED DOCK SHALL BE ¾"x6" COMPOSITE OR WOOD MEMBERS. FASTENERS FOR DECKING SHALL BE 2¾" GALVANIZED STEEL SCREWS, TWO AT EACH ATTACHMENT LOCATIONS.

FLOATING DOCK SHALL BE OF WOOD CONSTRUCTION AND HAVE APPROXIMATELY 18" FREEBOARD AND 6" DRAFT. DECKING SHALL BE ¾"x6" COMPOSITE. FLOATING DOCKS SHALL HAVE HEAVY DUTY INSIDE AND OUTSIDE CORNER HARDWARE AT EACH CORNER LOCATION (FOLLANSBEE MD-C AND MD-IN OR EQUAL). ANGLE CLIPS (FOLLANSBEE RMD-4 OR EQUAL) SHALL BE PROVIDED FOR INTERIOR STRUCTURAL MEMBERS AS INDICATED. CLIPS SHALL BE FASTENED USING 3"x3/8" GALVANIZED LAG BOLTS INTO EACH CONNECTING MEMBER.

FLOAT DRUMS SHALL BE FOAM FILLED POLYTHYLENE WITH UV INHIBITORS AND SHALL HAVE STRUCTURAL MOUNTING FLANGES. DESIGN IS BASED ON FLOAT DRUMS AS MANUFACTURED BY "CUSTOM FLOATS." ANY PROPOSED SUBSTITUTES SHALL BE APPROVED BY THE DESIGN ENGINEER.

SECURE FLOAT DRUMS AT ALL EDGES IN CONTACT WITH STRUCTURAL MEMBERS. FOLLOW MANUFACTURES SPECIFICATIONS. ¾" LAG BOLTS WITH 1½" WASHERS AND 1" PENETRATION INTO STRUCTURAL MEMBER SHALL BE A REQUIRED MINIMUM. WHERE TWO DRUMS MEET ON THE SAME STRUCTURAL MEMBER, USE ONE FASTENER FOR EACH DRUM.

PILE HOLDERS FOR FLOATING DOCK PILES SHALL BE HEAVY DUTY GALVANIZED, CHAIN TYPE FOR USE WITH 12" PILINGS (FOLLANSBEE PH-C OR EQUAL). PLACEMENT OF ALL PILES SHALL BE SO AS TO ALLOW FLOAT TO BE TIED OFF FROM PILINGS SUCH THAT NO CONTACT WITH PILINGS OCCURS.

AS AN ALTERNATIVE, PILE HOLDERS FOR FLOATING DOCK MAY BE HEAVY DUTY GALVANIZED, SINGLE ROLLER TYPE FOR USE WITH 12" PILINGS (FOLLANSBEE PH-HRR OR EQUAL). PLACEMENT OF ALL PILES SHALL BE SO AS TO ALLOW MOVEMENT OF THE FLOAT TO AVOID EXCESSIVE RUBBING OF HOOPS.

SECURE PILE HOLDERS TO FLOATING DOCK WITH 4-¾" THROUGH BOLTS (IN HORIZONTAL DIRECTION) AND 4-¾" LAG BOLTS (VERTICAL DIRECTION) USE 2"x10" SPLICE BLOCK BEHIND OUTSIDE MEMBER TO PROVIDE ADEQUATE WIDTH FOR FASTENING. USE METAL BACKER PLATES FOR ¾" THROUGH BOLTS.

CLEATS SHALL BE PROVIDED FOR FLOATING DOCK, TWO ON EACH SIDE 1' FROM EACH END. CLEAT SIZE SHALL BE 10" (FOLLANSBEE C-10-M OR EQUAL) AND SHALL BE FASTENED TO WOOD MEMBERS USING CLEAT ANGLES.

A VINYL BUMPER STRIP SHALL BE PROVIDED ALONG THE OUTBOARD SIDE OF THE FLOATING DOCK. BUMPER STRIP SHALL BE AS MANUFACTURED BY "FOLLANSBEE" MODEL VRR-2 OR EQUAL.

RAMP SHALL BE ALUMINUM AND CONSTRUCTION SHALL BE BY MANUFACTURER REGULARLY ENGAGED IN THE TRADE. RAMP SHALL BE CONNECTED TO FIXED PORTION OF DOCK AS RECOMMENDED BY MANUFACTURER. ROLLER ASSEMBLY AT FLOATING DOCK SHALL BE 2" DIAMETER BY 6" WIDE SMALL ROLLER TYPE. INSTALL PLASTIC OR METAL SHEET TO DECK, FOR ROLLERS.

UTILITY SPECIFICATIONS:

ALL UTILITY WORK SHALL BE PERFORMED BY LICENSED CONTRACTORS IN THEIR RESPECTIVE TRADES. ALL WORK SHALL MEET REQUIREMENTS OF THE CURRENT STATE BUILDING CODES.

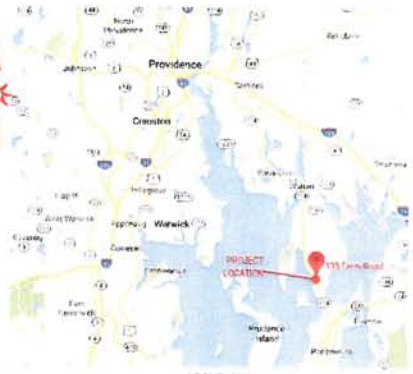
ELECTRICAL WIRE SHALL BE SIZED BY THE ELECTRICAL CONTRACTOR. WIRE SHALL BE ENCASED IN PVC CONDUIT SUITABLE FOR MARINE APPLICATION. INSTALL EXTERIOR-TYPE, MARINE GRADE, DOUBLE RECEPTACLE AT END OF PIER AS INDICATED.

WATER LINE SHALL BE ¾" POLYTHYLENE TUBING AS MANUFACTURED BY "AQUAPEX" OR EQUAL. INSTALL SUITABLE BACKFLOW PREVENTER AT EITHER EXISTING DWELLING OR PIER HEAD AS REQUIRED BY CODE. PROVIDE DRAIN AT PIER HEAD TO ALLOW REMOVAL OF WATER FROM THE LINE DURING THE WINTER MONTHS. INSTALL SPIGOT AT END OF PIER AS INDICATED.

ELECTRIC/WATER UTILITY LINES SHALL BE CONNECTED AT EXISTING DWELLING. LINES SHALL BE BURIED A MINIMUM DEPTH OF 12" ACROSS EXISTING LAWN AREA. UTILITIES SHALL BE SECURED TO UNDERSIDE OF PIER AS INDICATED, WITH GALVANIZED METAL FASTENERS EVERY 5' ON CENTER.

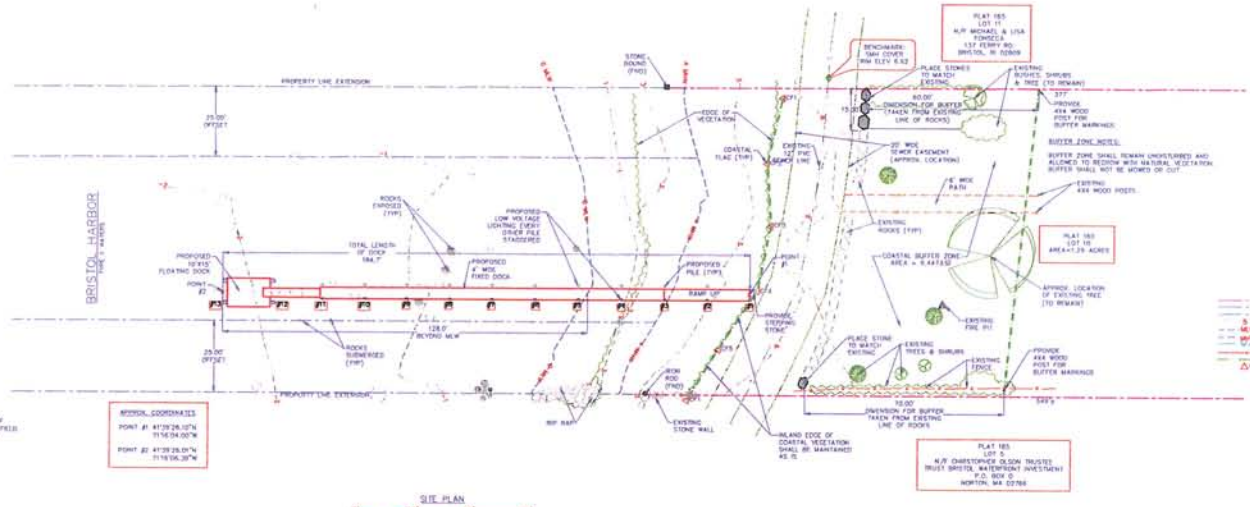
LOW VOLTAGE LIGHTING SHALL BE PROVIDED ALONG THE DOCK AS INDICATED. LIGHTING TYPE TO BE PROPOSED BY CONTRACTOR. INCLUDE LOW VOLTAGE WIRING IN ELECTRICAL CONDUIT OR SEPERATE CONDUIT AS REQUIRED BY CODE.

AERIAL PHOTO



LOCUS PLAN

BRISTOL, RI GIS PLAT MAP #165



NOTES:
ALL MOORINGS FOUND WITHIN 50' OF END OF PROPOSED DOCK HAVE BEEN SHOWN ON PLAN

DATUM:
REFERENCE DATUM IS MEAN LOW WATER

REFERENCE PLAN:
-TOWN OF BRISTOL, RI
TAX ASSESSORS' GIS PLAT MAP 165

SITE ADDRESS/OWNER:
PAUL & BETTINA KILLION
135 FERRY RD.
BRISTOL, RI 02809

BOUNDARY:
THIS SITE PLAN IS THE RESULT OF A LIMITED TOPOGRAPHIC SURVEY BY SEI. LOT LINES ARE FOR APPROXIMATE REFERENCE PURPOSES. THIS PLAN DOES NOT REPRESENT A BOUNDARY (CLASS I) SURVEY, WHICH CAN ONLY BE DONE BY A LICENSED LAND SURVEYOR.

RONT BLANCHARD
No. 9018
REGISTERED PROFESSIONAL ENGINEER

DSGN.	RB	
DR.	VS	
CHK.	RB	
DATE	12/11/18	

REVISIONS

SITE ENGINEERING INC. **SEI**
CIVIL • COASTAL • STRUCTURAL
75 POND STREET
EAST GREENWICH, RI 02818
PHONE: (401) 885-8231

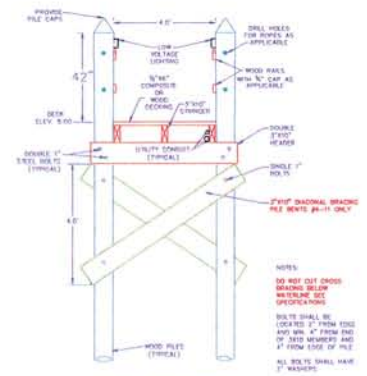
SITE PLAN AND SPECIFICATIONS
RESIDENTIAL BOATING FACILITY
PLAT 165, LOT 10

BRISTOL, RHODE ISLAND

SCALE: AS NOTED
(SHEET 1 OF 2)

DK-1

P6



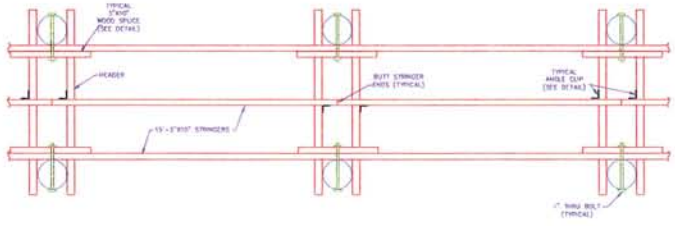
TYPICAL CROSS SECTION
NOT TO SCALE

NOTES:

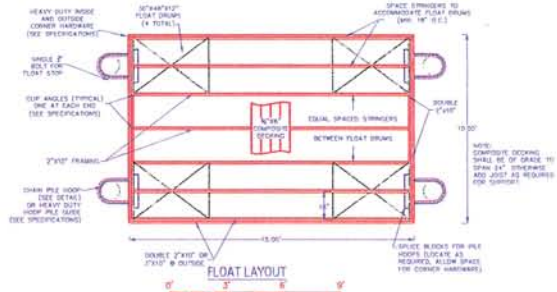
PROVIDE SPLICE BLOCKS FOR STRINGERS AT ALL OUTSIDE LOCATIONS.

AT BUTT SPLICE LOCATIONS EXTERIOR STRINGERS SHALL BE FASTENED TO SPLICE WITH TWO 1" CARRIAGE BOLTS (NOT SHOWN) EACH SIDE. (SEE DETAIL)

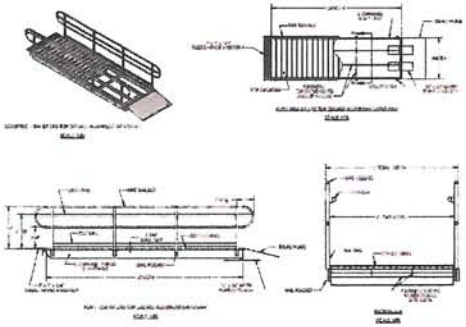
INTERIOR STRINGERS SHALL BE FASTENED TO HEADERS WITH STEEL ANGLE CLIPS (SEE DETAIL)



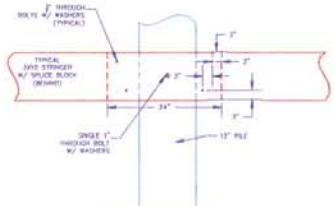
TYPICAL STRINGER LAYOUT
NOT TO SCALE



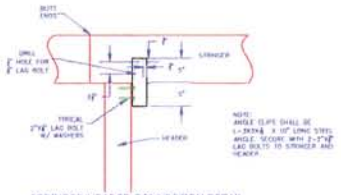
FLOAT LAYOUT



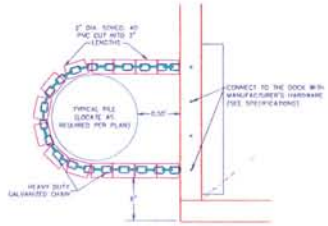
PROPOSED ALUMINUM RAMP
NOT TO SCALE



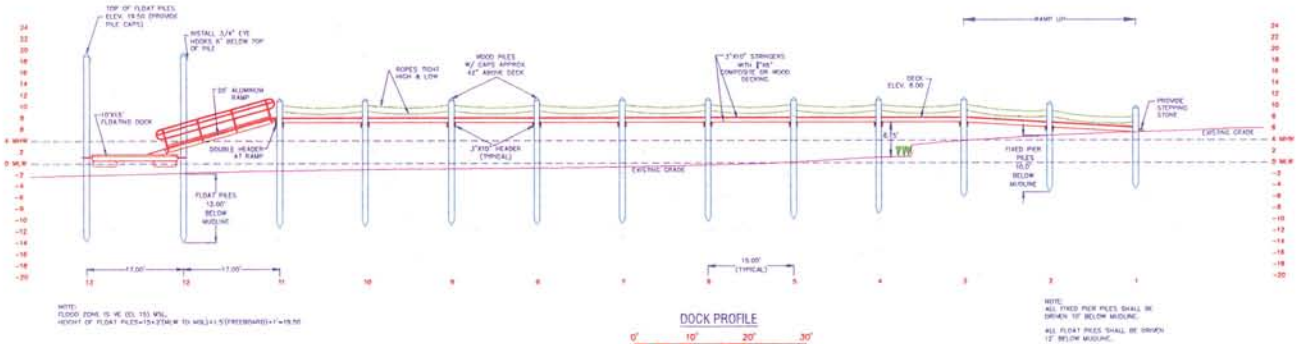
SPLICE BLOCK DETAIL
NOT TO SCALE



STRINGER/HEADER CONNECTION DETAIL
NOT TO SCALE



CHAIN HOOP DETAIL



NOTE:
FLOOD ZONE: VE (EL 15) MSL
HEIGHT OF FLOAT PILES=15+2'(BELOW TO MSL)+1.5'(FREEBOARD)+1'=19.50

DOCK PROFILE
0' 10' 20' 30'
SCALE 1"=10'

NOTE:
ALL FIXED PIER PILES SHALL BE DRIVEN 10' BELOW MUDLINE.

ALL FLOAT PILES SHALL BE DRIVEN 12' BELOW MUDLINE.

SITE ADDRESS/OWNER:
PAUL & BETTINA KILLION
135 FERRY RD.
BRISTOL, RI 02809

RON T. BLANCHARD
No. 6016
REGISTERED PROFESSIONAL ENGINEER

REVISIONS			

DESIGN RB
DR. VS
CHK RB
DATE 12/17/19

SITE ENGINEERING INC. **SEI**
CIVIL • COASTAL • STRUCTURAL
75 WOOD STREET
BRISTOL, RI 02809
PHONE: (401) 253-8231

DOCK PROFILE & DETAILS
RESIDENTIAL BOATING FACILITY
PLAT 165, LOT 10
BRISTOL, RHODE ISLAND

SCALE: AS NOTED
(SHEET 2 OF 7)
DK-2

P7

C R M C

COASTAL RESOURCES MANAGEMENT COUNCIL

Stedman Government Center; 4808 Tower Hill Road, Wakefield, RI 02879
(401) 783-3370

Application for State Assent to perform work regulated by the provisions of Chapter 279 of the PublicLaws of 1971 Amended.

Residential Boating Facility	**File No.** 2019-01-074
Location No. Street 135 Ferry Road **City/Town** Bristol	
Owner's Name Paul and Bettina Killion **Plat** 165	**Lot No.** 10
Mailing Address 135 Ferry Road **City/Town** Bristol **State** RI **Zip Code** 02809	**Res. Tel. #** (708) 655-2237 **Bus. Tel. #**
Contractor RI Lic. # NA **Address** Not Established	**Tel. No.** NA
Designer Site Engineering, Inc. **Address** 75 Wood Street, Bristol 02809	**Tel. No.** (401) 253-8231
Name of Waterway Bristol Harbor **Est. Project Cost $** 70,000	**Fee/Cost $** 1,500

Have you or any previous owner filed an application for and/or received an assent for any activity on this property? (If so please provide the file and/or assent numbers). None Known

IS THIS APPLICATION BEING SUBMITTED IN RESPONSE TO A COASTAL VIOLATION? YES____ NO XX

IF YES, YOU MUST INDICATE NOV OR C&D NUMBER_____

Name and Addresses of adjacent property owners whose property adjoins the project site. (Accurate addresses will ensure proper notification.)

Plat 165, Lot 11: Michael and Lisa Fonseca, 137 Ferry Road, Bristol, RI 02809
Plat 165, Lot 5: Christopher Olson, Trustee, 133 Ferry Road, Bristol, RI 02809

I hereby certify that the names and addresses of adjacent property owners whose property adjoins the project site are accurate and current as of the date of the application. If said names and addresses are found to be not accurate and/or current, any subsequent Assent may become Null and Void.

Signed:_____

Describe accurately the work proposed. (Use additional sheets of paper if necessary and attach this form.)

The project proposes construction of a new residential boating facility, with an overall length of approximately 184.7'. A variance is requested to 128' beyond MLW in order to attain sufficient water depth and avoid rocks that are present on the bottom.

Owner's Signature

NOTE: The applicant acknowledges by evidence of their signature that they have reviewed the Rhode Island Coastal Resources Management Program, and have, where possible, adhered to the policies and standards of the program. Where variances or special exceptions are requested by the applicant, the applicant will be prepared to meet and present testimony on the criteria and burdens of proof for each of these relief provisions. The applicant also acknowledges by evidence of their signature that to the best of their knowledge the information contained in the application is true and valid. If the information provided to the CRMC for this review is inaccurate or did not reveal all necessary information or data, then the permit granted under this application may be found to be null and void. Applicant requires that as a condition to the granting of this assent, members of the CRMC or its staff shall have access to the applicants property to make on-site inspections to insure compliance with the assent. This application is made under oath and subject to the penalties of perjury.

PLEASE REVIEW REVERSE SIDE OF APPLICATION FORM

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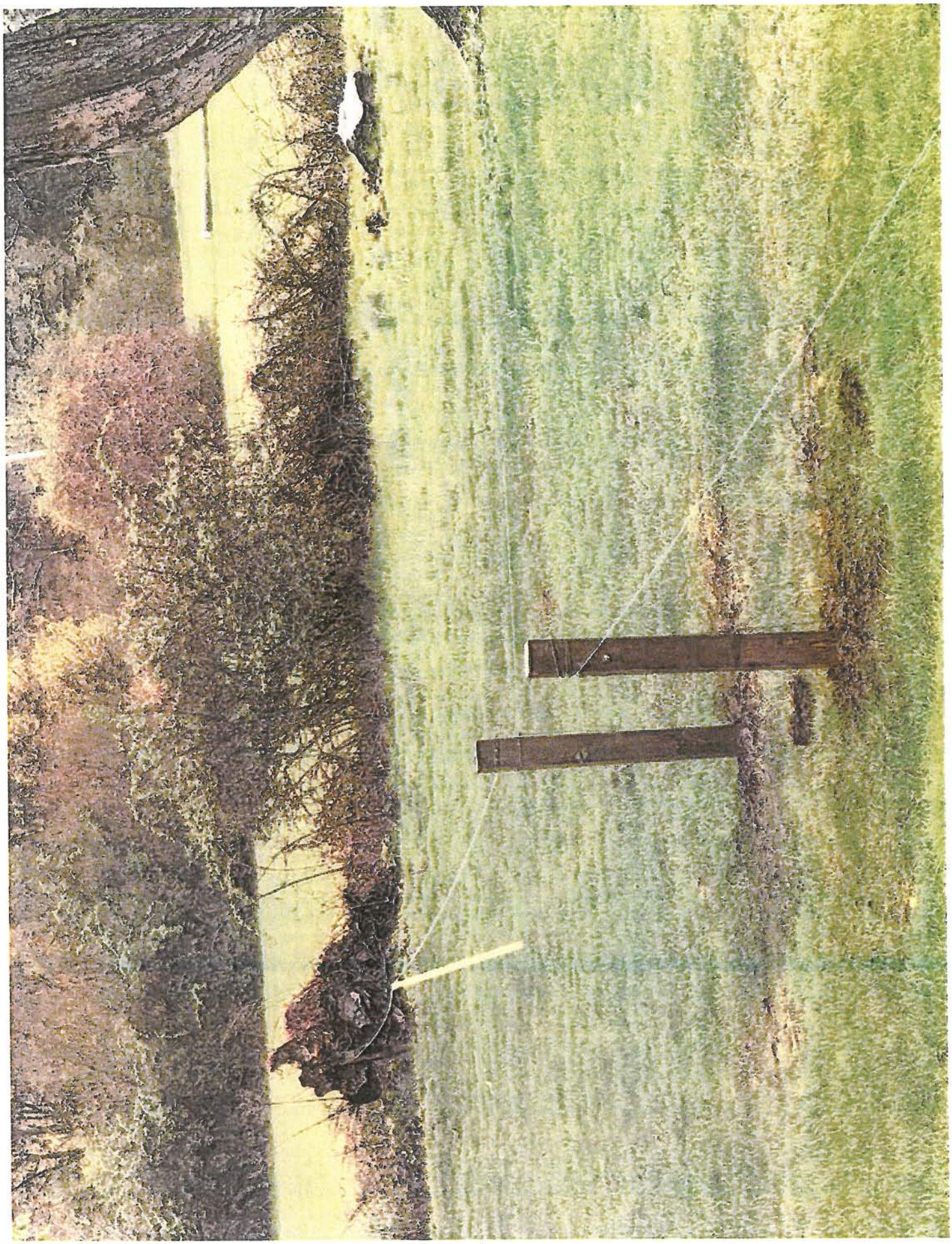

APPLICATION FOR RI CRMC ASSENT

RESIDENTIAL BOATING FACILITY

FOR
PAUL AND BETTINA KILLION
135 FERRY ROAD ROAD
BRISTOL, RI

PREPARED BY:
SITE ENGINEERING INC., BRISTOL, RI

JANUARY, 2019

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COASTAL RESOURCES MANAGEMENT COUNCIL REQUIREMENTS

RESIDENTIAL BOATING FACILITY

For
PAUL AND BETTINA KILLION
135 Ferry Road
Bristol, RI

Prepared By
Ron Blanchard, P.E.

PROJECT DESCRIPTION

The project involves construction of a new residential fixed wood dock, ramp and floating dock with an overall length of approximately 184.7'. In accordance with CRMP requirements, the fixed dock portion of the facility would be 4' wide (between pilings), the floating dock will be 150 SF. However, a variance is required to 128' beyond MLW. The variance would allow for a water depth of approximately 2' at MLW. Variance criteria for the proposed extension beyond 50' MLW are addressed below.

RELATED SECTIONS

The project is within Type 2 waters of Bristol Harbor. The location is shown on the Bristol Quadrangle Map. Reference is made to the most recent version of Coastal Resources Management Program and any subsequent amendments. Applicable sections for water use and project type are addressed in detail as follows.

Section 1.1.7: Variances

As outlined under the project description the project would require a variance. Due to existing conditions at the site, the dock would be required to extend to approximately 128' beyond MLW in order to have an approximate water depth of just 2' at MLW at the mid-point of the float.

1. As outlined herein, and in the plan drawing which accompanies this application, with exception of the variance requested, the project conforms to all applicable goals and policies of Parts Two and Three of the CRMP.

2. The proposed project will not result in any significant adverse environmental impacts or use conflicts. The relatively narrow width of the proposed dock will not block light penetration into the water. Although some temporary disturbance will result from pile driving operations the piles will become a site for marine growth. Coastal wetlands are present at the site and cannot be avoided. **Even with the variance granted for the additional length, the dock would be no further out than a line between the existing dock to the north and a dock recently permitted (2015) to the south**. The proposed structure would thus not interfere with any navigation channels.

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3. Conditions at the site are such that the standard cannot be met. Conforming to the 50' beyond MLW would provide less than 1.0' of water at MLW. This would result in water depth that would make the dock unusable in lower tide situations, and would also not meet the requirement for minimum of 18" of water at MLW. The applicants have a boat(s) drafting approximately 2' of water. Restricting the applicant to the 50' beyond MLW limit would therefore have a negative impact on the intended project purpose.

4. Extension to 128 beyond MLW is considered the minimum required to relieve the hardship. A depth of approximately 2' of water at mean low tide would assure sufficient water to accommodate the applicant's boat(s) under almost all tidal conditions (with exception of moon low conditions), and would thus allow reasonable use of the facility. A depth of less than 2' at MLW would create a hindrance to boating operations and would therefore have an adverse affect on the intended purpose of the project. **It should also be noted that there are many rocks existing out to approximately the 2' water depth and extension to the 2' depth would help to avoid these hazards.**

5. The existing conditions at the site are those that naturally occur and are not a result of the any prior action of the applicant. The site is in a shoal area where water depths are shallow. It should be noted that, when considering the projection from the shoreline, the proposed dock would be less further out than a line connecting the dock to the north and the dock, as permitted, to the south. When considering the dock as permitted to the south, the request is consistent with other permitted structures (note that existing pilings for the previously existing pier to the south are still in place).

6. Compliance with the requirement would cause the applicant an undue hardship. Conforming to the 50' beyond MLW standard would provide less than the required 18" of water at low tide. This would result in substantial restrictions on boating operations. As proposed, the dock would have just 2' of water at MLW at the mid-point of the float and would also be just beyond rocks that are present in the area. The 2' of water depth would thus allow reasonable use of the facility where less than that would be a hinderance to boating operations and could also create a hazard.

B. Subdivisions do not apply to this project.

C. As stated under item 1. above, the project complies with all other requirements of the CRMP.

D. The possibility of variance from the local municipality, which would obviate the need for a CRMC variance, is not applicable to this project.

Section 1.2.1 B: Type 2 Low-Intensity Use

Policies

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a. The project would provide for low-intensity use for recreational boating purposes and would not detract from the Council's goal of maintaining this area for scenic value, water quality, and natural habitat.

b. Dredging, marinas etc., are not applicable to this project.

c. Residential boating facilities may be permitted in Type 2 waters. 1. Coastal wetlands are present at the project location and cannot be avoided. 2. Access to the site is available from the water as well as from land. It is planned to install all driven piles from the water using barge mounted machinery. 3. The proposed dock is also sufficiently elevated above the high water line (just below the wetlands) so as to allow passage along the shore in most tidal conditions***, and would therefore not interfere with other public uses of the shoreline. 4. Dock length is not in accordance with CRMC requirements however a variance is requested for greater than 50' beyond MLW.

*** Due to irregularities along the shore line, the public generally does not walk along this area, below the high water line.

d. As described in Section 330, the scenic quality of the area will be maintained.

e. Stormwater runoff and/or poorly flushed estuaries are not applicable to this project

f. The project is not contiguous to a public park or beach, however, as outlined above, the facility will not interfere with public use of the area.

Section 1.3.1 D: Recreational Boating Facilities

1. Policies

a. Application process and necessary requirements have been taken into account.

c. The USCG authority over navigation is recognized. The project is not near any navigation channels. Therefore, the project would not have any adverse effect on navigation.

d.,e. Harbor management plans and cooperative agreements and/or dockominums etc., are not applicable to this project

f.,g.,h. The project does not propose to repair a structure that has been more than 50% destroyed.

i. No outhauls exist on this site.

3. Residential Boating Policies

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a. Registration of this new residential boating facility is requested as part of the application submission and the registration plate will be posted upon completion of construction.

b. The facility is not intended to service a number of users.

c. The project has been designed to adequately withstand wave and high wind conditions such that risk of storm damage would be minimized to the maximum extent practicable.

d.,e.,f. The facility is contiguous to a private residence.

g. Limited recreational boating facilities are not applicable to this project.

h. Type I waters are not applicable to this project.

4. Prerequisites

The proposed structure conforms to requirements to remain a minimum of 25' from property line extensions.

6 Residential Boating Prerequisites

a-f This application is submitted for review by the dock subcommittee with request for a length variance.

7. Prohibitions

None of the prohibitions outlined in the CRMP will be violated as a result of the project.

8. Standards

a. Site plan drawings accompany this application package. The MLW was established by setting the reference elevation to the exact tide level, during the exact time of low tide on the date the site was surveyed, such that the MLW would be set at zero. Use of nearest tide station and information on predicted tides from reference (via the internet) tide prediction sites were employed.

b. A Registered Professional Engineer in the State of Rhode Island has designed and certified this package

c. All structural elements have designed in accordance with appropriate design references and/or standard engineering practices.

d. Standards for Section 1.3.1 R (SAVs) have been addressed in this narrative.

11. Residential Docks, Piers and Floats Standards

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a. The minimum design criteria of Table 3 have been addressed in the design of the proposed dock structure. The design plans have been certified by a Professional Engineer licensed in the State of Rhode Island.

b. A detailed bathymetric/topographic survey, including features of the shoreline, vegetation, location of all existing and/or proposed access ways, etc., have been indicated on design plans.

c. The fixed portion of the proposed structure is capable of supporting a live load of 40 lbs/SF. The proposed floating dock will support a uniform load of 20 lbs/SF or a concentrated load of 400 lbs.

d. No creosote shall be applied to any portion of this structure.

e, f, k, p, q, v.These items are addressed on the site plan drawings that accompany this application package.

g. Coastal wetlands are present at the site and cannot be avoided.

h, o. The facility would be properly maintained once constructed. The owner would undertake minor repairs to the dock as required such as decking replacement etc. No alterations to the design or expansion of the facility would take place without a new Assent. If pile replacement becomes necessary, then an application for Maintenance would be submitted.

i. The dock includes a floating dock and ramp.

j, m, n, s, x. These items are not applicable to this project.

k. The dock as proposed does not intrude within the 25 foot extension of abutting property line.

r. Geologic conditions at the site are anticipated to be acceptable for a structure of this type.

t. The dock has been located in reference to existing property lines with margin of error allowed for in the setback distance.

(7)

u. Design standards described in Table 3 have been followed.

w. Standards for Section 1.3.1 R (SAVs) have been addressed in this narrative.

y. The dock will be constructed using standard marine grade construction practices.

12. Residential Docks with Excessive Fetch Standards

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Not applicable to this project.

Section 1.3.1 R: Submerged Aquatic Vegetation and Aquatic Habitats of Particular Concern.

General

The bathymetric survey was conducted at low tide and the bottom was visible during the survey. No eelgrass or other Submerged Aquatic Vegetation (SAV) was found in the area of the proposed structure. Also, in general, SAVs are nor found in the upper reaches of the bay or rivers.

Section 1.3.5: Guidelines for the Protection and Enhancement of the Scenic Value of the Coastal Region

General Guidelines

1. Visual character will be maintained, as the proposed wood pier is consistent with water use that includes residential docks.

2.&3. The project will not obstruct views to and across the water. The skyline will not be altered or disrupted in any way as a result of the project. The project will not in any way degrade the scenic value of the area.

4. The site is not adjacent to a historic feature.

In and Adjacent to Type 1,2&4 Waters

1., 2.,3.,4.,&5 These guidelines seem to apply to structures and dwellings and not to boating facilities, therefore these items are not applicable to this project.

CONCLUSION

With exception of extension to 128' beyond MLW for which a variance has been requested, the project conforms to all standards of 1.3.1 D. The project does not present any impact to aquatic life, current flow or water quality. The project does not otherwise present any significant adverse effects to Rhode Island's coastal resources.

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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
HISTORICAL PRESERVATION & HERITAGE COMMISSION
Old State House • 150 Benefit Street • Providence, R.I. 02903-1209
TEL (401) 222-2678 FAX (401) 222-2968
TTY / Relay 711 Website www.preservation.ri.gov

Jennifer R. Cervenka, Chair
Coastal Resources Management Council
Stedman Government Center, 4808 Tower Hill Road
Wakefield, RI 02879

CRMC File Number: 2019-01-074

Applicant: P. and B. Killion

Town: Bristol

Response Date: 2/4/19

Dear Ms. Cervenka,

The Rhode Island Historical Preservation & Heritage Commission has reviewed the above- referenced project. It is our conclusion that this project will have no effect on any significant cultural resources (those listed on or eligible for listing on the National Register of Historic Places).

These comments are provided in accordance with Section 220 of the Coastal Resources Management Plan. If you have any questions, please contact Jeff Emidy, Project Review Coordinator, or Charlotte Taylor, Senior Archaeologist, at this office.

Very truly yours,

Charlotte Taylor for

J. Paul Loether
Executive Director, RIHPHC
State Historic Preservation Officer

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State of Rhode Island and Providence Plantations
Coastal Resources Management Council
Oliver H. Stedman Government Center
4808 Tower Hill Road, Suite 3
Wakefield, RI 02879-1900

(401) 783-3370
Fax (401) 783-2069

PUBLIC NOTICE

File Number: 2019-01-074 Date: January 30, 2019

This office has under consideration the application of:

Paul & Bettina Killion
135 Ferry Road
Bristol, RI 02809

for a State of Rhode Island Assent to construct and maintain: A residential boating facility consisting of a 4' x 30' ramp, 4' x 120' fixed timber pier, 3' x 20' access ramp and 10' x 15' (150sf) terminal float. The entire facility extends ~128' seaward of the cited MLW mark and requires a 78' length variance to RICRMP Section 1.3.1(D).

Project Location:	135 Ferry Road
City/Town:	Bristol
Plat/Lot:	165 / 10
Waterway:	Bristol Harbor

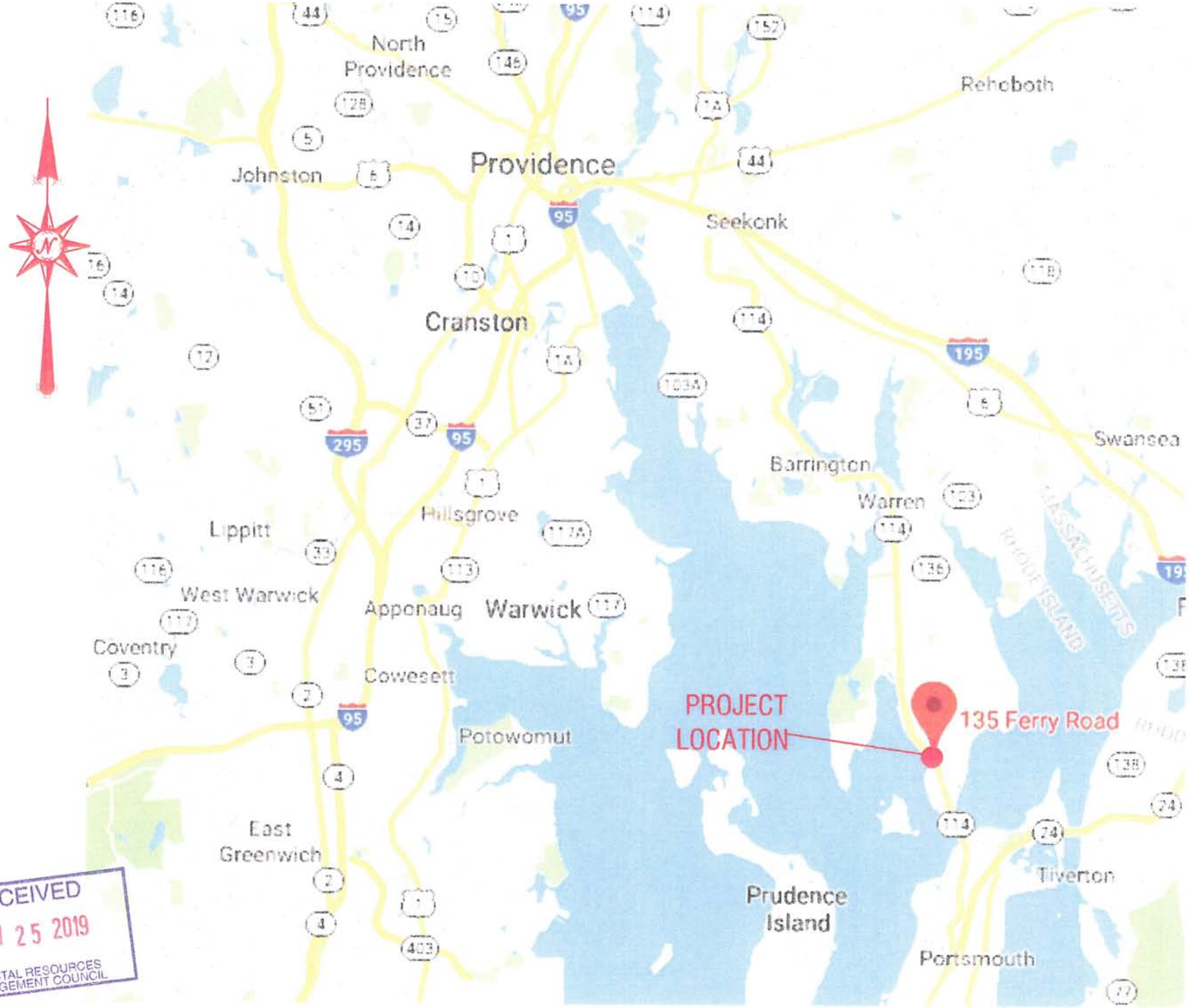
Plans of the proposed work may be seen at the CRMC office in Wakefield.

In accordance with the Administrative Procedures Act (Chapter 42-35 of the Rhode Island General Laws) you may request a hearing on this matter.

You are advised that if you have good reason to enter protests against the proposed work it is your privilege to do so. It is expected that objectors will review the application and plans thoroughly, visit site of proposed work if necessary, to familiarize themselves with the conditions and cite what law or laws, if any, would in their opinion be violated by the work proposed.

If you desire to protest, you must attend the scheduled hearing and give sworn testimony. A notice of the time and place of such hearing will be furnished you as soon as possible after receipt of your request for hearing. If you desire to request a hearing, to receive consideration, it should be in writing (**with your correct mailing address, e-mail address and valid contact number**) and be received at this office on or before March 1, 2019.

/lat



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LOCUS PLAN
NTS

GENERAL SPECIFICATIONS:

IN THE EVENT THAT ANY PILE PENETRATION CANNOT BE ATTAINED THE CONTRACTOR SHALL CONTACT THE DESIGN ENGINEER. FOR ANY LOCATION WHERE PILE DEPTH CAN NOT BE ACHIEVED THE CONTRACTOR SHALL RECORD THOSE LOCATIONS AND SUBMIT RECORDS TO THE DESIGN ENGINEER.

ALL WOOD PILINGS SHALL BE 12" DIAMETER SOUTHERN PINE WITH A MINIMUM TIP DIAMETER OF 6". MINIMUM PILE DIAMETER AT MUDLINE SHALL BE 10". PRESSURE TREATMENT SHALL BE 2.5 LB/FT³ CCA. PILES SHALL BE DRIVEN TO DEPTHS AS INDICATED ON THE PLAN. PILES MAY BE DRIVEN USING A VIBRATORY HAMMER AS LONG AS THE MINIMUM PILE PENETRATION CAN BE ATTAINED.

ALL OTHER STRUCTURAL MEMBERS SHALL BE SOUTHERN PINE OR EQUIVALENT. MINIMUM TREATMENT FOR CROSS BRACING SHALL BE 2.5 LB/FT³ OF CCA. DIAGONAL BRACING SHALL NOT BE CUT BELOW THE MHW LINE. ALL CUTTING OF SUCH MEMBERS SHALL BE DONE ON THE END ABOVE MHW FOR ALL OTHER MEMBERS (STRINGERS, HEADERS, WOOD DECKING AND ANY POST OR RAILS) TREATMENT SHALL BE 0.6 LB/FT³ CCA.

ALL METAL CONNECTION MATERIALS SHALL BE HOT DIPPED GALVANIZED. BOLTS SHALL BE A MINIMUM OF 304SS STEEL. ALL BOLTED CONNECTIONS FOR HEADERS AND BRACING MEMBERS SHALL BE LOCATED A MINIMUM OF 4" FROM THE END OF THE MEMBER, AND 3" FROM THE EDGE OF THE MEMBER. MEMBERS THAT ARE SPLIT OR CRACKED IN THE AREA OF THE BOLT LOCATION SHALL NOT BE USED. FOR ALL 1" BOLTS PROVIDE 2" ENGINEERS BOW WASHERS.

DECKING FOR FIXED DOCK SHALL BE 5/4"x6" COMPOSITE OR WOOD MEMBERS. FASTENERS FOR DECKING SHALL BE 3/8" GALVANIZED STEEL SCREWS TWO AT EACH ATTACHMENT LOCATIONS.

FLOATING DOCK SHALL BE OF WOOD CONSTRUCTION AND HAVE APPROXIMATELY 15" FREEBOARD AND 6" DRAFT. DECKING SHALL BE 5/4"x6" COMPOSITE. FLOATING DOCKS SHALL HAVE HEAVY DUTY SIDING AND OUTSIDE CORNER HARDWARE AT EACH CORNER LOCATION (FOLLANSBEE SS-C AND SS-R OR EQUAL). ANGLE CLIPS (FOLLANSBEE RND-A OR EQUAL) SHALL BE PROVIDED FOR INTERIOR STRUCTURAL MEMBERS AS INDICATED. CLIPS SHALL BE FASTENED USING 3"x0.13" GALVANIZED LAG BOLTS INTO EACH CONNECTING MEMBER.

FLOAT DRUMS SHALL BE FOAM FILLED POLYETHYLENE WITH UV INHIBITORS AND SHALL HAVE STRUCTURAL MOUNTING FLANGES. DESIGN IS BASED ON FLOAT DRUMS AS MANUFACTURED BY "CUSTOM FLOATS." ANY PROPOSED SUBSTITUTES SHALL BE APPROVED BY THE DESIGN ENGINEER.

SECURE FLOAT DRUMS AT ALL EDGES IN CONTACT WITH STRUCTURAL MEMBERS. FOLLOW MANUFACTURES SPECIFICATIONS. 3/8" LAG BOLTS WITH 1.5" EMBEDMENT AND 1" PENETRATION INTO STRUCTURAL MEMBER SHALL BE A REQUIRED MINIMUM. WHERE TWO DRUMS MEET ON THE SAME STRUCTURAL MEMBER, USE ONE FASTENER FOR EACH DRUM.

PILE HOLDERS FOR FLOATING DOCK PILES SHALL BE HEAVY DUTY GALVANIZED, CHAIN TYPE FOR USE WITH 12" PILINGS (FOLLANSBEE PH-C OR EQUAL). PLACEMENT OF ALL PILES SHALL BE SO AS TO ALLOW FLOAT TO BE TIED OFF FROM PILINGS SUCH THAT NO CONTACT WITH PILINGS OCCURS.

AS AN ALTERNATIVE, PILE HOLDERS FOR FLOATING DOCK MAY BE HEAVY DUTY GALVANIZED, SINGLE ROLLER TYPE FOR USE WITH 12" PILINGS (FOLLANSBEE PH-SR-R OR EQUAL). PLACEMENT OF ALL PILES SHALL BE SO AS TO ALLOW MOVEMENT OF THE FLOAT TO AVOID EXCESSIVE RUBBING OF HOOPS.

SECURE PILE HOLDERS TO FLOATING DOCK WITH 4-3/8" THROUGH BOLTS (IN HORIZONTAL DIRECTION) AND 4-3/8" LAG BOLTS (VERTICAL DIRECTION). USE 3"x10" SPACE BLOCK BEHIND OUTSIDE MEMBER TO PROVIDE ADEQUATE WIDTH FOR FASTENING. USE METAL BACKER PLATES FOR 3/8" THROUGH BOLTS.

CLEATS SHALL BE PROVIDED FOR FLOATING DOCK, TWO ON EACH SIDE 1' FROM EACH END. CLEAT SIZE SHALL BE 10" (FOLLANSBEE C-10-H OR EQUAL) AND SHALL BE FASTENED TO WOOD MEMBERS USING CLEAT ANNULS.

A 100% BUMPER STRIP SHALL BE PROVIDED ALONG THE OUTBOARD SIDE OF THE FLOATING DOCK. BUMPER STRIP SHALL BE AS MANUFACTURED BY "FOLLANSBEE" MODEL VRS-2 OR EQUAL.

RAMP SHALL BE ALUMINUM AND CONSTRUCTION SHALL BE BY MANUFACTURER REGULARLY ENGAGED IN THE TRADE. RAMP SHALL BE CONNECTED TO FIXED PORTION OF DOCK AS RECOMMENDED BY MANUFACTURER. ROLLER ASSEMBLY AT FLOATING DOCK SHALL BE 2" DIAMETER BY 6" WIDE SMALL ROLLER TYPE, INSTALL PLASTIC OR METAL SHEET TO DECK, FOR ROLLERS.

UTILITY SPECIFICATIONS:

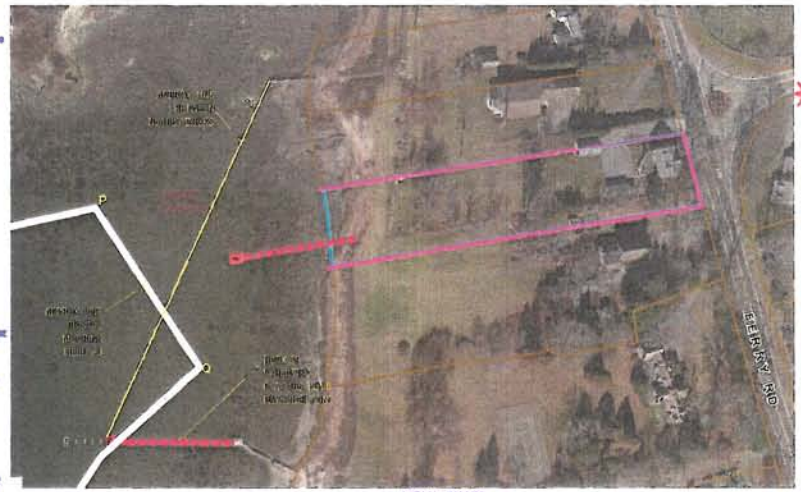
ALL UTILITY WORK SHALL BE PERFORMED BY LICENSED CONTRACTORS IN THEIR RESPECTIVE TRADES. ALL WORK SHALL MEET REQUIREMENTS OF THE CURRENT STATE BUILDING CODES.

ELECTRICAL WIRE SHALL BE USED BY THE ELECTRICAL CONTRACTOR. WIRE SHALL BE ENCASED IN PVC CONDUIT SUITABLE FOR MARINE APPLICATION. INSTALL OUTDOOR-TYPE, MARINE GRADE, DOUBLE RECEPTACLE AT END OF PIER AS INDICATED.

WATER LINE SHALL BE 3/4" POLYPHOLEN TUBING AS MANUFACTURED BY "AQUAPEX" OR EQUAL. INSTALL SUITABLE BACKFLOW PREVENTER AT EITHER EXISTING DWELLING OR PER HEAD AS REQUIRED BY CODE. PROVIDE DRAIN AT PER HEAD TO ALLOW REMOVAL OF WATER FROM THE LINE DURING THE WINTER MONTHS. INSTALL SPIGOT AT END OF PIER AS INDICATED.

ELECTRIC/WATER UTILITY LINES SHALL BE CONNECTED AT EXISTING DWELLING. LINES SHALL BE BURIED A MINIMUM DEPTH OF 12" ACROSS EXISTING LAWN AREA. UTILITIES SHALL BE SECURED TO UNDERSIDE OF PIER AS INDICATED, WITH GALVANIZED METAL FASTENERS EVERY 8' ON CENTER.

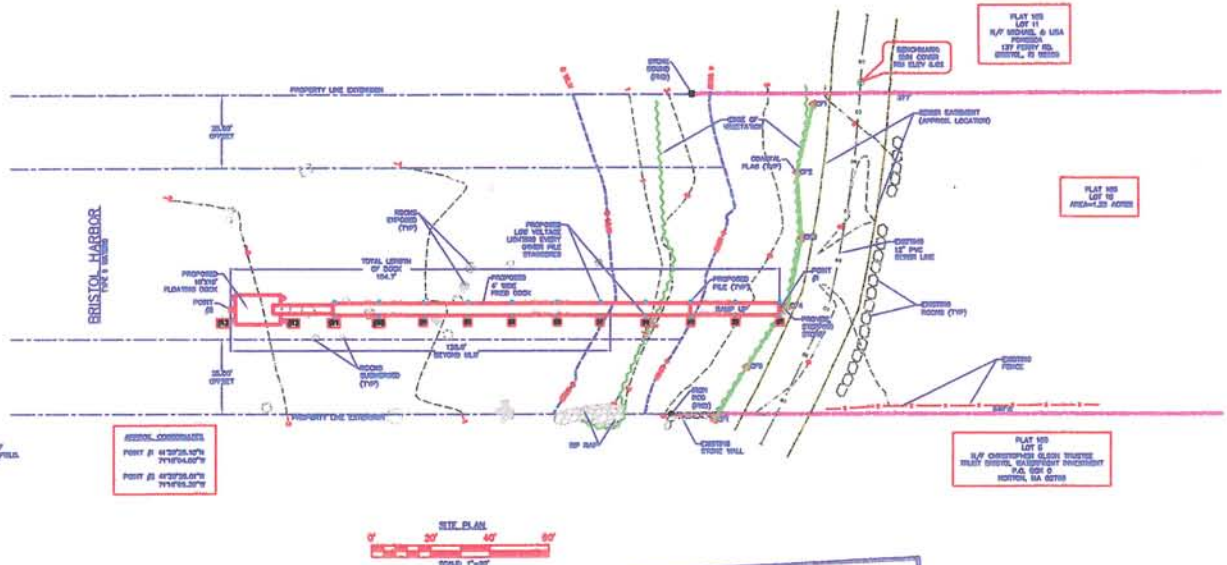
LOW VOLTAGE LIGHTING SHALL BE PROVIDED ALONG THE DOCK AS INDICATED. LIGHTING TYPE TO BE PROPOSED BY CONTRACTOR. INCLUDE LOW VOLTAGE WIRING IN ELECTRICAL CONDUIT OR SEPARATE CONDUIT AS REQUIRED BY CODE.



AERIAL PHOTO

LOCUS PLAN

BRISTOL, RI GIS PLAT MAP #165



NOTE:
PROPOSED DOCK IS OUTSIDE OF THE BRISTOL COVE MOORING FIELD. THE CLOSEST COORDINATES OF MOORING FIELD ARE:
A: 41°39'28.39"N 71°16'05.39"W
B: 41°39'28.18"N 71°16'05.39"W

APPROX. COORDINATES
POINT A: 41°39'28.10"N 71°16'04.60"W
POINT B: 41°39'28.08"N 71°16'05.39"W

SITE PLAN
0' 20' 40' 80'
SCALE 1"=20'

NOTES:
ALL MOORINGS FOUND WITHIN 50' OF END OF PROPOSED DOCK HAVE BEEN SHOWN ON PLAN

DATUM:
REFERENCE DATUM IS MEAN LOW WATER

REFERENCE PLAN:
-TOWN OF BRISTOL, RI
TAX ASSESSORS' GIS PLAT MAP 165

SITE ADDRESS/OWNER:
PAUL & BETTINA KILLION
135 FERRY RD.
BRISTOL, RI 02809

NOTE HERE:
THIS SITE PLAN IS THE RESULT OF A LIMITED TOPOGRAPHIC SURVEY BY SEI. LOT LINES ARE PER APPLICABLE REFERENCE PLANS. THIS PLAN DOES NOT REPRESENT A BOUNDARY (CLASS I) SURVEY, WHICH CAN ONLY BE DONE BY A LICENSED LAND SURVEYOR.

RON T. BLANCHARD
No. 9016
REGISTERED PROFESSIONAL ENGINEER

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JAN 25 2019
COASTAL RESOURCES MANAGEMENT COUNCIL

DESIGN.	RB		
DR.	VS		
CHK.	RB		
DATE: 12/21/18			

REVISIONS

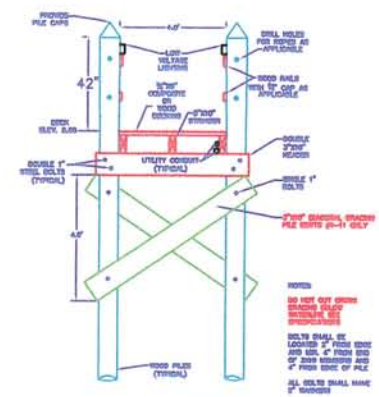
SITE ENGINEERING INC. SEI
CIVIL • COASTAL • ENVIRONMENTAL
75 SOUTH STREET
BRISTOL, RI 02809
PHONE: (401) 253-0051

SITE PLAN AND SPECIFICATIONS
RESIDENTIAL BOATING FACILITY
PLAT 165, LOT 10
BRISTOL, RHODE ISLAND

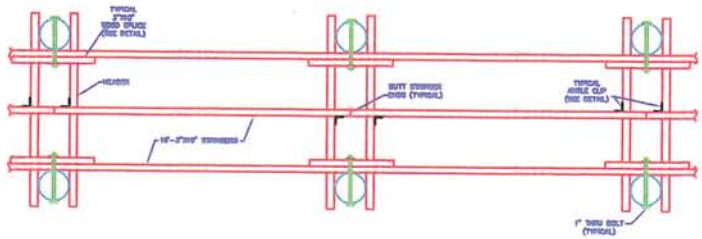
SCALE AS NOTED

DK-1

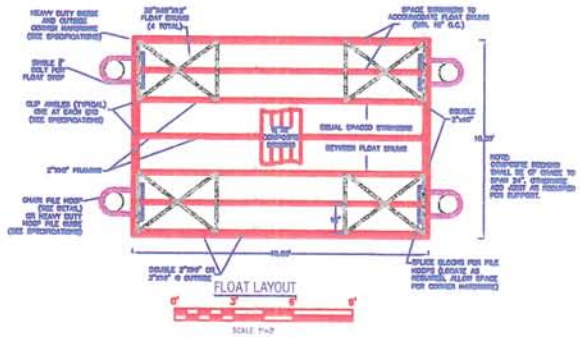
P22



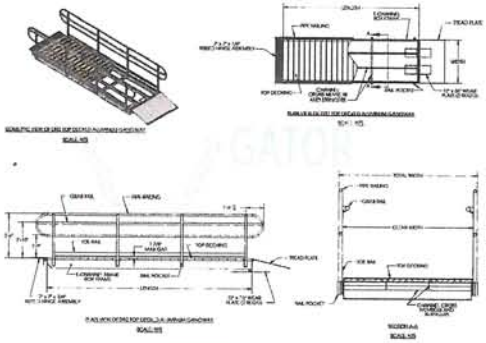
TYPICAL CROSS SECTION
NOT TO SCALE



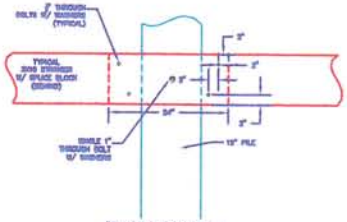
TYPICAL STRINGER LAYOUT
NOT TO SCALE



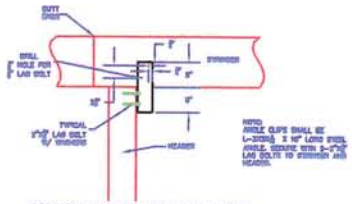
FLOAT LAYOUT
SCALE: 1"=2'



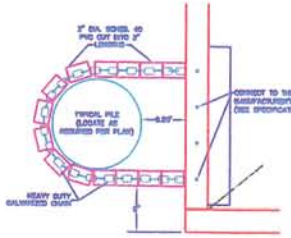
PROPOSED ALUMINUM RAMP
NOT TO SCALE



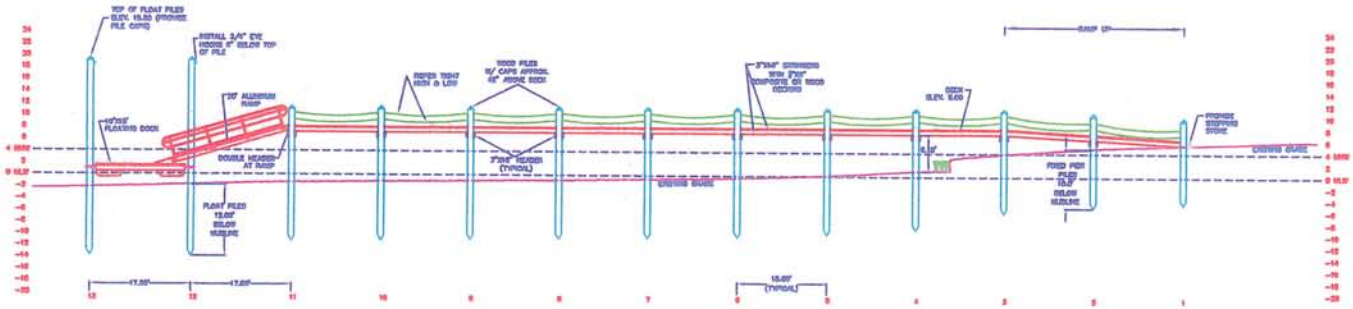
SPLICE BLOCK DETAIL
NOT TO SCALE



STRINGER/HEADER CONNECTION DETAIL
NOT TO SCALE



CHAIN HOOP DETAIL
SCALE: 1.5"=1'



NOTE:
FLOOD ZONE AE VE (EL 10) MIN.
HEIGHT OF FLOAT PILES=15+(FLOAT TO MSL)+1.5(FREEBOARD)+(-1'=10.50

DOCK PROFILE
SCALE: 1"=10'

NOTE:
ALL FIXED PIER PILES SHALL BE DRIVEN 10' BELOW MUDLINE.
ALL FLOAT PILES SHALL BE DRIVEN 13' BELOW MUDLINE.

RECEIVED
JAN 25 2019
COASTAL RESOURCES MANAGEMENT COUNCIL

SITE ADDRESS/OWNER:
PAUL & BETTINA KILLION
135 FERRY RD.
BRISTOL, RI 02809

RON T. BLANCHARD
No. 6018
REGISTERED PROFESSIONAL ENGINEER

REVISIONS

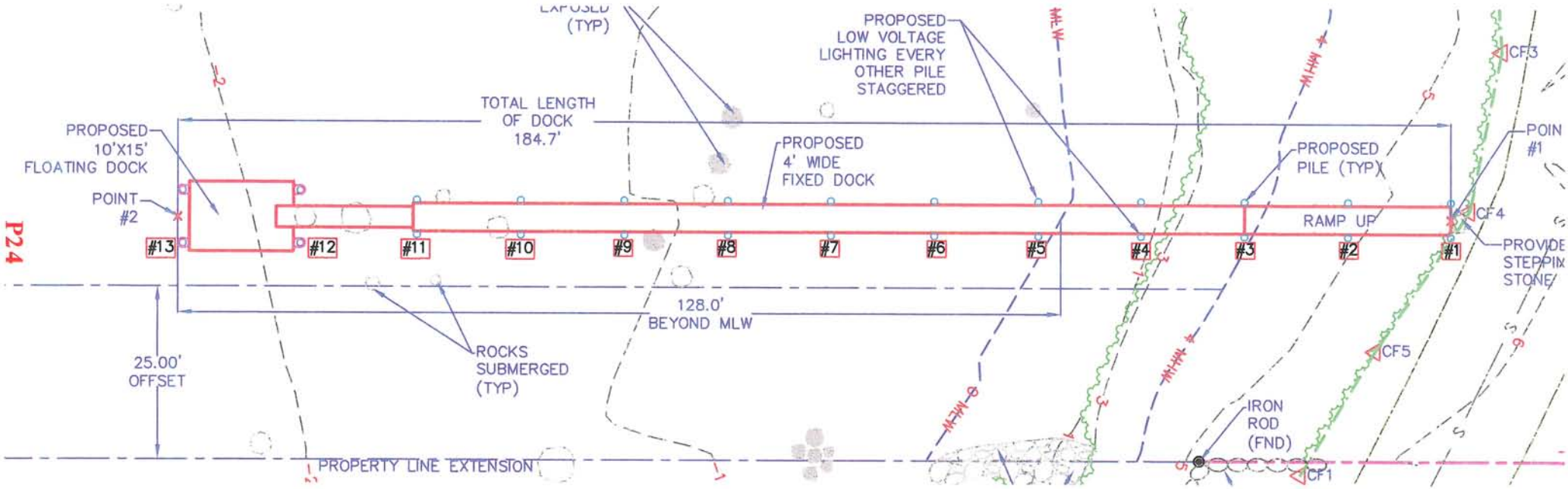
DSGN. RB
DTL. VS
CHK. RB
DATE: 12/17/18

SITE ENGINEERING INC. SEI
CIVIL - COASTAL - ENVIRONMENTAL
75 SOUTH STREET
BRISTOL, RI 02809
PHONE: (401) 253-0051

DOCK PROFILE & DETAILS
RESIDENTIAL BOATING FACILITY
PLAT 165,LOT 10
BRISTOL, RHODE ISLAND

SCALE AS NOTED
(SHEET 2 OF 3)
DK-2

P23



P24

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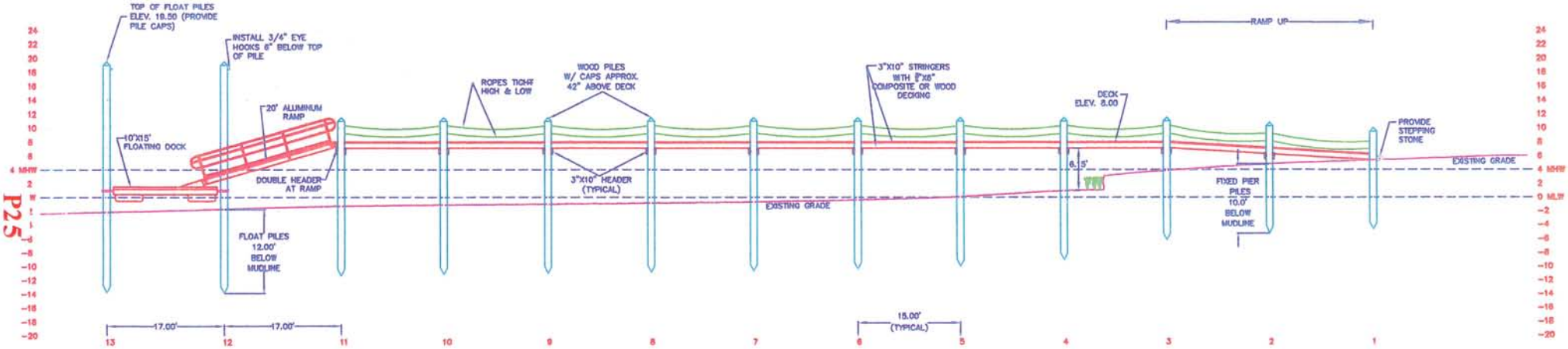
MANAGEMENT COUNCIL



NOTE:
FLOOD ZONE IS VE (EL 15) MSL.
HEIGHT OF FLOAT PILES=15+2'(MLW TO MSL)+1.5'(FREEBOARD)+1'=19.50

DOCK PROFILE

0' 10' 20' 30'

SCALE: 1'=10'

NOTE:
ALL FIXED PIER PILES SHALL BE DRIVEN 10' BELOW MUDLINE.

ALL FLOAT PILES SHALL BE DRIVEN 12' BELOW MUDLINE.

P25

RECEIVED
JAN 25 2019
COASTAL RESOURCES MANAGEMENT COUNCIL

PROPOSED RULEMAKING BEFORE THE FULL COUNCIL FOR DECISION:

State of Rhode Island and Providence Plantations
Coastal Resources Management Council
Oliver H. Stedman Government Center
4808 Tower Hill Road, Suite 3
Wakefield, RI 02879-1900

(401) 783-3370
Fax (401) 783-3767

PUBLIC NOTICE

Pursuant to R.I. Gen. Laws § 42-35-2.8 the Rhode Island Coastal Resources Management Council (CRMC) issued public notice for rule-making on June 12, 2019 for amendments to **650-RICR-20-05-11**, Policies of the Ocean Special Area Management Plan (SAMP), and held a public hearing at 6:00 p.m. on June 23, 2019 in Conference Room A at the Department of Administration, One Capitol Hill, Providence, RI to afford the public an opportunity to offer comments on the proposed rule-making.

The CRMC hereby gives written public notice pursuant to R.I. Gen. Laws § 42-46-6 that the Council will deliberate on the proposed amendments to **650-RICR-20-05-11**, consider written comments filed in this matter, CRMC staff recommendations, and vote on the proposed amendments. Having provided an opportunity for public comment at a public hearing held on June 23, 2019, the Council will not consider public testimony at this meeting.

A copy of the public notice for rule-making and the proposed amendments to the Ocean SAMP at 650-RICR-20-05-11 is available on the Rhode Island Secretary of State's web site at: https://rules.sos.ri.gov/promulgations/part/650-20-05-11.

The meeting as set forth above is scheduled for **July 23, 2019 at 6:00 p.m.** in Conference Room A at the Department of Administration, One Capitol Hill, Providence, RI. The room is accessible to the disabled and persons requesting interpreter services for the hearing impaired must notify the Council office at 401-783-3370 or RI 711 at least three (3) business days in advance of the hearing date so that such assistance can be provided at no cost to the person requesting. Further information may be obtained by contacting the Coastal Resources Management Council offices at 783-3370.

Signed this 16th day of July, 2019.

Jeffrey M. Willis, Deputy Director
Coastal Resources Management Council

CRMC

COASTAL RESOURCES MANAGEMENT COUNCIL

Memorandum

To: Jennifer Cervenka, CRMC Chair and Council members

From: James Boyd, CRMC Coastal Policy Analyst

Date: July 17, 2019

Re: **Ocean SAMP Chapter 11 - 650-RICR-20-05-11** – Proposed amendments for Council consideration

The CRMC issued a **public notice** for rule-making on **June 12, 2019** for proposed amendments to Ocean SAMP - Chapter 11 - Policies of the Ocean SAMP (650-RICR-20-05-11). The June 12, 2019 amendment document is a product of several iterations and the assistance of NOAA staff over the last several months. Following the public notice, CRMC staff held a **public workshop on June 17, 2019** at Corless Auditorium, URI Bay Campus to discuss the proposed amendments. There were nine (9) attendees at the workshop: three (3) attorneys that represent the offshore wind industry; five (5) persons representing Rhode Island commercial fishing interests; and one (1) person representing a state non-governmental environmental organization. CRMC staff presented an overview of the proposed amendments, engaged in discussion with the workshop participants and answered questions.

The Council held a **public hearing** in this matter on **June 25, 2019** in conformance with R.I. Gen. Laws § 42-35-2.8. Public testimony was offered by one (1) person, a Rhode Island based energy and environmental lawyer. In accordance with the public notice, the 30-day public comment period closed on **July 12, 2019** and written comments were received from the following individuals:

Richard Fuka (RI Fishermen's Alliance) – June 18

Katie Almeida (The Town Dock) – June 24

Geri Eden (Morgan Lewis), representing Vineyard Wind – July 12

Robin Main (Hinckley Allen), representing Ørsted and Eversource – July 12

Gene Grace (American Wind Energy Association) - July 12

The written comments from the above parties are attached to this memorandum.

1. Amendments recommended to be deferred for further review and not adopted at this time

Following CRMC staff review and analysis of the written comments, it was determined that several proposed amendments need further discussion and refinement before consideration for adoption by the Council. CRMC staff intend to modify these sections partly based on the written comments, publicly notice any proposed revisions and proceed with rule-making action by the Council at a later date. **Accordingly, the following sections are recommended by CRMC staff not to be adopted as presented in the June 12, 2019 public notice and to remain unchanged from the currently effective rules:**

§ 11.9.4(C) – Proposed standards for wind farm design, including orientation, turbine spacing and navigation lanes;

§ 11.10.1(C) – Amendments to address significant long-term negative impacts and the process for considering mitigation options by the Council;

§ 11.10.1(E) – Amendments to add standards for adverse impacts and whether all feasible options have been evaluated for modifying a project before mitigation can be considered;

§ 11.10.1(O) – Amendments to add requirements for noise generated by construction and pile driving activities; and

§ 11.10.1(P) – Amendments to add requirements for cable burial associated with offshore development.

2. Minor revisions or technical corrections to proposed amendments recommended for adoption

CRMC staff also determined that some of the proposed amendments could be revised as recommended by the parties because they were minor changes or technical corrections and would not substantively change the meaning or the regulatory intent, but rather help clarify its intent and understanding by the public. These revisions to the publicly noticed regulations are shown below with the CRMC staff recommended revisions highlighted in yellow text. These proposed minor revisions appear to be consistent with, and a logical outgrowth of, the rules proposed in the CRMC June 12, 2019 public notice for rule-making without changing the intent or application of any definitions or rules. **Accordingly, the following proposed minor revisions are recommended by CRMC staff for Council approval.**

§ 11.3(E)(2)

2. Up to two (2) members ~~who are managers~~ representing Rhode Island seafood processing facilities; and

§ 11.8(A)(2)

2. The Council shall engage commercial and recreational fishermen in the Ocean SAMP decision-making process through the Fishermen's Advisory Board (FAB), as defined in § 11.3(E) of this Part. The FAB will provide the Council with advice on the potential adverse impacts of Offshore Development on commercial and recreational fishermen and fisheries activities, and on issues including, but not limited to, the evaluation and planning of project locations, arrangements, and alternatives; micro-siting (siting of individual wind turbines within an offshore wind farm to identify the best site for each individual structures); access limitations; and measures to mitigate the potential impacts of such projects. For more information on the FAB, see § 11.9.4(H) of this Part.

§ 11.9(C)

C. Any assent holder of a CRMC-approved offshore development, as defined in § 11.10.1(A) of this Part, shall:

§ 11.9(C)(3)

3. Acknowledge ~~Follow up~~, in writing, any oral request or notification made by the Council, within three (3) business days and follow up in writing on such request or notification within a reasonable period of time as determined jointly by the assent holder and CRMC considering the circumstances;

§ 11.9(C)(6)

6. Conduct all activities authorized by the ~~permit~~ assent in a manner consistent with the provisions of this document, the Rhode Island Coastal Resources Management Program ~~(Subchapter 00 Part 1 of this Chapter)~~, and all relevant federal and state statutes and~~,~~ regulations ~~and policies~~;

§ 11.9.4(H)

H. The Council shall appoint a standing Fishermen's Advisory Board (FAB) which shall provide advice to the Council on the siting and construction of other uses in marine waters. The FAB is an advisory body to the Council that is not intended to supplant any existing authority of any other federal or state agency responsible for the management of fisheries, including but not limited to the Marine Fisheries Council and its authorities set forth in R.I. Gen. Laws § 20-3-1 et seq. The FAB is defined in § 11.3(E) of this Part. When there are two members representing a fishing interest, only one vote may be cast on behalf of that interest. If the two members representing that fishery cannot agree on their vote then there shall be no vote for that fishery for the item under consideration. In any vote on a matter, there shall be no more than ~~6~~ 7 votes total for RI interests and no more than 3 votes total for MA interests. The FAB members may elect a chair and a vice-chair from amongst its members. In addition the FAB may establish rules governing its members such as a minimum number of meetings each member must attend to maintain standing as a member. FAB members shall serve four-year terms. The Council shall provide to the FAB a semi-annual status report on Ocean SAMP area fisheries related issues, including but not limited to those of which the Council is cognizant in its planning and regulatory activities, and shall notify the FAB in writing concerning any project in the Ocean SAMP area. The FAB shall meet not less than semi-annually with the Habitat Advisory Board and on an as-needed basis to provide the Council with advice on the potential adverse impacts

of other uses on commercial and recreational fishermen and fisheries activities, and on issues including, but not limited to, the evaluation and planning of project locations, arrangements, and alternatives; micro-siting (siting of individual wind turbines within an offshore wind farm to identify the best site for each individual structure); access limitations; and measures to mitigate the potential impacts of such projects on the fishery. In addition the FAB may aid the Council and its staff in developing and implementing a research agenda. As new information becomes available and the scientific understanding of the Ocean SAMP planning area evolves, the FAB may identify new areas with unique or fragile physical features, important natural habitats, or areas of high natural productivity for designation by the Council as Areas of Particular Concern or Areas Designated for Preservation.

§ 11.9.7(J)(1)

1. A goal for the offshore wind farm applicant and operator is to have operational noise from wind turbines average less than or equal to 100 dB re 1 μPa2 in any 1/3 octave band at a range of 100 meters at full power production.

§ 11.10.1(A)

A. All offshore developments regardless of size, including energy projects, which are proposed for or located within state waters of the Ocean SAMP area, are subject to the policies and standards outlined in §§ 11.9 and 11.10 of this Part. ~~(eExcept, as noted above,~~ Tthe Council shall not use § 11.9 of this Part ~~shall not be used~~ for CRMC concurrences or objections for CZMA federal consistency reviews~~)~~. For the purposes of the Ocean SAMP, offshore developments are defined as:

§ 11.10.9(A)

A. The Council in coordination with the Joint Agency Working Group, as described in § 11.9.7(J) of this Part, shall determine requirements for developing baseline assessments ~~monitoring prior to, during, and post construction~~as specified in § 11.9.9 of this Part. For CZMA federal consistency purposes the Council must identify any baseline assessments and construction monitoring activities during its CZMA six-month review of the COP. The Council cannot require monitoring actions after its CZMA review. A detailed commercial fisheries baseline assessment, as specified in § 11.9.9(E)(1) of this Part, shall be considered necessary data and information to be filed with the applicant's consistency certification for a CZMA review and to demonstrate compliance with this enforceable policy.~~Specific monitoring requirements shall be determined on a project-by-project basis and may include but are not limited to the monitoring of:~~

3. All other proposed amendments

With the exception of the amendments identified above in Section 1 to be deferred pending further review and discussion, including a subsequent public notice and Council action, CRMC staff recommends that all other amendments as proposed for rule-making in the June 12, 2019 public notice, including the minor changes and technical corrections identified above in Section 2, be considered for approval and adoption by the Council.

From:	Grover Fugate
To:	Jeff Willis; Jim Boyd; Dan Goulet; jskenyon@crmc.ri.gov; David Ciochetto; Anthony DeSisto; Jennifer Cervenka
Subject:	Fwd: Ocean SAMP Language Change :
Date:	Tuesday, June 18, 2019 11:38:41 AM
Attachments:	Language change.pdf Untitled attachment 00040.htm

Grover
Sent from my iPhone

Begin forwarded message:

From: richard fuka <captlobster@gmail.com>
Date: June 18, 2019 at 7:47:38 AM EDT
To: pbreslin@rilegislature.gov
Cc: gfugate@crmc.ri.gov, dbeutel@crmc.ri.gov
Subject: Ocean SAMP Language Change :

To all,

The new language changes of the Ocean SAMP in the Definitions section, 11.2 Line E number 2
where it speaks to the addition to two individuals to be added to the FAB are to be representatives of fish houses and are to be "managers" of fish houses is wrong.

Either the addition of the word "manager" was done just as a gross lack of understanding of how a fish house operates or the use of the word "manager" was done intentionally to exclude the fishery liaisons that are hired by the fish houses to do these very jobs such as participating on a Fisheries Advisory Board for the Rhode Island Ocean Special Area Management Plan.

I believe simply striking the word "manager" from the line in question can be done without any formal exercise to simply allow representation from two fish houses to participate on the FAB as the fish houses see fit.

Look forward to hearing from all.

Rich Fuka
President
RI Fishermen's Alliance

11.3 Definitions

A. "Certified verification agent" or "CVA" means an independent third-party agent that shall use good engineering judgment and practices in conducting an independent assessment of the design, fabrication and installation of the facility.

B. "Construction and operations plan" or "COP" means a plan that describes the applicant's construction, operations, and conceptual decommissioning plans for a proposed facility, including the applicant's project easement area.

C. "Ecosystem based management" or "~~EMB~~EBM" means an integrated approach to management that considers the entire ecosystem, including humans. The goal of EBM is to maintain an ecosystem in a healthy, productive and resilient condition that provides the services humans want and need.

D. "Enforceable policy" means State policies which are legally binding through constitutional provisions, laws, regulations, land use plans, ordinances, or judicial or administrative decisions, by which a State exerts control over private and public land and water uses and natural resources in the coastal zone.

E. "Fishermen's Advisory Board" or "FAB" means an advisory body to the Council that shall be comprised of up to ~~eighteen (twenty)~~ (~~18/20~~) total members, to include the following:

STRIKE THE WORD MANAGER

1. Up to two (2) members representing each of the following six Rhode Island fisheries: bottom trawling; ~~scallop dredging; gillnetting; lobstering~~; party and ~~charter boat~~ fishing; and recreational angling; ~~and~~

2. Up to two (2) members ~~who are managers representing~~ Rhode Island seafood processing facilit~~ies~~; and

~~23.~~ ~~Up to six (6) members~~, who are Massachusetts fishermen who fish in the Ocean SAMP area to include four commercial fishermen and two recreational fishermen.

F. "Geographic location description" or "GLD" means a geographic area in federal waters ~~consistent with the Ocean SAMP study area~~ where certain federal ~~agency activities~~ license~~s~~, and permit activities pursuant to 15 C.F.R. Part 930 Subparts D and E will be subject to Rhode Island review under the ~~Coastal Zone Management Act (~~CZMA~~)~~ federal consistency provisions. ~~Rhode Island has two federally approved GLDs (2011 and 2018).~~

G. "Habitat Advisory Board" or "HAB" means an advisory body to the Council that shall be comprised of nine members, five representing marine research institutions with experience in the Ocean SAMP study area and surrounding

From:	Dave Beutel
To:	James Boyd
Cc:	Lisa Turner
Subject:	FW: Ocean Samp comment
Date:	Monday, June 24, 2019 3:51:58 PM
Attachments:	image001.png Ocean Samp.pdf

From: Katie Almeida [mailto:kalmeida@towndock.com]
Sent: Monday, June 24, 2019 3:20 PM
To: Dave Beutel
Subject: Ocean Samp comment

Hi Dave,

Please find attached my comment on the Ocean Samp document.

Thank you,
Katie

the TownDock
Seafood that serves you.

Katie Almeida
Fishery Policy Analyst
45 State Street, PO Box 608 • Narragansett, RI 02882 USA
Tel: 401-789-2200 x143 • Cell: 508-930-2633
kalmeida@towndock.com • www.towndock.com

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the TownDock
2 State Street | PO Box 608
Narragansett, RI 02882

June 24, 2019

Dear Council Members,

Please find below our comments regarding the changes to the Ocean Samp Plan:

-We are in support of the addition of two more seat of the FAB to include representation from seafood processing facilities. However, it is unwarranted to require that those two positions be held by "managers". Companies should be free to choose who they want to represent them on the FAB. Being a "manager" should not be a requirement. Not only does it narrow down the list of contenders, but it's not a given that "managers" are going to have the time to attend these meetings. Companies have created positions for the sole purpose of following fishery related issues, attending public meetings and sitting on boards such as the FAB. They should not be excluded simply because they don't have the title of "manager".

-Regarding turbine arrangement. Turbines should not be required to be arranged in a "grid pattern based on latitude and longitude with east-west rows". Each area has different fishing patterns and behaviors. There should simply be a requirement that the company hold workshops with the industry to see what arrangement works the specific area slated for development.
We agree that the turbines should be placed at least 1nm apart from each other. Regarding transit lanes, the industry has been very vocal and consistent that the width of the lanes be at least 4nm wide.

-Proper mitigation and or compensation should be well planned and not rushed as the Vineyard Wind compensation package was. There should be some guidelines regarding this in the document. We are happy to see that shoreside facilities will be considered and included when deciding the effects of construction and operation on the fishing industry.

-Regarding the biological assessments, a requirement of a minimum of 3 complete years of surveys before offshore construction and installation activities begin should be the standard. Post construction surveys should for 5 years following construction and every 3 years following. Ideally surveys would be conducted yearly for the life of the project, but we understand the limitations.

TOWNDOCK.COM
INFO@TOWNDOCK.COM
PH 401-789-2200 | FAX 401-782-4421

the TownDock
2 State Street | PO Box 608
Narragansett, RI 02882

-The document recommends the cable to be buried at 1.5 meters (4.9 feet), however the Block Island Wind Farm cable is buried at 1.8 meters (6 feet) and has become exposed more than once. It would be wise to recommend a deeper burial to reduce the risk of exposure for all cables.

Throughout the document there is a lot of required interaction between the wind company and the Council. We would like to see the FAB have equal footing in the process going forward. It's extremely important that the very people who will be affected by construction and development be involved in every step along the way, especially when discussing turbine layout and design and research. The industry has been asking for more involvement for years now and this is the perfect time to require that.

Thank you for the opportunity to comment.

Sincerely,

Katie Almeida
Fishery Policy Analyst

TOWNDOCK.COM
INFO@TOWNDOCK.COM
PH 401-789-2200 | FAX 401-782-4421

James Boyd

From: Edens, Geri <geri.edens@morganlewis.com>
Sent: Friday, July 12, 2019 9:15 AM
To: James Boyd
Cc: David Kaiser - NOAA Federal; Erich Stephens
Subject: Comments on Proposed Amendments to Ocean SAMP
Attachments: VW Comments on Proposed Ocean SAMP Amendments 7-12-19.pdf

Jim

On behalf of Vineyard Wind, I am submitting the attached comments on CRMC's proposed amendments to the Ocean SAMP Regulatory Standards. Thank you for the opportunity to provide these comments.

Geri Edens
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, NW | Washington, DC 20004-2541
Direct: +1.202.739.5060 | Main: +1.202.739.3000 | Fax: +1.202.739.3001
geri.edens@morganlewis.com | www.morganlewis.com
Assistant: Christina M. Lago | +1.202.739.5301 | christina.lago@morganlewis.com

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Morgan Lewis

Geri Edens
Partner
+1.202.739.5060
geri.edens@morganlewis.com

July 12, 2019

VIA E-MAIL
JBOYD@CRMC.RI.GOV

James Boyd
Coastal Resources Management Council
Stedman Government Center
4808 Tower Hill Road
Wakefield, RI 02879

Re: Comments on Proposed Amendments to Policies and Standards of the Ocean Special Area Management Plan (Ocean SAMP) (650-RICR-20-05-11)

Dear Jim:

On behalf of Vineyard Wind, I am submitting comments on CRMC's proposed amendments to the Ocean Special Area Management Plan ("Ocean SAMP"). As the first utility scale offshore wind project located exclusively in federal waters to work through the federal consistency process with CRMC, we commend CRMC for proposing amendments that add clarity to the differences between the application of the Ocean SAMP's enforceable policies in state waters and for federal consistency pursuant to §307 of the Coastal Zone Management Act, 16 U.S.C. §1456 ("CZMA"). Our comments focus on provisions that need further clarification as to their application to federal consistency and we identify provisions that conflict with the Bureau of Ocean Energy Management's ("BOEM") regulation of offshore wind development in federal waters.

We applaud CRMC for creating the nation's first regulatory structure whose principal purposes include providing a framework for addressing the compatibility of the offshore wind and commercial and recreational fishing industries. We share the Ocean SAMP's goal of supporting offshore wind development as an important means to address climate change while promoting and enhancing existing uses. However, we are concerned that some of the proposed amendments to the Regulatory Standards set forth in § 11.10 seek to regulate offshore wind development exclusively in federal waters. As the National Oceanic and Atmospheric Administration ("NOAA") has explained, "enforceable policies are given legal effect by state law and do not apply to federal lands, federal waters, federal

agencies or other areas or entities outside a state's jurisdiction, unless authorized by federal law." NOAA, Federal Consistency Overview at 5 (rev. Jan. 2016) ("NOAA Overview"). Neither the CZMA nor the Outer Continental Shelf Lands Act ("OCSLA"), under which BOEM regulates offshore wind development in federal waters, confer such authorization. The Ocean SAMP clearly recognizes the state's jurisdictional limitations, yet, as we discuss below, some of the proposed amendments to the policies would apply only to offshore wind development in federal waters.

Proposed Design Standards

Section 11.9.4(C) mandates that in state waters wind generator turbines "be arranged in a grid pattern based on longitude and latitude with east west rows" with a "minimum spacing of one (1) nm between all turbines and all lanes between turbines (east-west, north-south) [of a] minimum of 1 nautical mile wide." It also requires "at least one transit lane from navigation with a minimum spacing of two (2) nautical miles . . . consistent with any adjacent wind farm transit lane(s) and any BOEM approved wind energy area transit lane plan." While the design standard is a "General Policy" applicable only to projects in state waters, it is made operative to federal consistency by §11.10.1(E), which expressly provides that "to assist the Council with CZMA consistency certification, offshore wind energy projects *should be designed* in accordance with §11.9.4(C)(1) of this Part to avoid significant adverse impacts to commercial fishing activities." (emphasis added)

Section 11.10.1(E) is a *de facto* regulation of offshore wind projects in federal waters because the proposed design standards set forth in §11.9.4(C)(1) could only apply to projects in federal waters. Moreover, CRMC's rationale for the design standards is based on fishing activities that occur only in federal waters. "A state policy that would regulate or otherwise establish standards for federal agencies or federal lands or waters would not meet the CZMA's definition of "enforceable policy" (*i.e.*, legally binding under state law)." NOAA Overview at 6; *see also,* 71 Fed. Reg. 788, 823 (Jan. 5, 2006) ("NOAA will not approve State policies that on their face contain requirements that are preempted by Federal law.").

<u>The Design Standards Would Only Be Applicable in Federal Waters</u>

Based on the Ocean SAMP's extensive analyses of areas suitable for offshore wind development in state waters, CRMC identified a Renewable Energy Zone ("REZ"). It is an approximate 11.8 square nautical mile (nm), crescent-like shaped area south of Block Island, which is just one nautical mile wide. To justify the proposed design standards, CRMC's Cost Benefit Analysis assumes that 16, 10 MW WTGs could be located in the REZ on a 1 x 1 nm grid pattern. This is not the case.

The Block Island Wind Farm ("BIWF") is located in the REZ and is not oriented in a grid pattern, nor are its turbines spaced 1 nm apart. This alone speaks volumes to any need for

a wind project sited in the REZ to be configured in an east-west orientation with 1 nm spacing between turbines.[1] In fact, despite the Ocean SAMP's extensive analysis of commercial and recreational fishing, which included qualitative input from fishermen, there is no mention at all that fishing within the REZ, or for that matter fishing anywhere within the Ocean SAMP study area, occurs in an east-west direction to facilitate the compatibility of fixed gear and mobile gear fishing. Rather, the Ocean SAMP explains that within the Ocean SAMP study area, Cox Ledge (located in federal waters), is used by fixed gear, as well as mobile gear fishermen, and that the fishermen have informal cooperative agreements whereby the area is used by fixed gear fishermen during certain times of the year and by mobile gear fishermen other times of the year.

Moreover, the figure in Attachment 1 demonstrates that the REZ is too small and narrow to accommodate a turbine grid with 1 x 1 nm spacing (east-west, north-south), with the BIWF oriented in a southwest to northeast configuration and the requirement to avoid areas of particular concern, *e.g.*, moraine edges. Even absent the BIWF, a "grid" pattern is simply not achievable given the REZ's curved shape and the fact that it is only approximately one nm wide. Nor could a 1 x 1 nm grid be located outside the REZ in state waters given the coastal setback requirements to protect recreational use (*e.g.* swimming, boating, diving, fishing), navigational channels, and other limitations documented in the Ocean SAMP. Given the constraints within the REZ and state waters generally, the only reason to impose a policy mandating a 1 x 1 nm design standard is to provide a basis for extending the policy to federal waters. CRMC's CZMA authority cannot be exercised in this manner.

In addition, the requirement to locate at least one 2 nm transit lane consistent with any adjacent wind farm transit lane and any BOEM approved wind energy area transit lane plan could not be implemented in the REZ. First, any "adjacent" wind farm would have to be in federal waters and BOEM's Rhode Island Wind Energy Area is not adjacent to the or other state waters. Second, for the same reason, any wind energy area transit lane plan BOEM would approve would not abut the REZ. Finally, even if such transit lanes were adjacent to the REZ, the 2 nm requirement would effectively eliminate the placement of any wind turbines within the remaining area of the REZ and could potentially require a transit lane straight through the BIWF. In fact, the only way a 2 nm transit lane could be sited in the REZ without interfering with the BIWF would be to orient the lane in a north-south direction heading into Block Island (see Attachment 2). This, of course, makes no

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1 Based only on anecdotal information, not on the best available scientific data called for by the Ocean SAMP, CRMC argues in its Cost Benefit Analysis that 1 nm spacing between turbines is necessary to ensure navigational safety and to protect against insurance companies prohibiting vessels from fishing within wind projects. Cost Benefit Analysis at 4. These concerns were not raised in the Ocean SAMP, despite its extensive engagement with fishermen. Nor are they evident as a concern in state waters by the fact that the BIWF turbines are spaced only .5 miles apart.

sense and further evidences that the design standards are intended to regulate offshore wind development in federal waters.

CRMC's Rationale for the Design Standards is Based on Fishing Activity that Occurs Exclusively in Federal Waters

CRMC's Cost Benefit acknowledges that during the consistency review for the Vineyard Wind project, fishermen objected to the layout, arguing that it would "interfere with existing commercial fishing practices for fixed and mobile gear operations." Cost Benefit Analysis at 1. CRMC clearly states that its proposed design standards are based on the "RI commercial fishermen proposal" submitted to CRMC during the Vineyard Wind review in the form of an affidavit on October 4, 2018. *Id.* That affidavit describes mobile gear fishing activity that occurs only in federal waters. *See* CRMC VW Concurrence Letter, Attachment 9. In fact, the graphic attached to the affidavit shows that of the "24 thousand or more tow tracks exhibited by 21 mobile gear fishing vessels from Block Island to Nantucket," only a few tow tracks are within the REZ and none of them are in an east-west direction. *Id.* The affidavit also provides a figure to illustrate the proposed 1 x 1 nm layout, which is plotted only across the federal lease areas. The REZ is not even shown on the figure. *Id.*

Most telling, commercial fishermen explained during the Vineyard Wind federal consistency process that fishing offshore is not necessarily linear or in a straight line *until they move into the federal lease areas*. Transcript of FAB meeting, July 26, 2018 at 24 (stating that "as you move towards -- into this leased area, though, we do tow in a general east/west direction, or they tow, and we work with them and stay out of the lanes."). They further explained that "once the fixed gear fishery leaves to the south of Cox's Ledge [which is located in federal waters], we are by an unwritten law mandated to set our gear east and west." *Id.* at 24-25. Moreover, CRMC explained in its concurrence letter on the Vineyard Wind project that a typical tow "starts from southeast of the Port of Galilee heading east along the selected Loran line and continuing for approximately 15 miles through the WEA." Concurrence at 52. The typical tow CRMC described occurs exclusively in federal waters, away from the REZ; not towards the REZ or within it.

Taken together, the fact that (1) CRMC's rationale for the design standards is based solely of fishing activities in federal waters, (2) fishermen themselves describe east-west fishing not occurring until within federal waters, (3) an east-west, 1 x 1 nm layout is impractical, if not impossible, in state waters given constraints imposed by the Ocean SAMP, (4) despite its extensive analysis of commercial fishing, the Ocean SAMP does not mention a need for a 1 x 1 nm east-west lay-out (whether or not in state waters), and (5) the BIWF, the only project to be built in compliance with the Ocean SAMP, is not oriented east-west and its spacing between turbines is less than 1 nm, there can be little doubt that the proposed design standards are impermissibly directed at offshore wind projects located in federal waters only.

The Design Standards Discriminate Against Offshore Wind Development

NOAA guidance provides that state policies should be based on effects to coastal uses or resources and not on a particular type of activity. This ensures that the policy is applicable to any type of activity that has coastal effects and will not discriminate against a particular user group. Very similar to the facts here, NOAA described the example of a state concerned with possible impacts from offshore oil and gas development on specific fishing areas proposed oil and gas specific energy policies. NOAA Overview at 7. NOAA did not approve the requirements because they imposed requirements on only one user group, when other types of activities might have the same coastal impacts.

The design standards operate in the same way. They apply to only one group of "large-scale offshore developments" as that term is defined in Ocean SAMP §11.3. Other offshore developments governed by the Ocean SAMP, *e.g.*, wave energy devices, LNG platforms, would also locate structures in waters used by commercial fishermen and potentially raise the same coastal effects. As proposed, the design standards impermissibly discriminate against one group of users to which the Ocean SAMP policies apply.

Summary and Recommendations

We understand and respect CRMC's concerns regarding the potential impacts of project layouts in federal waters on the Rhode Island commercial fishing industry. For that reason, Vineyard Wind and other developers have *voluntarily* committed to designing all future projects within CRMC's GLD with an east-west grid orientation with 1 nm spacing between turbine rows. Nevertheless, CRMC cannot establish standards for federal lands through an enforceable policy that is undeniably applicable only in federal waters. NOAA's long-standing interpretation of the definition of an "enforceable policy" is that if a state policy specifically seeks to regulate an activity where state regulation is preempted by federal law, it is not legally binding under state law and would not be an enforceable policy under the CZMA. NOAA Overview at 7. Under OCSLA, Congress vested BOEM, not the states, with jurisdiction to ensure that renewable energy projects on the OCS are carried out in a manner that is, among other things, safe, protective of the environment, and preventive of interference with other reasonable OCS uses. 43 U.S.C. § 1337(p)(4). This necessarily includes regulating the design of offshore wind projects. Similar to NOAA's example of North Carolina's impermissible attempt to regulate low level aircraft in flight by adopting policies that imposed minimum altitude and decibel levels, and other overflight restrictions which are governed by the FAA, the design standards are an impermissible attempt to regulate the design of offshore wind projects in federal waters governed by BOEM. NOAA Overview at 7.

We strongly recommend that CRMC delete the following sentence in §11.10.1(E):

> *To assist the Council in concurring with CZMA consistency certification, offshore wind energy projects should be designed in accordance with § 11.9.4(C)(1) of this Part to avoid significant adverse impacts to commercial fishing activities.*

We also recommend that CRMC delete in its entirety the design standards set forth in § 11.9.4(C)(1) because as shown above, they have no applicability in state waters, intrude on BOEM's exclusive jurisdiction, and discriminate against offshore wind development.

Significant Long-Term Negative Impacts

Section 11.10.1(C) defines significant long-term negative impacts on commercial and recreational fishing as the inability of commercial or recreational vessels "to access the project area because of the project design, or are limited in accessing a project area due to construction and operation activities, which result in negative economic impacts for a period of two (2) years or more." The terms "access," limited access," and "negative economic impacts" fail to provide sufficient guidance by which the policy could be imposed as a legally binding regulation.

The CZMA defines an "enforceable policy" as "state policies which are legally binding through constitutional provisions, laws, regulations, land use plans, ordinances, or judicial or administrative decisions, by which a State exerts control over private and public land and water uses and natural resources in the coastal zone." 16 U.S.C. § 1453(6a). Under Rhode Island law, standards that provide no meaningful guidance or are too vague and indefinite cannot create enforceable rights. *Trembley v. City of Central Falls*, 480 A.2d 1359, 1365 (R. I. 1984). A statute is unconstitutionally vague if it lacks explicit standards from its application and thus delegates power that enables enforcement officials to act arbitrarily with unchecked discretion. *Fitzpatrick v. Pare*, 568 A.2d 1012, 1013 (R.I. 1990). *See also, United Nuclear Corp. v. Cannon*, 553 F. Supp. 1220 (D. R.I. 1982) (finding statute unconstitutionally vague where it failed to delineate or to suggest any standards, and failed properly to delegate rulemaking powers sufficient to create the omitted standards.). Thus, because the proposed enforceable policy is too vague as to be legally binding under Rhode Island law, it does not meet the definition of an enforceable policy under the CZMA.

Recommendation:

Consistent with a basic principle of the Ocean SAMP that all decisions should be based "on the best available science, §11.6, we recommend that CRMC define significant long-term impacts in relation to the best available data on navigational

> *safety and commercial and recreational fishing data (AIS, VMS, VTR). Economic impacts should be based on the best available data on fishing landing values from a project area. Indeed, for projects located in state waters, the Ocean SAMP requires an assessment of commercial and recreational fisheries effort, landings, and landings values for a project area (§11.9.9(C)(2)). While not required for federal consistency, the data is nevertheless available and should be used as the basis of determining potential economic impacts. Similarly, data is available regarding the spacing of turbines and navigational safety.*

Mitigation Provisions

Section 11.10.1(C) provides that "consistent with federal permitting requirements for an activity," the Council may decide not to consider mitigation options until the applicant has demonstrated that all "feasible" options have been evaluated for modifying the project to avoid the impacts. We are not aware of any BOEM permitting requirements that require modification of a project to avoid impacts before mitigation is considered. Rather, BOEM considers mitigation measures throughout the process, including requiring that an applicant describe in its COP how environmental impacts will be mitigated from the proposed activities.

More importantly, the requirement to modify a project before the Council would even consider mitigation measures is directly tied to the previous sentence incorporating by reference the design standards, which as shown above impermissibly regulates projects in federal waters. It is also based on §11.10.1(C)'s vague and unenforceable definition of "significant long-term negative impacts" as the inability to "access" a project area because of its design.

Even if CRMC cures the problems presented by the design standards and the vague and unenforceable definition of significant long-term impacts, the policy as written does not provide sufficient guidance as to how CRMC would determine whether modification of a project layout is not feasible. Contrary to Rhode Island law, the proposed policy would vest CRMC with unfettered discretion to determine whether a developer has shown a project modification is not feasible. *See e.g., Fitzpatrick*, 568 A.2d at 1013 ("A statute is unconstitutionally vague if it lacks explicit standards from its application and thus delegates power that enables enforcement officials to act arbitrarily with unchecked discretion."). This puts an offshore wind developer in the untenable position of having a burden of proof without any idea as to how CRMC would determine that the burden was satisfied.

Finally, § 11.10.1(C) appropriately clarifies that for federal consistency purposes, CRMC cannot compel monetary compensation, but the Council and applicant could agree to such compensation *outside of the federal consistency process*. However, §11.10.1(F) mandates that "mitigation shall be negotiated between the Council staff, the FAB, the project

developer, and approved by the Council," which is inconsistent with §11.10.1(C) if the intent is to include monetary compensation in the negotiations. If the Council cannot compel monetary compensation as part of the federal consistency process, it cannot compel the negotiation of monetary compensation with the staff and the FAB subject to the Council's approval.

Recommendations

We recommend that §11.10.1(C) eliminate the requirement to modify a project before the Council will consider mitigation measures and retain the previous language that requires the applicant to modify the proposal to avoid and/or mitigate impacts.

We recommend that §11.10.1(C) define "feasible options" as those options that are technically and commercially achievable and can be implemented in a manner that allows a project to meet its purpose and need as set forth in the project's COP.

We recommend that §11.10.1(F) be clarified to explain that mitigation negotiations between the staff, the FAB and applicant do not include the negotiation of monetary compensation for federal consistency purposes.

Construction Noise

Section 11.10.1(O) provides that construction and pile driving operations must use the best available control technology (BACT) to minimize acoustic energy (noise) impacts. To determine BACT the policy requires an applicant to provide an analysis of available wind tower designs and pile driving technologies, comparing the costs, site specific impacts to species and habitat, and availability and to use this analysis to select the acoustic energy reduction technology for the project. The policy further provides that "CRMC in consultation with the FAB and HAB shall determine if the applicant has chosen the BACT based on this analysis." The policy cannot be applied for federal consistency for two important reasons.

First, the policy mandates requirements for which federal consistency could not be demonstrated during the 6-month review period. As CRMC acknowledges, BOEM regulations trigger the 6-month review period when BOEM issues a Notice of Intent to prepare an environmental impact statement, which typically occurs several months after a COP has been submitted. BOEM regulations further provide that when a COP is submitted after the issuance of a lease, federal consistency is conducted under 15 CFR part 930, subpart E. 30 C.F.R. §585.627(a)(9). Subpart E provides that "to assess consistency, the State agency shall use the information submitted pursuant to § 930.76," which in this case is the COP. The BACT analysis called for in the enforceable policy is not required to be included in a COP, nor could it be because the information needed to conduct such an

analysis is not developed until well after COP submission, during the engineering phase of a project.

Selecting appropriate noise reduction technologies is not a simple exercise of comparing "available wind tower designs"[2] to pile driving technologies, as the policy suggests. Rather, each foundation is specifically designed for a specific location taking into account soil conditions, potential loads, water depths, available installation vessels with load capacity to lift the specific foundation, and available hammers that fit the selected foundation design. During the engineering phase of a project, in consultation with selected contractors, project engineers conduct drivability analyses to determine the equipment needed to achieve the required penetration depth at each foundation location. Knowing the equipment required to achieve penetration depth, necessarily dictates the pile driving and noise attenuation technologies that will be used. All of this occurs well after COP submission and extends through COP approval as the Facility Design and Installation Reports are prepared for BOEM review. Under no scenario could the information called for by the policy be developed within the 6-month review period. As such, NOAA cannot approve an enforceable policy that would defeat the 6-month statutory review requirement. *See e.g.,* 71 Fed. Reg. at 813.

Second, the policy impermissibly intrudes on the jurisdiction of the federal agencies. Noise attenuation requirements are addressed by BOEM and NMFS through the NEPA, Endangered Species Act, and Marine Mammal Protection Act processes under which the federal agencies assess the potential impacts of pile driving on marine mammal and fish species and specify the degree of noise attenuation necessary to protect species from harm. The degree of attenuation required, along with the engineering considerations discussed above, determine the noise reduction technologies used. Again, all of this is determined well after the 6-month consistency review period concludes.

Recommendations

Section 11.10.1(O) should be moved to the General Policies (Part 11.9) that are applicable only in state waters. Alternatively, §11.10.1(O) should make clear that CRMC cannot require the BACT analysis as part of the federal consistency process.

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2 It is unclear what CRMC is referring to as "available wind tower designs," but we assume it means WTG foundations, as they are the only aspect of an offshore wind project that involves pile driving.

Cable Burial

Section 11.10.1(P) provides that all power cables "*shall*" be buried to a depth of 1.5 meters in stable, unstable, and hard bottom crossings. As CRMC acknowledges, it cannot impose requirements that occur after its CZMA review. Thus, in the same way that CRMC cannot impose monitoring requirements for federal consistency purposes, it cannot impose construction requirements. Section 11.10.1(P) clearly mandates requirements for construction that cables be buried a minimum of 1.5 meters.

Moreover, as discussed above, 15 CFR part 930, subpart E requires a state to assess consistency using the information submitted in the COP. At most, a COP would identify a target burial depth, as BOEM only requires that a COP include general information on the location, design and installation methods, testing, maintenance, repair, safety devices, exterior corrosion protection, inspections decommissioning for all cables. 30 C.F.R. § 585.626(b)(7). It is not until after COP approval, that BOEM regulations require detailed information on cable burial methods and vessels used for installation. §585.802(a)(7). For example, Vineyard Wind's COP identified a target cable burial depth of 1.5 to 2.5 meters and described numerous tools and techniques that could be used to achieve the targeted depths.

Specifically with respect to hard bottom crossings (§11.10.1(P)(3)), the policy considers that "any and all expected areas of shallow cable burial to be a significant impact on marine organisms and the use of marine resources." It further provides that the CRMC shall consider "cable armoring that exceeds two (2) percent of the overall length of proposed cable installation (combined length of inter-array and export cables) to be a significant coastal effect and an unnecessary impact on coastal resources and uses." The policy imposes requirements that (1) cannot be demonstrated during the 6-month consistency review period, (2) directly conflict with BOEM's authority, and (3) lead to an arbitrary finding of significant adverse effect for which CRMC would presumably seek mitigation or would otherwise object to an applicant's federal consistency certification. Moreover, CRMC fails to provide any scientific basis for the 2 percent limitation.

Like the pile driving analysis discussed above, it is not until well after COP submission, and potentially well after COP approval, that project engineers in consultation with selected contractors conduct a cable burial risk analysis to determine the installation tools needed to achieve target burial depths and to identify potential areas that may require cable protection. The actual need for cable armoring is not known until construction is underway.

Moreover, the policy impermissibly conflicts with BOEM's "project design envelope" approach to permitting offshore wind projects in federal waters. As BOEM explains, OCSLA and its implementing regulations "allow a lessee to submit a reasonable range of design parameters within a COP, and for BOEM to approve a COP containing such a range

of designs." BOEM, Draft Guidance Regarding the Use of a Project Design Envelope in a Construction and Operations Plan (2018). The parameters may include "multiple details regarding its proposed export cable, including all *potential* installation methods, alternate routes, and landfall locations." *Id.* BOEM further acknowledges that it would be unreasonably costly for a developer to submit with its COP the results of geophysical and/or geotechnical surveys for all potential design parameters. BOEM therefore instructs that developers likely need only submit enough geophysical and/or geotechnical survey information to allow BOEM to perform its environmental analysis, with the final submittal of more granular geophysical and/or geotechnical information submitted once final locations for facilities have been determined.

Thus, under the project design envelope, data required to identify areas where cable protection would likely be needed is not provided in the COP. Rather, the COP only provides a worst-case estimate of the potential need for cable protection based on the general characteristics of site conditions. Imposition of a 2% limit on a worst case estimate of the potential need for cable protection is an arbitrary limit that intrudes on BOEM's authority under OCSLA to provide developers the flexibility needed to refine project designs beyond COP submission and approval. It would, in all cases lead to CRMC finding a significant adverse effect because a developer could not commit to a 2% limit during the consistency review period. Moreover, from any view 2% is an arbitrary limit. Two percent cable protection along a 10 mile cable going through a heavily fished and trafficked area of shallow water is vastly different than 2% of a 100 mile cable located many miles away from commercial fishing areas and water too deep for any boat to anchor or fish.

Recommendations

Section 11.10.1(P) should be moved to the General Policies (Part 11.9) that are applicable only in state waters. Alternatively, §11.10.1(P) could, for federal consistency purposes specify a requirement that 1.5 meters is a target burial depth but it should also make clear that CRMC cannot impose a 2% limit on cable protection for federal consistency purposes.

Baseline Assessment

Section 11.10.9 provides that "detailed commercial fisheries baseline assessment shall be considered necessary data and information to be filed with the applicant's consistency certification for a CZMA review and to demonstrate compliance with this enforceable policy." The enforceable policy does not define what constitutes a "commercial fisheries baseline assessment" but at the June 17, 2019 workshop CRMC clarified that for federal consistency purposes the baseline assessment requirements are set forth in §11.9.9(E)(1).

Section 11.9.9(E)(1) requires a minimum 2 years of a pre-construction baseline biological assessment of commercial and recreational targeted species as specified in § 11.9.9(C). Section 11.9.9(C) provides that the assessment shall assess the relative abundance, distribution, and different life stages of these species at all four seasons of the year. The policy conflicts with BOEM's jurisdiction to determine under OCSLA that a project is protective of the environment and with BOEM's regulations governing baseline biological assessments necessary for inclusion in a COP. It also interferes with a lessee's exclusive right to submit to BOEM a COP without restriction as to the timing of the submission and puts lessees holding leases in CRMC's GLD at a completive disadvantage as lessees compete for coveted power purchase agreements. It also thwarts the national interest in renewable energy development on the OCS by potentially delaying a lessee's submission of a COP.

BOEM's data requirements for a COP, which is the basis for the state's review under Subpart E, do not include a requirement to collect 2 years of baseline data on the lease site nor a requirement that data be collected for all four seasons of the year. Rather, an applicant is required to provide baseline biological information specific to the lease area taking into consideration existing site specific and regional data. If existing data is not adequate, and additional surveys are warranted, BOEM requires that applicants develop a survey plan that BOEM reviews, consults with NMFS, and approves, as lessees cannot conduct any activities on a lease site, including the collection of baseline data, without authorization from BOEM. The policy effectively usurps BOEM's authority to determine the need and methods for collecting baseline biological data to support a COP by mandating a blanket two years of costly studies that may not be necessary. It also impermissibly imposes upon BOEM a requirement to authorize studies on a lease area that BOEM may deem unnecessary and which may, contrary to the national interest, delay development of renewable energy under the lease. "While the CZMA states a national policy in favor of coastal zone management, it does not on its face expand state authority to legislate in ways that would otherwise be invalid under the Commerce Clause." *Norfolk Southern Corp. v. Oberley,* 822 F.2d 388, 394-95 (1987).

Recommendations

Section 11.10.9's requirement that a detailed commercial fisheries baseline assessment is considered necessary data and information should be deleted. CRMC should, in accordance with Subpart E, rely on the commercial fisheries baseline assessment BOEM, in consultation with NMFS, deems necessary for COP approval.

General Recommendations

Section 11.4(E) incorrectly states that Areas of Particular concern and Areas Designated for Preservation, both of which are designated by CRMC in state waters, apply to activities

in federal waters. While an applicant for a federal permit or approval must demonstrate consistency with the enforceable policies of the state, the enforceable policies do not confer jurisdiction upon the state to identify areas of concern or areas for preservation in federal waters. The reference to Areas of Particular Concern and Areas Designated for Preservation in §11.4(E) should be deleted.

Section 11.10.1(A) states that "except as noted above," the Council shall not use §11.9 for federal consistency. It is unclear to which "except as noted above" refers. As §11.9 applies only in state waters and cannot be used for federal consistency purposes, there should be no exceptions. "Except as noted above" should be deleted.

The policies cite to BOEM's regulations as 30 C.F.R. Part 285. The correct citation is 30 C.F.R. Part 585.

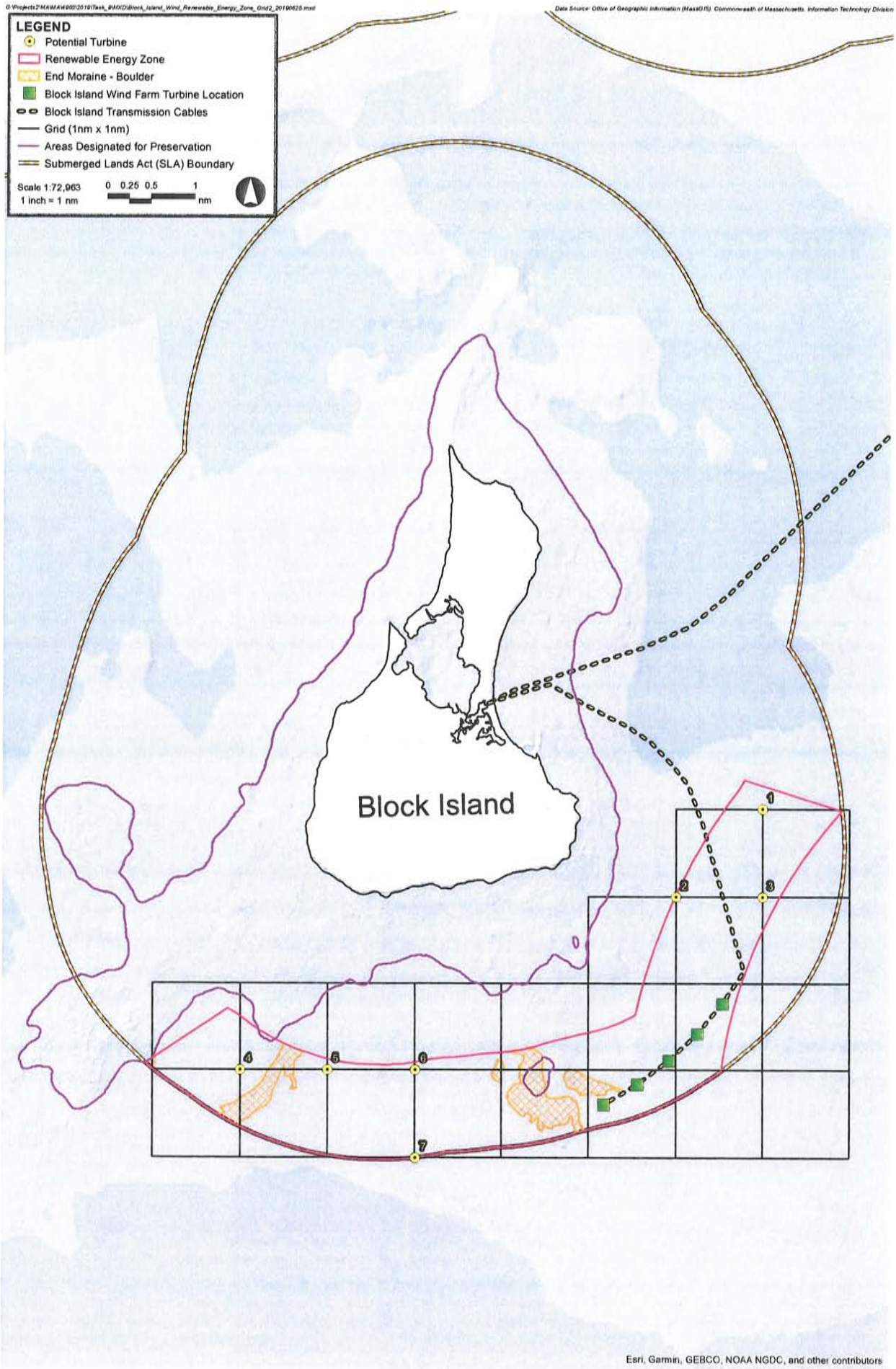
Sincerely,

Geri Edens

Attachments

CC: D. Kaiser
NOAA Office of Coastal Management

ATTACHMENT 1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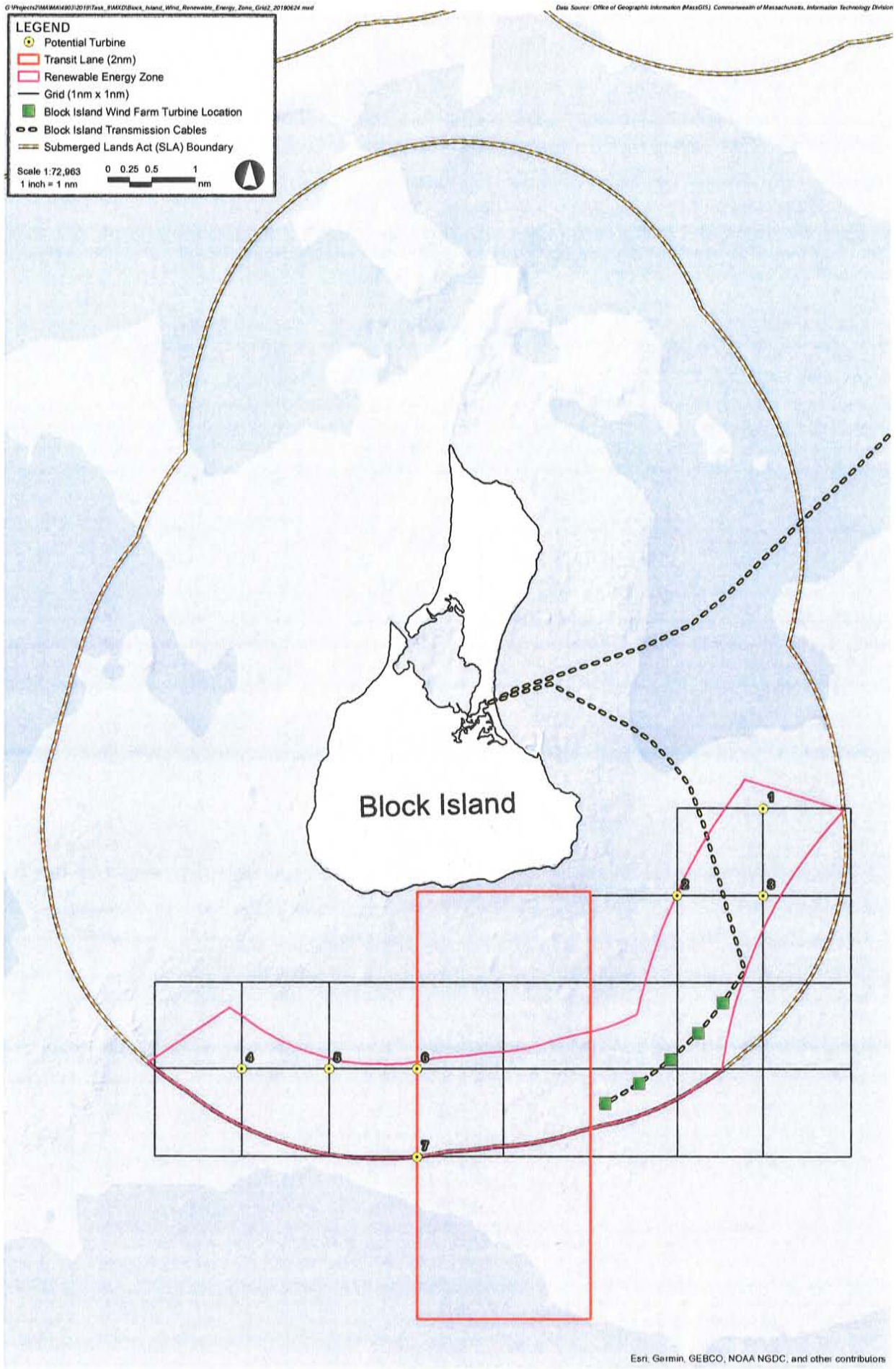
Data Source: Office of Geographic Information (MassGIS), Commonwealth of Massachusetts, Information Technology Division
LEGEND
Potential Turbine
Renewable Energy Zone
End Moraine - Boulder
Block Island Wind Farm Turbine Location
Block Island Transmission Cables
Grid (1nm x 1nm)
Areas Designated for Preservation
Submerged Lands Act (SLA) Boundary
Scale 1:72,963
1 inch = 1 nm
0 0.25 0.5 1
nm
Block Island
1
2
3
4
5
6
7
Esri, Garmin, GEBCO, NOAA NGDC, and other contributors

ATTACHMENT 2


G:\Projects2\MA\MA1493\2019\Task_9\MXD\Block_Island_Wind_Renewable_Energy_Zone_Grid2_20190624.mxd
Data Source: Office of Geographic Information (MassGIS), Commonwealth of Massachusetts, Information Technology Division
LEGEND
Potential Turbine
Transit Lane (2nm)
Renewable Energy Zone
Grid (1nm x 1nm)
Block Island Wind Farm Turbine Location
Block Island Transmission Cables
Submerged Lands Act (SLA) Boundary
Scale 1:72,963
1 inch = 1 nm
0 0.25 0.5 1
nm
Block Island
1
2
3
4
5
6
7
Esri, Garmin, GEBCO, NOAA NGDC, and other contributors

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July 12, 2019

VIA HAND DELIVERY AND ELECTRONIC MAIL
Grover Fugate, Executive Director
James Boyd, Coastal Policy Coordinator
Coastal Resources Management Council
Oliver H. Stedman Government Center
4808 Tower Hill Road, Suite 3
Wakefield, RI 02879-1900

Re: Comments concerning proposed changes to the Ocean Special Area Management Plan ("Ocean SAMP")

Dear Grover and Jim:

This firm represents the joint venture between Ørsted and Eversource on certain offshore wind projects that will come before the Rhode Island Coastal Resources Management Council ("CRMC"). We appreciate the opportunity to provide comments on the proposed revisions to the Ocean SAMP. We believe the offshore wind industry, commercial fishing industry, and recreational interests should co-exist in a safe and reasonable manner. In that spirit, and in response to the CRMC's request for public comment on the proposed revisions to the Ocean SAMP, we submit the following:

- A brief narrative, which is below, summarizing the rationale for some significant comments. Please note that our proposed changes cover additional topics as you will see in the enclosed track changed version of the proposed regulations;
- Six copies of the enclosed chart that identifies specific sections on which we recommend changes and deletions;
- Six copies of the enclosed track changed version of the proposed Ocean SAMP regulatory changes with our suggested wording changes, which are highlighted in yellow for ease of review; and
- We will provide you with an electronic version of these materials including a Word version of our track changed version of the proposed regulations.

Spacing and Alignment

Section 11.9.4 (C) proposes to require any wind farm to be laid out in a grid pattern with a minimum of 1 nautical mile between turbines. We believe that flexibility is necessary with respect to the turbine spacing. As the Council is aware, ocean floor and other conditions vary greatly, so, among other things, it may be impractical -- and even impossible – to place turbines at such intervals. Accordingly, we suggest flexibility concerning spacing.

Construction Noise

Section 11.10.1 (O) establishes standards for noise created by construction and pile driving operations. Regulation of underwater acoustic activity is outside the Council's jurisdiction. Accordingly, we request that the Council not include this section in the revised Ocean SAMP.

Cable Burial Depth

Section 11.10.1 (P) establishes criteria for burial of utility power cables. Cable burial should be addressed on a case-by-case basis in response to scientific and engineering analysis of the seafloor conditions where the cable will be sited. Our recommendations reflect the fact that determinations on burial depth require analysis of each specific site.

Please do not hesitate to contact me with any questions or if you would like additional copies of the enclosed materials.

Very truly yours,

Robin L. Main

RLM
Enclosures
cc: Lisa Turner

Summary of Comments:

Proposed Ocean SAMP Section	Comment/Recommended Change
11.9 (C)	The term "offshore development" appears here and approximately 70 other places in the Ocean SAMP. In some locations, the term is capitalized "Offshore Development" and in other locations it is not. If the term is intended at all times to mean the definition of "offshore development" found in 11.10.1.A, then we recommend referencing that definition in 11.9.C (the first reference in the document) and capitalizing the term throughout.
11.9 (D)	Revised language to clarify optional nature of administrative fee and the scope of the projects to which it is applicable
11.9.4 (C)	Must have a balanced approach in supporting fisheries *and renewable energy development*. Adding the term "considers" provides flexibility in reviewing spacing and alignment of turbines on a project by project/lease by lease basis. Measurements should be goals instead of strict requirements. Must have precision on from what part of turbine spacing is measured. Beyond CRMC's jurisdiction to mandate transit lanes.
11.9.4 (C)(1)(c)	For clarity, recommend using the defined term "offshore wind farm" instead of "wind farm." We also recommend changing "wind farm" in Sections **11.8 (A)(2)**, **11.9.4 (H)**, and **11.9.7 (J)(1)** to "offshore wind farm." Modify "wind farm" to "offshore wind farm"
11.10.1 (C)	Must have some basis to determine "limited." "Feasibility" must be carried throughout section to avoid regulatory inconsistencies. "May" gives Council discretion it needs when evaluating applications. "Unable to access the project area" is unclear and should be clarified.
11.10.1 (C)	Recommend consistency among "significant adverse impact," "significant long-term negative impacts," and "adverse effects." Recommend defining "feasible options."
11.10.1 (D)(1)	Remove all language after "However, for CZMA purposes" making FAB meeting prerequisite to CRMC review since CZMA timelines are predicated on submission of necessary data and information. Requiring meetings prior to submission of necessary information and data may lead to meetings based on incomplete data and is inconsistent with federal regulations which permit meetings only after submission of necessary data and information.
11.10.1 (E)	"Avoided" must be removed as it contradicts other parts of OSAMP that allows for a feasibility analysis and

	mitigation. "Feasibility" must be carried throughout section to avoid regulatory inconsistencies. Defining "mitigation" to certain uses potentially excludes other uses and is likely beyond CRMC's jurisdiction – better to determine mitigation on the facts of each project.
11.10.1 (E)	Remove or alter language concerning monetary compensation for mitigation. Because the CRMC states that it cannot compel monetary compensation as mitigation, it is inappropriate to identify monetary compensation as the only potential mitigation option in this section.
11.10.1 (I)(1)	Remove language making HAB meeting prerequisite to CRMC review (similar to FAB issue)
11.10.1 (O)	Regulation of underwater construction noise is beyond CRMC's jurisdiction; therefore removed
11.10.1 (P)	Must be determined on a project by project basis using scientifically acceptable geophysical investigation techniques with some parameters on maximum depths
11.10.1 (P)(4)	Clarify what "3.0 meters MLLW" means for certain cable landings, define "cable landings" and "sandy or erodible shorelines," explain basis for "3.0 meters MLLW" standard.

From:	Gene Grace
To:	jboyd@crmc.ri.gov
Subject:	AWEA RENEW Comments to RI CRMC
Date:	Friday, July 12, 2019 11:14:42 PM
Attachments:	AWEA-RENEW comments to RI CRMC 7-12-19 (003).pdf

Please find AWEA and RENEW's comments attached. Thx - Gene

Gene Grace
Senior Counsel
American Wind Energy Association

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July 12, 2019

Mr. James Boyd
Coastal Resources Management Council
Stedman Government Center
4808 Tower Hill Road
Wakefield, RI 02879
jboyd@crmc.ri.gov

Re: AWEA Comments on Proposed Amendments to Policies and Standards of Ocean Special Area Management Plan (Ocean SAMP) (650-RICR-20-05-11)

The American Wind Energy Association[1] ("AWEA") and RENEW Northeast, Inc.[2] ("RENEW") appreciate the opportunity to comment on the Rhode Island Coastal Resources Management Council's ("CRMC") proposed amendments to the Ocean Special Area Management Plan ("OSAMP"). AWEA and RENEW commend Rhode Island's long-standing leadership on offshore wind energy, including supporting development of and hosting the first offshore wind farm in the U.S., RI CRMC's approval of Vineyard Wind, competitive procurement of 400 megawatts ("MW") of offshore wind from Revolution Wind, a request for proposals for an additional 400 MW of renewable energy that is pending, and Governor Raimondo's 1,000 MW by 2020 goal for clean energy, among other developments.

AWEA and RENEW's comments primarily focus on proposed standards that are both unworkable from the perspective of the offshore wind industry and conflict with the Bureau of Ocean Energy Management's ("BOEM") regulation of offshore wind

[1] AWEA is a national trade association representing a broad range of entities with a common interest in encouraging the expansion and facilitation of wind energy resources in the United States. AWEA's more than 1,000 member companies include wind turbine manufacturers, component suppliers, project developers, project owners and operators, financiers, researchers, utilities, marketers, customers, and others.

[2] RENEW is a non-profit association uniting environmental advocates and the renewable energy industry whose mission involves coordinating the ideas and resources of its members with the goal of increasing environmentally sustainable energy generation in the Northeast from the region's abundant, indigenous renewable resources. RENEW members own and/or are developing large-scale renewable energy projects, energy storage resources and high-voltage transmission facilities across the Northeast. They are supported by members providing engineering, procurement and construction services in the development of these projects and members that supply them with multi-megawatt class wind turbines.

development in federal waters. For the reasons discussed below, AWEA recommends that CRMC delete these various standards.

I. COMMENTS

a. Design Standards

Section 11.9.4(C) requires wind turbines in state waters to meet various design standards. For instance, they must "be arranged in a grid pattern based on longitude and latitude with east-west rows" with a "minimum spacing of one (1) nautical mile [("nm")] between all turbines and all lanes between turbines (east-west, north-south) [of a] minimum of 1 [nm] wide." Even though this design standard is listed as a "general policy" applicable only to state waters projects, section 11.10.1(E) nevertheless explicitly applies this policy to the federal consistency review.[3] This would, in effect, impermissibly require the consistency review for federal waters to account for strict offshore wind energy standards that have not been approved by a federal agency. For example, in light of the requirement to avoid areas of particular concern, the renewable energy zone ("REZ) is too small and narrow to accommodate a turbine grid pattern with 1 x 1 nm spacing (east-west, north-south). As such, it would appear that the focus of these design standards is really with respect to extending to federal waters through CRMC's CZMA authority. This clearly intrudes upon federal jurisdiction in this area.

It is also worth noting that CRMC explains that these design standards are based on the RI commercial fishermen proposal submitted to CRMC during the Vineyard Wind review. However, as that proposal describes mobile gear fishing activity that occurs only in federal waters and the fishermen themselves describe east-west fishing occurring only in federal waters, the impracticality of 1 x 1 nm layout in state waters seems self-evident. Again, the proposed design standards are impermissibly directed at federal waters.

[3] Section 11.10.1(E) states "to assist the Council with [Coastal Zone Management Act ('CZMA')] consistency certification, offshore wind energy projects should be designed in accordance with § 11.9.4(C)(1) of this Part to avoid significant adverse impacts to commercial fishing activities."

In order to rectify this situation, AWEA recommends that CRMC delete the sentence in section 11.10.1(E) that states in concurring with CZMA consistency certification, offshore wind energy projects be designed in accordance with the design standards listed in section 11.9.4(C)(1) as it intrudes on BOEM's jurisdiction. AWEA also recommends that CRMC delete the design standards section set forth in section 11.9.4(C)(1), as it is not workable in state waters.

B. Significant Long-Term Negative Impacts

Section 11.10.1(C) defines significant long-term negative impacts on commercial and recreational fishing as the vessels' inability "to access the project area because of the project design, or are limited in accessing a project area due to construction and operation activities, which result in negative economic impacts for a period of two (2) years or more." This language is too vague to provide sufficient guidance to be enforceable. As such, because the proposed language does not provide explicit standards, it cannot be an enforceable policy under the CZMA. Instead, AWEA recommends that CRMC define significant long-term impacts using the best available data on navigational safety and commercial and recreational fishing data, and economic impacts should be based on the best available data on fishing landing values from a project area.

C. Mitigation Provisions

BOEM does not currently have any permitting requirements that mandate modification of a project to avoid impacts before mitigation is considered. In fact, BOEM considers mitigation measures throughout the process, including in the applicant's Construction Operation Plan ("COP"). Nevertheless, section 11.10.1(C) states that "consistent with federal permitting requirements," the Council may decide to not consider mitigation options until the applicant demonstrates that all "feasible" options have been evaluated for modifying the project to avoid impacts.

AWEA recommends the elimination of the requirement in section 11.10.1(C) to modify a project before the Council will consider mitigation measures. Instead, consistent with the approach adopted by BOEM, the applicant should be allowed to modify the proposal to avoid and/or mitigate impacts up to and though the COP stage.

D. Construction Noise

Section 11.10.1(O) mandates the applicant's use of the best available control technology ("BACT") to minimize construction and pile driving noise impacts and requires the applicant to provide an analysis of available wind tower designs and pile driving technologies. This policy is not achievable and intrudes on BOEM's jurisdiction. Specifically, the CRMC's policy requiring a BACT analysis is neither required in a COP nor possible, since section 11.10.1(O)'s required information is not developed until well after COP submission. During the COP engineering phase, each foundation is designed considering a multitude of location-specific factors, which determines the use of what pile driving and noise technologies will be employed. Because these analyses occur well after COP submission, it is not possible to collect section 11.10.1(O)'s required information within the 6-month review period. Further, NOAA has not approved, nor should it, an enforceable policy that would defeat the 6-month statutory review requirement. AWEA recommends that section 11.10.1(O) should be deleted because CRMC cannot require the BACT analysis as part of the federal consistency process.

E. Cable Burial and Cable Armoring

Section 11.10.1(P) impermissibly conflicts with BOEM's approach to permitting offshore wind projects in federal waters.[4] Even though CRMC cannot impose

[4] The Outer Continental Shelf Lands Act ("OCSLA") and its implementing regulations "allow a lessee to submit a reasonable range of design parameters within a COP, and for BOEM to approve a COP containing such a range of designs."

construction requirements in federal waters, section 11.10.1(P) mandates that all power cables "shall" be buried to a minimum depth of 1.5 meters. BOEM has that authority, and it is not until after COP approval that BOEM regulations require detailed information on cable burial methods and vessels used for installation.[5] Similarly, section 11.10.1(P)(3) considers "any and all expected areas of shallow cable burial to be a significant impact on marine organisms and the use of marine resources." However, again, it is not until well after COP submission, that a cable burial risk analysis is conducted to determine the installation tools needed to achieve target burial depths and to identify potential cable protection areas; in short, cable armoring needs are unknown until construction is underway.

AWEA recommends that the regulation require case-by-case investigation and not have any targets on cable burial and armoring. In addition, these requirements for cable protection for state waters should also be evaluated on case-by-case basis.

G. Baseline Assessment

CRMC's proposed baseline assessment policy conflicts with BOEM's jurisdiction to determine under OCSLA a project's environmental protection and with BOEM's regulations governing baseline biological assessments included in a COP. Specifically, section 11.10.9 states "detailed commercial fisheries baseline assessment shall be considered necessary data … to be filed with the applicant's consistency certification for a CZMA review and to demonstrate compliance…" CRMC has further clarified that the baseline assessment requirements for federal consistency require a minimum of 2-years pre-construction baseline biological assessment of commercial and recreational targeted species, as specified in § 11.9.9(C). However, in BOEM's COP, there is no requirement to collect 2-years of lease site baseline data for all four seasons. Rather, an applicant must provide baseline biological information specific to the lease area's site- and regional-specific data. Thus, by mandating two years of studies, section 11.10.9 intrudes on

[5] *See* 585.802(a)(7).

BOEM's authority to determine the need and method for collecting baseline biological data and may delay renewable energy development.

AWEA recommends the elimination of section 11.10.9's requirement that a detailed commercial fisheries baseline assessment be considered necessary data for a consistency review. Instead, CRMC should rely on the commercial fisheries baseline assessment that BOEM, in consultation with NMFS, requires for COP approval.

II. CONCLUSION

Thank you in advance for your consideration of the issues raised in these comments, and please do not hesitate to contact AWEA if we can provide additional information.

Sincerely,

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June 12, 2019

NOTICE FOR PUBLIC WORKSHOP

CRMC Ocean SAMP – Chapter 11: 650-RICR-20-05-11

The Coastal Resources Management Council (CRMC) is proposing amendments to RICRMP: Ocean SAMP - Chapter 11 - Policies of the Ocean SAMP (650-RICR-20-05-11) and has issued a **public notice** dated June 12, 2019 and scheduled a **public hearing** for June 25, 2019. The public notice and a copy of the proposed amendments to Ocean SAMP Chapter 11 is accessible online at the Secretary of State's web site here: https://rules.sos.ri.gov/promulgations/part/650-20-05-11.

The CRMC has scheduled a **Public Workshop** for **Monday, June 17, 2019 at 5:00 p.m**. in Corless Auditorium, URI Bay Campus, South Ferry Road, Narragansett, RI. The CRMC is interested in obtaining the views of interested parties on the proposed 650-RICR-20-05-11 amendments in advance of the June 25, 2019 public hearing noted above. CRMC staff will be presenting the proposed amendments for discussion with meeting attendees.

/lat

RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING

COASTAL RESOURCES MANAGEMENT COUNCIL

Title of Rule: RICRMP: Ocean SAMP - Chapter 11 - Policies of the Ocean SAMP (650-RICR-20-05-11)

Rule Identifier: 650-RICR-20-05-11

Rulemaking Action: Proposed Amendment

Important Dates:
Date of Public Notice: 06/12/2019
Hearing Date: 06/25/2019
End of Public Comment: 07/12/2019

Authority for this Rulemaking:
R.I. Gen. Laws § 46-23 et seq.

Summary of Rulemaking Action:
The CRMC proposes to amend the policies and standards of Ocean Special Area Management Plan (Ocean SAMP) Chapter 11 to improve the predictability of state permitting and federal consistency review processes for offshore renewable energy projects. The proposed amendments apply to any renewable energy and offshore development activity located within state waters or federal waters within CRMC geographic location description (GLD) boundaries that are subject to federal consistency review.

Summary of proposed amendments to 650-RICR-20-05-11

1. Amend § 11.2(A) to clarify the purpose of the regulations and better differentiate between state permitting and federal consistency review authority.

2. Amend § 11.3(E) to add representation of seafood processing facilities onto CRMC Fishermen's Advisory Board (FAB) and increase FAB membership to twenty (20) to account for seafood processing representatives.

3. Further clarify 2011 and 2018 geographic location descriptions (GLD) as defined in § 11.3(F).

4. Move deleted text in § 11.3(H)(6) to correct placement in § 11.3(H)(5).

5. Delete anachronistic text and clarify NOAA approval of Ocean SAMP and federal consistency authority in § 11.5.

6. Add new § 11.9(C) using text moved from § 11.10.1(D). Delete § 11.10.1(D).

7. Add new § 11.9(D) for $20,000 administrative fee for projects subject to CRMC federal consistency review only (no state permit required).

8. Amend § 11.9.1(E) to add reference to NOAA-approved GLDs.

9. Add deleted text from § 11.10.1(Q) to § 11.9.3(J).

10. Amend § 11.9.4(C) to include CRMC required (in state waters) wind farm design standards to enhance compatibility with commercial fishing operations.

11. Amend § 11.9.4(H) to increase from 6 to 7 FAB votes for RI interests to account for adding representation from the seafood processing facilities on the FAB as per proposed amendment in § 11.3(E).

12. Delete repetitive text in § 11.9.7(H); same text in § 11.9.4(F).

13. Add new § 11.9.8 for application requirements in state waters using deleted text from § 11.10.5.

14. Add new § 11.9.9 for baseline assessment requirements and standards in state waters including deleted text from § 11.10.9.

15. Add new §§ 11.9.9(E) for baseline assessment standards and (F) for post construction assessment requirements.

16. Amend § 11.10.1(C) to further clarify significant adverse impacts and coastal effects to commercial fisheries, when mitigation may be considered, and federal consistency issues.

17. Amend § 11.10.1(D) to include pre-application meetings with FAB and further clarify formal meeting with FAB to meet federal consistency necessary data and information requirements.

18. Add new § 11.10.1(D)(1) to clarify CZMA federal consistency review process as it relates to BOEM and the filing of a construction and operation plan (COP).

19. Amend § 11.10.1(E) to further clarify CZMA process and mitigation requirements.

20. Delete § 11.10.1(F) as first sentence is repetitive in § 11.10.1(C) and second sentence added to § 11.10.1(C).

21. Amend new § 11.10.1(F) to add shore-side seafood processing facilities as a fisheries user group and further clarify mitigation process and requirements in CZMA federal consistency review process.

22. Amend § 11.10.1(I) to clarify CZMA federal consistency review process as it relates to BOEM and the filing of a construction and operation plan (COP).

23. Add new § 11.10.1(O) for construction noise abatement requirements and standards to minimize adverse impacts to fishery resources.

24. Add new § 11.10.1(P) for cable burial requirements and standards to avoid significant adverse impacts to commercial fishing activities.

25. Amend § 11.10.5(A) to clarify when necessary data and information may be filed for CRMC federal consistency review.

26. Amend § 11.10.5(C) to remove anachronistic text and clarify the timing of a COP and SAP filing in the BOEM process.

27. Amend § 11.10.5(C)(1) to clarify SAP process for projects in state waters.

28. Amend § 11.10.5(C)(1)(g) to clarify that when NDI is missing the CRMC must follow federal regulations for a delay in CZMA federal consistency review process.

29. Delete §§ 11.10.5(C)(1)(h) and (j) through (q) and move to § 11.9.8(A).

30. Delete §§ 11.10.5(C)(2)(h) through (o) and move to § 11.9.8(B).

31. Delete § 11.10.5(C)(2)(o)(1) and move to § 11.9.8(B)(8).

32. Delete § 11.10.6 and move to § 11.9.8(C).

33. Delete § 11.10.7 and move to § 11.9.8(D).

34. Delete § 11.10.8 and move to § 11.9.8(E).

35. Amend § 11.10.9(A) to clarify baseline assessment requirements for projects subject to CZMA federal consistency review and move deleted text to new § 11.9.9.

36. Other minor edits and corrections as noted in track changes within the document.

Additional Information and Comments:

All interested parties are invited to request additional information or submit written or oral comments concerning the proposed amendment until July 12, 2019 by contacting the appropriate party at the address listed below:

James Boyd
Coastal Resources Management Council
Stedman Government Center
4808 Tower Hill Road
Wakefiled, RI 02879
jboyd@crmc.ri.gov

Public Hearing:
A public hearing, in accordance with R.I. Gen. Laws § 42-35-2.8, to consider the proposed amendment shall be held on June 25, 2019 at 6:00 pm at Administration Building, Conference Room A, One Capitol Hill, Providnece, RI 02908 at which time and place all persons interested therein will be heard. The seating capacity of the room will be enforced and therefore the number of persons participating in the hearing may be limited at any given time by the hearing officer, in order to comply with safety and fire codes.

The place of the public hearing is accessible to individuals who are handicapped. If communication assistance (readers/interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call 401-783-3370 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

Regulatory Analysis Summary and Supporting Documentation:
The CRMC has undertaken an analysis of the benefits and costs of a reasonable range of regulatory alternatives associated with the proposed rulemaking. The regulations contained with the CRMC's Ocean SAMP and its marine spatial planning protects Rhode Island coastal uses and resources within state and federal offshore waters while promoting renewable energy growth. In consideration of the alternatives the CRMC has determined that there is no alternative approach among the alternatives considered that would be as effective and less burdensome to affected private persons as another regulation. In addition, there are no other state regulations which are overlapped or duplicated by the proposed regulation.

The CRMC has determined that the benefits of the proposed rule justify the costs of the proposed rule, and that the proposed rule will achieve the objectives of the authorizing statute in a more cost-effective manner and with greater net benefits than other regulatory alternatives.

For full regulatory analysis or supporting documentation see agency contact person above.

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June 12, 2019

NOTICE FOR PUBLIC WORKSHOP

CRMC Ocean SAMP – Chapter 11: 650-RICR-20-05-11

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/lat

650-RICR-20-05-11

TITLE 650 – COASTAL RESOURCES MANAGEMENT COUNCIL

CHAPTER 20 – COASTAL MANAGEMENT PROGRAM

SUBCHAPTER 05 – OCEAN SPECIAL AREA MANAGEMENT PLAN

PART 11 – Policies of the Ocean SAMP

11.1 Authority

A. Pursuant to the federal Coastal Zone Management Act (CZMA) of 1972 (16 U.S.C. §§ 1451 through 1466) and R.I. Gen. Laws Chapter 46-23 the Coastal Resources Management Council (CRMC) is authorized to develop and implement special area management plans.

B. The regulations herein constitute a RICR regulatory component of the Ocean Special Area Management Plan (SAMP) Chapter 11 - The Policies of the Ocean SAMP, and must be read in conjunction with the other RICR regulatory components and chapters of the Ocean SAMP for the full context and understanding of the CRMC's findings and policies that form the basis and purpose of these regulations. The other RICR regulatory components and chapters of the Ocean SAMP should be employed in interpreting the regulations herein and R.I. Gen. Laws § 46-23-1, *et seq*.

11.2 Purpose

A. The purpose of these rules is to carry out the responsibilities of the Coastal Resources Management Council in establishing the Ocean Special Area Management Plan (Ocean SAMP) for the state's offshore waters (~~beyond~~ within the 3 nautical mile state water boundary). The CRMC will apply its SAMP responsibilities to projects that are proposed in federal waters (beyond the 3 nautical mile state water boundary) through the CZMA federal consistency provisions pursuant to 16 U.S.C. § 1456 and 15 C.F.R. Part 930. This includes developing ~~within~~ the geographic location descriptions (GLDs) in federal waters. The SAMP, GLDs, and CZMA federal consistency authority ~~and to~~ provide the ~~regulatory~~ framework for promoting a balanced and comprehensive ecosystem-based management approach to the development and protection of Rhode Island's ocean-based resources. In addition, these rules establish the regulatory standards and enforceable policies ~~within the GLD~~ for purposes of the federal ~~Coastal Zone Management Act~~CZMA federal consistency provisions pursuant to 16 U.S.C. § 1456 and 15 C.F.R. Part 930.

11.3 Definitions

A. "Certified verification agent" or "CVA" means an independent third-party agent that shall use good engineering judgment and practices in conducting an independent assessment of the design, fabrication and installation of the facility.

B. "Construction and operations plan" or "COP" means a plan that describes the applicant's construction, operations, and conceptual decommissioning plans for a proposed facility, including the applicant's project easement area.

C. "Ecosystem based management" or "~~EMB~~EBM" means an integrated approach to management that considers the entire ecosystem, including humans. The goal of EBM is to maintain an ecosystem in a healthy, productive and resilient condition that provides the services humans want and need.

D. "Enforceable policy" means State policies which are legally binding through constitutional provisions, laws, regulations, land use plans, ordinances, or judicial or administrative decisions, by which a State exerts control over private and public land and water uses and natural resources in the coastal zone.

E. "Fishermen's Advisory Board" or "FAB" means an advisory body to the Council that shall be comprised of up to ~~eighteen~~ twenty (~~18~~20) total members, to include the following:

1. Up to two (2) members representing each of the following six Rhode Island fisheries: bottom trawling; scallop dredging; gillnetting; lobstering; party and charter boat fishing; and recreational angling; ~~and~~

2. Up to two (2) members who are managers representing Rhode Island seafood processing facilities; and

~~2~~3. Up to six (6) members, who are Massachusetts fishermen who fish in the Ocean SAMP area to include four commercial fishermen and two recreational fishermen.

F. "Geographic location description" or "GLD" means a geographic area in federal waters~~, consistent with the Ocean SAMP study area,~~ where certain federal ~~agency activities,~~ license~~s~~, and permit activities pursuant to 15 C.F.R. Part 930 Subparts D and E will be subject to Rhode Island review under the ~~Coastal Zone Management Act (~~CZMA~~)~~ federal consistency provisions. Rhode Island has two federally approved GLDs (2011 and 2018).

G. "Habitat Advisory Board" or "HAB" means an advisory body to the Council that shall be comprised of nine members, five representing marine research institutions with experience in the Ocean SAMP study area and surrounding waters, and four representing environmental non-governmental organizations that maintain a focus on Rhode Island.

H. "Large-scale offshore developments" means:

1. offshore wind facilities (5 or more turbines within 2 km of each other, or 18 MW power generation);

2. wave generation devices (2 or more devices, or 18 MW power generation);

3. instream tidal or ocean current devices (2 or more devices, or 18 MW power generation);

4. offshore LNG platforms (1 or more);

5. artificial reefs (1/2 acre footprint and at least 4 feet high), except for projects of a public nature whose primary purpose is habitat enhancement; and

6. outer continental shelf (OCS) exploration, development, and production plans~~, except for projects of a public nature whose primary purpose is habitat enhancement~~.

I. "Marine spatial planning" or "MSP" means the process by which ecosystem-based management is organized to produce desired outcomes in marine environments.

J. "Site assessment plan" or "SAP" means a pre-application plan that describes the activities and studies the applicant plans to perform for the characterization of the project site.

11.4 Introduction ~~(formerly § 1100)~~

A. The Rhode Island General Assembly mandates Rhode Island Coastal Resources Management Council ~~(CRMC)~~ to preserve, protect, develop, and where possible, restore the coastal resources of the state for this and succeeding generations through comprehensive and coordinated long range planning and management designed to produce the maximum benefit for society from these coastal resources; and that the preservation and restoration of ecological systems shall be the primary guiding principle upon which environmental alteration of coastal resources will be measured, judged and regulated [R.I. Gen. Laws § 46-23-1(a)(2)]. To more effectively carry out its mandate, the CRMC has established use categories for all state waters out to the three nautical mile boundary. The Rhode Island Coastal Resource Management Program (RICRMP) is a federally-approved coastal program under the federal Coastal Zone Management Act (16 U.S.C. § 1451 *et seq.*).

B. The Ocean Special Area Management Plan ~~(Ocean SAMP)~~ is the regulatory, planning and adaptive management tool that CRMC ~~is applying~~applies to uphold these regulatory responsibilities in the Ocean SAMP area. Using the best

available science and working with well-informed and committed resource users, researchers, environmental and civic organizations, and local, state and federal government agencies, the Ocean SAMP provides a comprehensive understanding of this complex and rich ecosystem. The Ocean SAMP also documents how the people of this region have used and depended upon these offshore resources for subsistence, work and play, and how the natural wildlife such as fish, birds, marine mammals and sea turtles feed, spawn, reproduce, and migrate throughout this region, thriving on the rich habitats, microscopic organisms, and other natural resources. To fulfill the Council's mandate, the Ocean SAMP lays out enforceable policies and recommendations to guide CRMC in promoting a balanced and comprehensive ecosystem-based management approach to the development and protection of Rhode Island's ocean-based resources.

C. The Ocean SAMP region lies at the convergence of two bio-geographic provinces - the Acadian to the north (Cape Cod to the Gulf of Maine) and the Virginian to the south (Cape Cod to Cape Hatteras). Due to this unique position, the Ocean SAMP area is more susceptible than other areas along the eastern seaboard to the effects of climate change. Cognizant of this fact, the CRMC integrates climate concerns and adaptation and mitigation responses into relevant policies and plans. CRMC believes that with advanced planning, together with energy conservation, the harm and costs associated with these potential impacts can be reduced and may be avoided.

D. This Chapter presents how the Ocean SAMP builds upon CRMC's existing program as well as describes implementation mechanisms that support the application of the adaptive management approach. § 11.9 of this Part presents all Ocean SAMP general policies, while § 11.10 of this Part integrates the regulatory standards into a regulatory process that ensures the Council's ability to uphold its mandatory requirements. To review both general policies and regulatory standards by topic area, please see that specific chapter. The general policies in § 11.9 of this Part are policies the CRMC applies through its various management and regulatory functions, but the general policies are not "enforceable policies" for purposes of the federal ~~Coastal Zone Management Act (~~CZMA~~)~~ federal consistency provision at 16 U.S.C. § 1456 and 15 C.F.R. Part 930. For CZMA federal consistency purposes the general policies are advisory only and cannot be used as the basis for a CRMC CZMA federal consistency concurrence or objection. However, for state permitting purposes, offshore developments proposed to be sited in state waters are bound by both the general policies in § 11.9 of this Part and regulatory standards in § 11.10 of this Part. The regulatory standards in § 11.10 of this Part are enforceable policies for purposes of the federal CZMA federal consistency provision pursuant to16 U.S.C. § 1456 and 15 C.F.R. Part 930. For CZMA federal consistency purposes the regulatory standards, in addition to other applicable federally approved RICRMP enforceable policies, shall be used as the basis for a CRMC CZMA federal consistency concurrence or objection.

E. States, generally, do not have jurisdiction in federal waters and the federal ~~Coastal Zone Management Act (~~CZMA~~)~~ does not confer such jurisdiction. Therefore, in order to meet CZMA requirements, state plans, enforceable policies, and Areas of Particular Concern (APCs) must only apply to areas of state jurisdiction. The Ocean SAMP is a planning and regulatory component for the State of Rhode Island and ~~will be~~is incorporated into the NOAA-approved Rhode Island Coastal Resource Management Program ~~(RICRMP)~~. As such, in order to meet the CZMA's definition of "enforceable policy" and NOAA's corresponding regulations, the Ocean SAMP only applies to state waters (out to 3 nautical miles). The enforceable policies, APCs and Areas Designated for Preservation (ADPs) in ~~a~~ the NOAA-approved Ocean SAMP ~~will~~ apply to activities in federal waters through the CZMA federal consistency provision.

F. The Ocean SAMP includes maps of federal waters and identifies uses, resources and areas of federal waters. The data and maps pertaining to federal waters are not enforceable components of the Ocean SAMP. However, the data and maps contain a substantial amount of environmental, ecological, geologic, and human use information for state and federal waters. This information will be useful for environmental reviews (including reviews under the National Environmental Policy Act and coastal effects analyses under the CZMA), engineering issues (e.g., is the seafloor material compatible for a particular piece of equipment), and other planning and regulatory decisions. The CRMC may use the data and maps for federal waters to assess coastal effects, but Rhode Island's CZMA federal consistency concurrence or objection must be based on enforceable policies contained in the NOAA-approved RICRMP.

11.5 Building on CRMC's Existing Program ~~(formerly § 1110)~~

A. Ocean SAMP policies and recommendations build upon and refine the CRMC's existing ~~Program~~ program and regulations presented in the Rhode Island Coastal Resources Management ~~Plan~~ Program ~~(RICRMP)~~. The policies, standards, and definitions contained in the RICRMP for Type 4 waters within the Ocean SAMP boundary, specifically from the mouth of Narragansett Bay seaward, between 500 feet offshore and the 3-nautical mile state water boundary, are hereby modified. In addition, §§ 00-1.3.1(C)~~,~~ and 1.3.1(H) ~~and 1.3.8~~ of this Chapter are hereby superseded for this Ocean SAMP region. Aquaculture projects of any size shall follow § 00-1.3.1(K) of this Chapter. Dredging and dredge disposal activities remain governed by § 00-1.3.1(I) of this Chapter. ~~An approved Ocean SAMP by NOAA's Office for Coastal Management will confer federal consistency authority to the Council for a boundary extension in federal waters within the Ocean SAMP area. However, it should be noted that the Ocean SAMP boundary does not limit the zone for federal consistency, and the CRMC may still exercise its federal consistency authority over future activities which may be proposed in federal waters beyond the Ocean SAMP area.~~

B. All federal consistency ~~determinations~~ certifications for large-scale offshore developments, as defined in § 11.3(H) of this Part, will be concurred with or

objected to by the full Council after receiving a timely recommendation from the CRMC Executive Director.

C. The Ocean SAMP polices for Type 4 waters require that CRMC accommodate and maintain a balance among the diverse activities, both traditional and future water dependent uses, while preserving and restoring the ecological systems. CRMC recognizes that large portions of Type 4 waters include important fishing grounds and fishery habitats, and shall protect such areas from alterations and activities that threaten the vitality of Rhode Island fisheries. Aquaculture leases shall be considered if the Council is satisfied there will be no significant adverse impacts on the traditional fishery. In addition, CRMC shall work to promote the maintenance and improvement of good water quality within the Type 4 waters (§ 00-1.2.1(~~D~~E) of this Chapter).

D. The Ocean SAMP assists CRMC in upholding its mandate to preserve the state's coastal resources on submerged lands in accordance with the public trust. As stated in Article 1, § 17 of the Rhode Island Constitution, applicable statutes, and restated in the RICRMP, the state maintains title in fee to submerged lands below the high water mark, and holds these lands in trust for the use of the public, preserving public rights which include but are not limited to fishing, commerce, and navigation in these lands and waters. Rhode Island public trust resources are defined in RICRMP as the tangible physical, biological matter substance or systems, habitat or ecosystem contained on, in or beneath the tidal waters of the state, and also include intangible rights to use, access, or traverse tidal waters for traditional and evolving uses including but not limited to recreation, commerce, navigation, and fishing.

E. As with the six existing Rhode Island SAMPs and CRMC's water type designations, CRMC implements the marine spatial planning (MSP) process to achieve ecosystem-based management (EBM) for the Ocean SAMP region. For the purposes of the Ocean SAMP, the CRMC adopts the definition of EBM as defined in § 11.3 of this Part. The goal of EBM is to maintain an ecosystem in a healthy, productive and resilient condition that provides the services humans want and need." Ecosystems are places and ~~marine spatial planning (~~MSP~~)~~ is the process by which ecosystem-based management is organized to produce desired outcomes in marine environments. Since 1983 the CRMC has applied MSP to achieve EBM along Rhode Island's coastline.

11.6 Ocean SAMP Goals and Principles ~~(formerly § 1120)~~

A. The following goals and principles guided the process to both develop the Ocean SAMP as well as establish its policies and regulations ~~was guided by the following goals and principles~~. These goals and principles were developed in coordination with the Ocean SAMP researchers and the Ocean SAMP stakeholder group. For more information on the Ocean SAMP goals and principles and the Ocean SAMP stakeholder group see Chapter 1, Introduction.

B. The Ocean SAMP Goals are to:

1. Foster a properly functioning ecosystem that is both ecologically sound and economically beneficial;

2. Promote and enhance existing uses;

3. Encourage marine-based economic development that considers the aspirations of local communities and is consistent with and complementary to the state's overall economic development, social, and environmental needs and goals; and

4. Build a framework for coordinated decision-making between state and federal management agencies.

C. The Ocean SAMP Principles are to:

1. Develop the Ocean SAMP document in a transparent manner;

2. Involve all stakeholders;

3. Honor existing activities;

4. Base all decisions on the best available science; and

5. Establish monitoring and evaluation that supports adaptive management.

11.7 Applying Adaptive Management to Implement the Ocean SAMP ~~(formerly §1130)~~

A. Since its inception in 1971, the CRMC has managed Rhode Island's coastal waters using an adaptive management approach. Adaptive management is a systematic process for continually improving management policies and practices by learning from the outcomes of ~~previously employed~~previous policies and practices. Adaptive management requires careful implementation, monitoring, evaluation of results, and adjustment of objectives and practices. ~~Adaptive management usually allows more reliable interpretation of results, and leads to more rapid learning and better management.~~ To this end, CRMC will establish several mechanisms to ensure that the Ocean SAMP is implemented using this management approach.

B. CRMC will develop and implement the Ocean SAMP science research agenda, in coordination with the Ocean SAMP researchers, federal, state, and local government and other parties, to improve management policies and practices. The Ocean SAMP science research agenda will allow CRMC to:

1. continue to learn about Rhode Island's offshore natural resources and human activities;

2. better understand the potential effects of future development and other human impacts; and

3. increase Rhode Island's understanding of the projected impacts of global climate change. To develop the science research agenda, the Council will put together an advisory group including scientists, partner federal and state agencies, environmental organizations, and users of the Ocean SAMP area. This group will help the Council to identify data gaps, short- and long-term research priorities, potential partners, and potential funding sources.

C. A progress assessment and monitoring process by CRMC will be established with the purpose of assessing progress towards achieving the Ocean SAMP goals, objectives, and principles. This process will record decisions, capture lessons learned, note achievements, and document policy and management adaptations. This process will be ongoing, available on the project web site, and formally reported to the public on a biannual basis.

D. The Council will develop a work plan that will guide the proactive management of the Ocean SAMP region and implement the Ocean SAMP goals:

1. foster a properly functioning ecosystem that is both ecologically sound and economically beneficial;

2. promote and enhance existing uses;

3. encourage marine-based economic development that meets the aspirations of local communities and is consistent with and complementary to the state's overall economic development, social, and environmental needs and goals; and

4. build a framework for coordinated decision-making between state and federal management agencies. Major components of this work plan include the Ocean SAMP science research agenda, the progress assessment and monitoring process, stakeholder involvement and education, and implementation of Ocean SAMP policies and recommendations.

E. Although the Ocean SAMP may be ~~continually~~ amended through an administrative process, the CRMC will conduct a major review of the Ocean SAMP document every five years from adoption. CRMC will implement this revision process using the principles honored during the development of the Ocean SAMP, including involving stakeholders and basing all decisions on the best available science. For more information on the Ocean SAMP principles, see Chapter 1, Introduction.

F. The Council will establish a mechanism to ensure that the public continues to be engaged in the implementation of the Ocean SAMP. The Ocean SAMP public

forum will be held biannually. The public forum will feature reports and discussions of the Ocean SAMP condition and use, note progress toward goals and objectives, and recognize contributions to implementing the Ocean SAMP. The forum will highlight projects underway, report on the progress assessment and monitoring process and science research agenda, including new research findings and updated global climate change projections, and provide opportunities for exchanging information, ideas, and strategies to strengthen implementation. The forum will address emerging issues and identify potential Ocean SAMP revisions. The Council will use this information to prepare its work plan. The forum may be followed up by other Ocean SAMP meetings that provide continuing opportunities to discuss progress, focus on specific issues, and coordinate ongoing actions by member groups. The public forum will be supported by the Ocean SAMP website and information systems maintained by Rhode Island Sea Grant and CRMC.

11.8 Decision-making ~~(formerly § 1140)~~

A. In accordance with and pursuant to the provisions of R.I. Gen. Laws § 46-23-6, the Council shall engage in the following coordination activities. The intent of establishing these coordination mechanisms is to ensure appropriate engagement of the stakeholders, including the resources users and the state and federal government agencies. These coordination mechanisms, although described here, are more thoroughly described in the identified sections:

1. The Council shall work to the maximum extent practicable in coordination with the Ocean SAMP joint agency working group as defined in § 11.9.7(~~J~~I) of this Part, a group facilitated by the Council and made up of appropriate federal and state agencies, to establish project specific requirements that shall be followed by the applicant during the construction, operation and decommissioning phases of an offshore development. For more information on the joint agency working group, see § 11.9.7(~~J~~I) of this Part.

2. The Council shall engage commercial and recreational fishermen in the Ocean SAMP decision-making process through the Fishermen's Advisory Board (FAB), as defined in § 11.3(E) of this Part. The FAB will provide the Council with advice on the potential adverse impacts of Offshore Development on commercial and recreational fishermen and fisheries activities, and on issues including, but not limited to, the evaluation and planning of project locations, arrangements, and alternatives; micro-siting (siting of individual wind turbines within a wind farm to identify the best site for each individual structures); access limitations; and measures to mitigate the potential impacts of such projects. For more information on the FAB, see § 11.9.4(H) of this Part.

3. The Council shall work to minimize use conflicts and ensure marine safety and navigational access around and through offshore structures and

developments and along cable routes during the construction, operation and decommissioning phases of offshore development, by establishing communication and coordination mechanisms between the Council, Federal and state agencies, resource users including fishermen's organizations, marine pilots, recreational boating organizations, and marine safety organizations. See §§ 11.9.4 through 11.9.7 of this Part for further information.

4. The Council shall convene a panel of scientists to advise on findings of current climate science for the region and the implications for Rhode Island's coastal and offshore regions, as well as the possible management ramifications. This information will allow the Council to proactively plan for and adapt to climate change impacts including, but not limited to, increased storminess, temperature change, and acidification in addition to accelerated sea level rise. For more information on the Science Advisory Panel for Climate Change, see § 11.9.2(C) of this Part.

5. The Council shall work to the maximum extent practicable with state and federal agencies, academic institutions, environmental organizations, and others to make sure it is using the best available science and modeling tools to inform the decision making process. Tools including the Technology Development Index (TDI) and the Ecological Value Map (EVM) will inform site selection of future development and help to understand where areas of greatest ecological value exist in the Ocean SAMP area to then determine appropriate sites suitable for preservation and/or future development. For more information on these tools, see Chapter 2, Ecology of the SAMP Region, and Part 8 of this Subchapter (Renewable Energy and Other Offshore Development).

11.9 General Policies ~~(formerly § 1150)~~

A. Ocean SAMP policies and regulatory standards represent actions the CRMC must take to uphold its regulatory responsibilities mandated to them by the Rhode Island General Assembly and the CZMA to achieve the Ocean SAMP goals and principles described in the Introduction Chapter. The "General Policies" in § 11.9 of this Part are policies the CRMC applies through its various management and regulatory functions, but the General Policies are not "enforceable policies" for purposes of the federal CZMA federal consistency provision (16 U.S.C. § 1456 and 15 C.F.R. Part 930). For CZMA federal consistency purposes the General Policies are advisory only and cannot be used as the basis for a CRMC CZMA federal consistency concurrence or objection. However, for state permitting purposes, offshore developments proposed to be sited in state waters are bound by both the General Policies (§ 11.9 of this Part) and Regulatory Standards (§ 11.10 of this Part) listed herein, The Policies of the Ocean SAMP. The "Regulatory Standards" in § 11.10 of this Part are enforceable policies for purposes of the federal CZMA federal consistency provision (16 U.S.C. § 1456 and 15 C.F.R. Part 930). For CZMA federal consistency purposes

the CRMC shall use the Regulatory Standards, in addition to other applicable federally approved RICRMP enforceable policies, ~~shall be used~~ as the basis for a CRMC CZMA federal consistency concurrence or objection. These general and regulatory ~~P~~policies ~~presented~~ for cultural and historic resources, fisheries, recreation and tourism, and marine transportation promote and enhance existing uses and honor existing activities (§ 11.6(C)(3) of this Part). Ecology, global climate change, and other future uses information and policies provide a context for basing all decisions on the best available science, while fostering a ~~properly~~ functioning ecosystem that is both ecologically sound and economically beneficial (§ 11.6(C)(4) of this Part). Renewable energy and offshore development policies and regulatory standards ensure there is a rigorous review for all ocean development so that the Council meets its public trust responsibilities. The Ocean SAMP also provides thoughtful direction to encourage marine-based economic development that meets the aspirations of local communities and is consistent with and complementary to the state's overall economic development, social, and environmental needs and goals (§ 11.6(B)(3) of this Part). All chapters work towards establishing frameworks to coordinate decision-making between state and federal management agencies and the people who use the Ocean SAMP region (§ 11.6(B)(4) of this Part), developing in a transparent manner (§ 11.6(C)(1) of this Part), and promoting adaptive management (§ 11.6(C)(5) of this Part). All of the Ocean SAMP policies are ~~all~~ important to ~~ensuring~~ ensure that the Ocean SAMP region is managed in a manner that ~~both~~ meets the needs of the people of Rhode Island, while protecting and restoring our natural environment for future generations.

B. § 11.9 of this Part presents all Ocean SAMP general policies, while § 11.10 of this Part integrates the regulatory standards into a regulatory process that ensures the Council's ability to uphold its mandatory requirements. ~~To review both general policies and regulatory standards by topic area, please see these two sections.~~

C. Any assent holder of a CRMC-approved offshore development shall:

1. Design the project and conduct all activities in a manner that ensures safety and shall not cause undue harm or damage to natural resources, including their physical, chemical, and biological components to the extent practicable; and take measures to prevent unauthorized discharge of pollutants including marine trash and debris into the offshore environment.

2. Submit requests, applications, plans, notices, modifications, and supplemental information to the Council as required;

3. Follow up, in writing, any oral request or notification made by the Council, within three (3) business days;

4. Comply with the terms, conditions, and provisions of all reports and notices submitted to the Council, and of all plans, revisions, and other Council approvals, as provided in § 11.10.5 of this Part;

5. Make all applicable payments on time;

6. Conduct all activities authorized by the permit in a manner consistent with the provisions of this document, the Rhode Island Coastal Resources Management Program (Subchapter 00 Part 1 of this Chapter), and all relevant federal and state statutes, regulations and policies;

7. Compile, retain, and make available to the Council within the time specified by the Council any information related to the site assessment, design, and operations of a project; and

8. Respond to requests from the Council in a timeframe specified by the Council. **(Note: this section moved in its entirety from § 11.10.1(D)**

D. Administrative processing fee: For large-scale offshore developments, underwater cables, and other projects as determined by the Council, the CRMC may asses the applicant with an administrative processing fee to help defray costs to conduct the CZMA federal consistency review, including the mitigation negotiations. This fee shall be $20,000. The Council cannot issue a conditional concurrence or an objection for failure to pay the fee.

11.9.1 Ecology ~~(formerly § 1150.1)~~

A. The Council recognizes that the preservation and restoration of ecological systems shall be the primary guiding principle upon which environmental alteration of coastal resources will be measured. Proposed activities shall be designed to avoid impacts and, where unavoidable impacts may occur those impacts shall be minimized and mitigated.

B. As the Ocean SAMP is an extension and refinement of CRMC's policies for Type 4 multipurpose waters as described in § 00-1.2.1(~~D~~E) of this Chapter, CRMC will encourage a balance among the diverse activities, both traditional and future water dependent uses, while preserving and restoring the ecological systems.

C. The Council recognizes that while all fish habitat is important, spawning and nursery areas are especially critical in providing shelter for these species during the most vulnerable stages of their life cycles. The Council will ensure that proposed activities shall be designed to avoid impacts to these sensitive habitats, and, where unavoidable impacts may occur, those impacts shall be minimized and mitigated. In addition, the Council will give consideration to habitat used by species of concern as defined by the NMFS Office of Protected Resources.

D. Because the Ocean SAMP is located at the convergence of two eco-regions and therefore more susceptible to change, the Council will work with partner federal

and state agencies, research institutions, and environmental organizations to carefully manage this area, especially as it relates to the projected effects of global climate change on this rich ecosystem.

E. The Council shall appoint a standing Habitat Advisory Board (HAB) which shall provide advice to the Council on the ecological function, restoration and protection of the marine resources and habitats in the Ocean SAMP area and on the siting, construction, and operation of off shore development in the Ocean SAMP study area and in NOAA-approved geographic location descriptions (GLDs). The HAB shall also provide advice on scientific research and its application to the Ocean SAMP. The HAB is an advisory body to the Council and does not supplant any authority of any federal or state agency responsible for the conservation and restoration of marine habitats. The HAB is defined in § 11.3(G) of this Part. HAB members shall serve four-year terms and shall serve no more than two consecutive terms. The Council shall provide to the HAB a semi-annual status report on Ocean SAMP area marine resources and habitat-related issues and adaptive management of projects in the Ocean SAMP planning area, including but not limited to: protection and restoration of marine resources and habitats, cumulative impacts, climate change, environmental review criteria, siting and performance standards, and marine resources and habitat mitigation and monitoring. The Council shall notify the HAB in writing concerning any project in the Ocean SAMP area. The HAB shall meet not less than semi-annually with the Fishermen's Advisory Board and on an as-needed basis to provide the Council with advice on protection and restoration of marine resources and habitats in the Ocean SAMP areas and potential adverse impacts on marine resources and habitat posed by proposed projects reviewed by the Council. The HAB may also meet regularly to discuss issues related to the latest science of ecosystem-based management in the marine environment and new information relevant to the management of the Ocean SAMP planning area. In addition the HAB may aid the Council and its staff in developing and implementing a research agenda. As new information becomes available and the scientific understanding of the Ocean SAMP planning area evolves, the HAB may identify new areas with unique or fragile physical features, important natural habitats, or areas of high natural productivity for designation by the Council as Areas of Particular Concern or Areas Designated for Preservation.

11.9.2 Global Climate Change ~~(formerly § 1150.2)~~

A. The Council recognizes that the changes brought by climate change are likely to result in alteration of the marine ecology and human uses affecting the Ocean SAMP area. The Council encourages energy conservation, mitigation of greenhouse gasses and adaptation approaches for management. The Council, therefore, supports the policy of increasing offshore renewable energy production in Rhode Island as a means of mitigating the potential effects of global climate change.

B. The Council shall incorporate climate change planning and adaptation into policy and standards in all areas of its jurisdiction of the Ocean SAMP and its associated land-based infrastructure to proactively plan for and adapt to climate change impacts such as increased ~~storminess~~ storm intensity and temperature change, in addition to accelerated sea level rise. For example, when evaluating Ocean SAMP area projects and uses, the Council will carefully consider how climate change could affect their future feasibility, safety and effectiveness. When evaluating new or intensified existing uses within the Ocean SAMP area, the Council will consider predicted impacts of climate change especially upon sensitive habitats, most notably spawning and nursery grounds, of particular importance to targeted species of finfish, shellfish and crustaceans.

C. The Council will convene a panel of scientists, biannually, to advise on findings of current climate science for the region and the implications for Rhode Island's coastal and offshore regions, as well as the possible management ramifications. The horizon for evaluation and planning needs to include both the short term (10 years) and longer term (50 years). The Science Advisory Panel for Climate Change will provide the Council with expertise on the most current global climate change related science, monitoring, policy, and development design standards relevant to activities within its jurisdiction of the Ocean SAMP and its associated land-based infrastructure to proactively plan for and adapt to climate change impacts such as increased storminess, temperature change, and acidification in addition to accelerated sea level rise. The findings of this Science Advisory Panel will be forwarded on to the legislatively-appointed Rhode Island Climate Change Commission for their consideration.

D. The Council will prohibit those land-based and offshore development projects which based on a sea level rise scenario analysis will threaten public safety or not perform as designed resulting in significant environmental impacts. The U.S. Army Corps of Engineers has developed and is implementing design and construction standards that consider impacts from sea level rise. These standards and other scenario analyses should be applied to determine sea level rise impacts.

E. The Council supports the application of enhanced building standards in the design phase of rebuilding coastal infrastructure associated with the Ocean SAMP area, including port facilities, docks, and bridges that ships must clear when passing underneath.

F. The Council supports the development of design standards for marine platforms that account for climate change projections on wind speed, storm intensity and frequency, and wave conditions and will work with the U.S. Bureau of Ocean Energy Management, ~~Regulation and Enforcement,~~ Department of the Interior, Department of Energy, and the Army Corps of Engineers to develop a set of standards that can then be applied in Rhode Island projects. The Council will re-assess coastal infrastructure and seaworthy marine structure building standards periodically not only for sea level rise, but also for other climate changes

including more intense storms, increased wave action, and increased acidity in the sea.

G. The Council supports public awareness and interpretation programs to increase public understanding of climate change and how it affects the ecology and uses of the Ocean SAMP area.

11.9.3 Cultural and Historic Resources ~~(formerly § 1150.3)~~

A. The Council recognizes the rich and historically significant history of human activity within and adjacent to the Ocean SAMP area. These numerous sites and properties, that are located both underwater and onshore, should be considered when evaluating future projects.

B. The Council has a federal obligation as part of its responsibilities under the federal Coastal Zone Management Act to recognize the importance of cultural, historic, and tribal resources within the state's coastal zone, including Rhode Island state waters. It has a similar responsibility under the Rhode Island Historic Preservation Act. The Council will not permit activities that will significantly impact the state's cultural, historic and tribal resources.

C. The Council will engage federal and state agencies, and the Narragansett Indian Tribe's Tribal Historic Preservation Office (THPO), when evaluating the impacts of proposed development on cultural and historic resources. The Rhode Island Historic Preservation and Heritage Commission (RIHPHC) is the State Historic Preservation Office (SHPO) for the state of Rhode Island, and is charged with developing historical property surveys for Rhode Island municipalities, reviewing projects that may impact cultural and historic resources, and regulating archaeological assessments on land and in state waters. For other tribes outside of Rhode Island that might be affected by a federal action it is the responsibility of the applicable federal agency to consult with affected tribes.

D. Project reviews will follow the policies outlined in §§ 00-1.2.3 (Areas of Historic and Archaeological Significance) and 00-1.3.5 of this Chapter (Guidelines for the Protection and Enhancement of the Scenic Value of the Coastal Region) of the State of Rhode Island Coastal Resources Management Program, as amended (Subchapter 00 Part 1 of this Chapter). The standards for the identification of cultural resources and the assessment of potential effects on cultural resources will be in accordance with the National Historic Preservation Act Section 106 regulations, 36 C.F.R. Part 800, Protection of Historic Properties.

E. Historic shipwrecks, archeological or historical sites located within Rhode Island's coastal zone are Areas of Particular Concern (APCs) for the Rhode Island coastal management program. Direct and indirect impacts to these resources must be avoided to the greatest extent possible. Other areas, not noted as APCs, may also have significant archeological sites that could be identified through the permit process. For example, the area at the south end of Block Island waters

within the 30 foot depth contour is known to have significant archeological resources. As a result, projects conducted in the Ocean SAMP area may have impacts to Rhode Island's underwater archaeological and historic resources.

F. Archaeological surveys shall be required as part of the permitting process for projects which may pose a threat to Rhode Island's archaeological and historic resources. During the filing phase for state assent, projects needing archaeological surveys will be identified through the joint review process. The survey requirements will be coordinated with the SHPO and, if tribal resources are involved, with the Narragansett THPO.

G. Areas of Particular Concern may require a buffer or setback distance to ensure that development projects avoid or minimize impacts to known or potential historic or archaeological sites. The buffer or setback distance during the permitting process will be determined by the SHPO and if tribal resources are involved, the Narragansett THPO.

H. In addition to general Area of Particular Concern buffer/setback distances around shipwrecks or other submerged cultural resources, the Council reserves the right, based upon recommendations from RIHPHC, to establish protected areas around all submerged cultural resources which meet the criteria for listing on the National Register of Historic Places.

I. Projects conducted in the Ocean SAMP area may have impacts that could potentially affect onshore archaeological, historic, or cultural resources. Archaeological and historical surveys may be required of projects which are reviewed by the joint agency review process. During the filing phase for state assent, projects needing such surveys will be identified and the survey requirement will be coordinated with the SHPO and if tribal resources are involved, with the Narragansett THPO.

J. Guidelines for onshore archaeological assessments in the Ocean SAMP area can be obtained through the RIHPHC in their document, "Performance Standards and Guidelines for Archaeological Projects: Standards for Archaeological Survey" (RIHPHC 2007), or the lead federal agency responsible for reviewing the proposed development. In addition, guidelines for landscape and visual impact assessment in the Ocean SAMP area can be obtained through the lead federal agency responsible for reviewing the proposed development.(Note: this text moved from § 11.10.1(Q))

11.9.4 Commercial and Recreational Fisheries ~~(formerly § 1150.4)~~

A. The commercial and recreational fishing industries, and the habitats and biological resources of the ecosystem they are based on, are of vital economic, social, and cultural importance to Rhode Island's fishing ports and communities. Commercial and recreational fisheries are also of great importance to Rhode Island's economy and to the quality of life experienced by both residents and

visitors. The Council finds that other uses of the Ocean SAMP area could potentially displace commercial or recreational fishing activities or have other adverse impacts on commercial and recreational fisheries.

B. The Council recognizes that finfish, shellfish, and crustacean resources and related fishing activities are managed by a host of different agencies and regulatory bodies which have jurisdiction over different species and/or different parts of the SAMP area. Entities involved in managing fish and fisheries within the SAMP area include, but are not limited to, the Atlantic States Marine Fisheries Commission, the R.I. Department of Environmental Management, the R.I. Marine Fisheries Council, the NOAA National Marine Fisheries Service, the New England Fishery Management Council, and the Mid-Atlantic Fishery Management Council. The Council recognizes the jurisdiction of these organizations in fishery management and will work with these entities to protect fisheries resources. The Council will also work in coordination with these entities to protect priority habitat areas.

C. The Council's policy is to protect commercial and recreational fisheries within the Ocean SAMP area, and the 2011 and 2018 GLDs, from the adverse impacts of other uses, while supporting actions to make ongoing fishing practices more sustainable. ~~It should be recognized~~The Council anticipates that over time there will be improved scientific knowledge of the impacts of fishing on habitats and fish populations ~~will advance~~. Improvements in more sustainable gear technology, fishing practices, and management tools may improve the state of fisheries resources. A general goal of the Council is to ~~constantly~~ improve the health of the Ocean SAMP area ecosystem and the populations of fish and shellfish it provides. Cooperative research, ~~utilizing~~ using the unique skills and expertise of the fishing community, will be a cornerstone to this goal.

1. Because significant adverse impacts may result from randomly placed turbine foundations with varying separation distances that pose navigation and safety hazards to vessels, especially multiple commercial fishing vessels working simultaneously within the same area, under all conditions, but particularly at night, during fog, and stormy weather, the Council requires the following offshore wind farm design elements to enhance the compatibility of a wind power project with commercial fishing operations and to avoid significant adverse impacts to commercial fishing activities such that commercial fishing vessels can cooperatively conduct fixed and mobile gear operations within a wind power project:

   a. Turbines shall be arranged in a grid pattern based on latitude and longitude with east-west rows;

   b. There shall be a minimum spacing of one (1) nautical mile between all turbines, and all lanes between turbines (east-west and north-south) shall be a minimum of 1 nautical mile wide; and

c. There shall be at least one transit lane for navigation with a minimum spacing of two (2) nautical miles for each wind farm that is consistent with any adjacent wind farm transit lane(s) and any BOEM approved wind energy area transit lane plan.

D. Commercial and recreational fisheries activities are dynamic, taking place at different places at different times of the year due to seasonal species migrations and other factors. The Council recognizes that fisheries are dynamic, shaped by these seasonal migrations as well as other factors including shifts in the regulatory environment, market demand, and global climate change. The Council further recognizes that the entire Ocean SAMP area is used by commercial and recreational fishermen employing different fishing methods and gear types. Changes in existing uses, intensification of uses, and new uses within the area could cause adverse impacts to these fisheries. Accordingly, the Council shall:

1. In consultation with the Fishermen's Advisory Board, as defined in § 11.3(E) of this Part, identify and evaluate prime fishing areas on an ongoing basis through an adaptive framework.

2. Review any uses or activities that could disrupt commercial or recreational fisheries activities.

E. The Council shall work together with the U.S. Coast Guard, the U.S. Navy, the U.S. Army Corps of Engineers, NOAA, fishermen's organizations, marine pilots, recreational boating organizations, and other marine safety organizations to promote safe navigation, fishing, and recreational boating activity around and through offshore structures and developments, and along cable routes, during the construction, operation, and decommissioning phases of such projects. The Council will promote and support the education of all mariners regarding safe navigation around offshore structures and developments and along cable routes.

F. Discussions with the U.S. Coast Guard, the U.S. Department of the Interior Bureau of Ocean Energy Management~~, Regulation, and Enforcement,~~ and the U.S. Army Corps of Engineers have indicated that no vessel access restrictions are planned for the waters around and through offshore structures and developments, or along cable routes, except for those necessary for navigational safety. Commercial and recreational fishing and boating access around and through offshore structures and developments and along cable routes is a critical means of mitigating the potential adverse impacts of offshore structures on commercial and recreational fisheries and recreational boating. The Council endorses this approach and shall work to ensure that the waters surrounding offshore structures, developments, and cable routes remain open to commercial and recreational fishing, marine transportation, and recreational boating, except for navigational safety restrictions. The Council requests that federal agencies notify the Council as soon as is practicable of any federal action that may affect vessel access around and through offshore structures and developments and along cable routes. The Council will continue to monitor changes to navigational

activities around and through offshore developments and along cable routes. Any changes affecting existing navigational activities may be subject to CZMA federal consistency review if the federal agency determines its activity will have reasonably foreseeable effects on the uses or resources of Rhode Island's coastal zone.

G. The Council recognizes that commercial and recreational fishermen from other states, such as the neighboring states of Connecticut, New York, and Massachusetts, often fish in the Ocean SAMP area. The Council also recognizes that many fish species that are harvested in adjacent waters may rely on habitats and prey located within the Ocean SAMP area. Accordingly, the Council will work with neighboring states to ensure that Offshore Development and other uses of the Ocean SAMP area do not result in significant impacts to the fisheries resources or activities of other states.

H. The Council shall appoint a standing Fishermen's Advisory Board (FAB) which shall provide advice to the Council on the siting and construction of other uses in marine waters. The FAB is an advisory body to the Council that is not intended to supplant any existing authority of any other federal or state agency responsible for the management of fisheries, including but not limited to the Marine Fisheries Council and its authorities set forth in R.I. Gen. Laws § 20-3-1 *et seq*. The FAB is defined in § 11.3(E) of this Part. When there are two members representing a fishing interest, only one vote may be cast on behalf of that interest. If the two members representing that fishery cannot agree on their vote then there shall be no vote for that fishery for the item under consideration. In any vote on a matter, there shall be no more than ~~6~~ 7 votes total for RI interests and no more than 3 votes total for MA interests. The FAB members may elect a chair and a vice-chair from amongst its members. In addition the FAB may establish rules governing its members such as a minimum number of meetings each member must attend to maintain standing as a member. FAB members shall serve four-year terms. The Council shall provide to the FAB a semi-annual status report on Ocean SAMP area fisheries related issues, including but not limited to those of which the Council is cognizant in its planning and regulatory activities, and shall notify the FAB in writing concerning any project in the Ocean SAMP area. The FAB shall meet not less than semi-annually with the Habitat Advisory Board and on an as-needed basis to provide the Council with advice on the potential adverse impacts of other uses on commercial and recreational fishermen and fisheries activities, and on issues including, but not limited to, the evaluation and planning of project locations, arrangements, and alternatives; micro-siting (siting of individual wind turbines within a wind farm to identify the best site for each individual structure); access limitations; and measures to mitigate the potential impacts of such projects on the fishery. In addition the FAB may aid the Council and its staff in developing and implementing a research agenda. As new information becomes available and the scientific understanding of the Ocean SAMP planning area evolves, the FAB may identify new areas with unique or fragile physical features, important natural habitats, or areas of high natural productivity for designation by the Council as Areas of Particular Concern or Areas Designated for Preservation.

11.9.5 Recreation and Tourism ~~(formerly § 1150.5)~~

A. The Council recognizes the economic, historic, and cultural value of marine recreation and tourism activities in the Ocean SAMP area to the state of Rhode Island. The Council's goal is to promote uses of the Ocean SAMP area that do not significantly interfere with marine recreation and tourism activities or values.

B. When evaluating proposed offshore developments, the Council will carefully consider the potential impacts of such activities on marine recreation and tourism uses. Where it is determined that there is a significant impact, the Council may modify or deny activities that significantly detract from these uses.

C. The Council will encourage and support uses of the Ocean SAMP area that enhance marine recreation and tourism activities.

D. The Council recognizes that the waters south of Brenton Point and within the 3-nautical mile boundary surrounding Block Island are heavily-used recreational areas and are commonly used for organized sailboat races and other marine events. The Council encourages and supports the ongoing coordination of race and marine event organizers with the U.S. Coast Guard, the U.S. Navy, and the commercial shipping community to facilitate safe recreational boating in and adjacent to these areas, which include charted shipping lanes and Navy restricted areas (see Ocean SAMP Chapter 7, Marine Transportation, Navigation, and Infrastructure). The Council shall consider these heavily-used recreational areas when evaluating offshore developments in this area. Where it is determined that there is a significant impact, the Council may suitably modify or deny activities that significantly detract from these uses. The Council also recognizes that much of this organized recreational activity is concentrated within the circular sailboat racing areas as depicted in Figure 6 in § 11.10.2(I) of this Part, and accordingly has designated these areas as Areas of Particular Concern. See § 11.10.2 of this Part for requirements associated with Areas of Particular Concern.

E. See § 11.9.4(E) of this Part for policy regarding safe navigation around and through offshore structures and developments and along cable routes.

F. See § 11.9.4(F) of this Part for policy regarding vessel access around and through offshore structures and developments and along cable routes.

G. The Council recognizes that offshore wildlife viewing activities are reliant on the presence and visibility of marine and avian species which rely on benthic habitat, the availability of food, and other environmental factors. The Council shall consider these environmental factors when evaluating proposed offshore developments in these areas. Where it is determined that there is a significant impact, the Council may modify or deny activities that significantly detract from these uses.

11.9.6 Marine Transportation, Navigation and Infrastructure ~~(formerly § 1150.6)~~

A. The Council recognizes the importance of designated navigation areas, which include shipping lanes, precautionary areas, recommended vessel routes, pilot boarding areas, anchorages, military testing areas, and submarine transit lanes to marine transportation and navigation activities in the Ocean SAMP area. The Council also recognizes that these and other waters within the Ocean SAMP area are heavily used by numerous existing users who have adapted to each other with regard to their uses of ocean space. Any changes in the spatial use patterns of any one of these users will result in potential impacts to the other users. The Council will carefully consider the potential impacts of such changes on the marine transportation network. Changes to existing designated navigational areas proposed by the U.S. Coast Guard, NOAA, the R.I. Port Safety and Security Forums, or other entities could similarly impact existing uses. The Council requests that they be notified by any of these parties if any such changes are to be made to the transportation network so that they may work with those entities to achieve a proper balance among existing uses.

B. The Council recognizes the economic, historic, and cultural value of marine transportation and navigation uses of the Ocean SAMP area to the state of Rhode Island. The Council's goal is to promote uses of the Ocean SAMP area that do not significantly interfere with marine transportation and safe navigation within designated navigation areas, which include shipping lanes, precautionary areas, recommended vessel routes, pilot boarding areas, anchorages, military testing areas, and submarine transit lanes. See § 11.10.2 of this Part for discussion of navigation areas which have been designated as Areas of Particular Concern.

C. The Council will encourage and support uses of the Ocean SAMP area that enhance marine transportation and safe navigation within designated navigation areas, which include shipping lanes, precautionary areas, recommended vessel routes, pilot boarding areas, anchorages, military testing areas, and submarine transit lanes.

D. See § 11.9.4(E) of this Part for policy regarding safe navigation around and through offshore structures and developments and along cable routes.

E. See § 11.9.4(F) of this Part for policy regarding vessel access around and through offshore structures and developments and along cable routes.

11.9.7 Offshore Renewable Energy and Other Offshore Development ~~(formerly § 1150.7)~~

A. The Council supports offshore development in the Ocean SAMP area that is consistent with the Ocean SAMP goals, which are to:

1. Foster a properly functioning ecosystem that can be both ecologically effective and economically beneficial;

2. Promote and enhance existing uses; and

3. Encourage marine-based economic development that considers the aspirations of local communities and is consistent and complementary to the state's overall economic development needs and goals.

B. The Council supports the policy of increasing renewable energy production in Rhode Island. The Council also recognizes:

1. Offshore wind energy currently represents the greatest potential for utility-scale renewable energy generation in Rhode Island;

2. Offshore renewable energy development is a means of mitigating the potential effects of global climate change;

3. Offshore renewable energy development will diversify Rhode Island's energy portfolio;

4. Offshore renewable energy development will aid in meeting the goals set forth in Rhode Island's Renewable Energy Standard;

5. Marine renewable energy has the potential to assist in the redevelopment of urban waterfronts and ports.

C. The Council's support of offshore renewable energy development shall not be construed to endorse or justify any particular developer or particular offshore renewable energy proposal.

D. The Council may require the applicant to fund a program to mitigate the potential impacts of a proposed offshore development to natural resources and existing human uses. The mitigation program may be used to support restoration projects, additional monitoring, preservation, or research activities on the impacted resource or site.

E. To the greatest extent possible, offshore development structures and projects shall be made available to researchers for the investigation into the effects of large-scale installations on the marine environment, and to the extent practicable, educators for the purposes of educating the public.

F. The Council shall work in coordination with the U.S. Department of the Interior Bureau of Ocean Energy Management~~, Regulation and Enforcement~~ to develop a seamless process for review and design approval of offshore wind energy facilities that is consistent across state and federal waters.

G. The Council shall work together with the U.S. Coast Guard, the U.S. Navy, the U.S. Army Corps of Engineers, NOAA, fishermen's organizations, marine pilots, recreational boating organizations, and other marine safety organizations to promote safe navigation, fishing, and recreational boating activity around and through offshore structures and developments, and along cable routes, during the construction, operation, and decommissioning phases of such projects. The

Council will promote and support the education of all mariners regarding safe navigation around offshore structures and developments and along cable routes.

~~H. Discussions with the U.S. Coast Guard, the U.S. Department of Interior Bureau of Ocean Energy Management, Regulation, and Enforcement, and the U.S. Army Corps of Engineers have indicated that no vessel access restrictions are planned for the waters around and through offshore structures and developments, or along cable routes, except for those necessary for navigational safety. Commercial and recreational fishing and boating access around and through offshore structures and developments and along cable routes is a critical means of mitigating the potential adverse impacts of offshore structures on commercial and recreational fisheries and recreational boating. The Council endorses this approach and shall work to ensure that the waters surrounding offshore structures, developments, and cable routes remain open to commercial and recreational fishing, marine transportation, and recreational boating, except for navigational safety restrictions. The Council requests that federal agencies notify the Council as soon as is practicable of any federal action that may affect vessel access around and through offshore structures and developments and along cable routes. The Council will continue to monitor changes to navigational activities around and through offshore developments and along cable routes. Any changes affecting existing navigational activities may be subject to CZMA federal consistency review if the federal agency determines its activity will have reasonably foreseeable effects on the uses or resources of Rhode Island's coastal zone.~~(Note: deletion of repetitive text; same as in § 11.9.4(F) above)

~~I~~H. To coordinate the review process for offshore wind energy developments, the Council shall adopt consistent information requirements similar to the requirements of the U.S. Department of the Interior's Bureau of Ocean Energy Management~~, Regulation and Enforcement~~ for offshore wind energy. All documentation required at the time of application shall be similar with the requirements followed by the U.S. Department of the Interior Bureau of Ocean Energy Management~~, Regulation and Enforcement~~ when issuing renewable energy leases on the Outer Continental Shelf. For further details on these regulations see 30 C.F.R. §§ 285 *et seq*. The Council shall continue to monitor the federal review process and information requirements for any changes and will make adjustments to the Ocean SAMP policies accordingly.

~~J~~I. To the maximum extent practicable, the Council shall coordinate with the appropriate federal and state agencies to establish project specific requirements that shall be followed by the applicant during the pre-construction, construction, operation and decommissioning phases of an offshore development. To the maximum extent practicable, the Council shall work in coordination with a Joint Agency Working Group when establishing pre-construction survey and data requirements, monitoring requirements, protocols and mitigation measures for a proposed offshore development. State members of the Joint Agency Working Group shall coordinate with the Habitat Advisory Board and the Fishermen's Advisory Board and shall seek input from these Boards before establishing

project specific ~~requirements that shall be followed by the applicant~~recommendations for an offshore development. ~~And, t~~To the maximum extent practical, and consistent with the federal agency and tribal members' authorities, federal members of the Joint Agency Working Group, are ~~strongly~~ encouraged to coordinate with the Habitat Advisory Board and the Fishermen's Advisory Board. The Joint Agency Working Group shall comprise those state and federal agencies that have a regulatory responsibility related to the proposed project, as well as the Narragansett Indian Tribal Historic Preservation Office. The agency composition of this working group may differ depending on the proposed project, but ~~will~~ should generally include the lead federal agency with primary jurisdiction over the proposed project and the CRMC. The pre-construction survey requirements outlined in § 8.5.2(F) of this Subchapter may be reduced for small- scale offshore developments as ~~specified~~ recommended by the Joint Agency Working Group.

~~K~~J. The Council identifies the following ~~are~~ industry goals ~~that~~ for offshore projects ~~should strive for~~. These are not required standards at this time but are targets project proponents should try to meet where possible to alleviate potential adverse impacts:

1. A goal for the wind farm applicant and operator is to have operational noise from wind turbines average less than or equal to 100 dB re 1 μPa2 in any 1/3 octave band at a range of 100 meters at full power production.

2. The applicant and manufacturer should endeavor to minimize the radiated airborne noise from the wind turbines.

3. A monitoring system including acoustical, optical and other sensors should be established near these facilities to quantify the effects.

11.9.8 Application Requirements in State Waters

A. Applicants shall meet the site assessment plan (SAP) requirements in § 11.10.5 of this Part and the following: **(Note: the following text has been moved from §§ 11.10.5 and 11.10.6)**

1. As appropriate, the Council shall coordinate and consult with relevant Federal and State agencies, and affected Indian tribes.

2. During the review process, the Council may request additional information if it is determined that the information provided is not sufficient to complete the review and approval process.

3. Once the SAP is approved by the Council the applicant may begin conducting the activities approved in the SAP.

4. Reporting requirements of the applicant under an approved SAP:

a. Following the approval of a SAP, the applicant shall notify the Council in writing within 30 days of completing installation activities of any temporary measuring devices approved by the Council.

b. The applicant shall prepare and submit to the Council a report semi-annually. The first report shall be due 6 months after work on the SAP begins; subsequent reports shall be submitted every 6 month thereafter until the SAP period is complete. The report shall summarize the applicant's site assessment activities and the results of those activities.

c. The Council reserves the right to require additional environmental and technical studies, if it is found there is a critical area lacking or missing information.

5. The applicant shall seek the Council's approval before conducting any activities not described in the approved SAP, describing in detail the type of activities the applicant proposes to conduct and the rationale for these activities. The Council shall determine whether the activities proposed are authorized by the applicant's existing SAP or require a revision to the applicant's SAP. The Council may request additional information from the applicant, if necessary, to make this determination.

6. The Council shall periodically review the activities conducted under an approved SAP. The frequency and extent of the review shall be based on the significance of any changes in available information and on onshore or offshore conditions affecting, or affected by, the activities conducted under the applicant's SAP. If the review indicates that the SAP should be revised to meet the requirements of this part, the Council shall require the applicant to submit the needed revisions.

7. The applicant may keep approved facilities (such as meteorological towers) installed during the SAP period in place during the time that the Council reviews the applicant's COP for approval. Note: Structures in state waters shall require separate authorizations outside the SAP process.

8. The applicant is not required to initiate the decommissioning process for facilities that are authorized to remain in place under the applicant's approved COP. If, following the technical and environmental review of the applicant's submitted COP, the Council determines that such facilities may not remain in place the applicant shall initiate the decommissioning process.

9. The Executive Director on behalf of the Council will be responsible for reviewing and approving study designs conducted as part of the necessary data and information contained in the SAP. The Executive Director shall seek the advice of the FAB and HAB in setting out the study

designs to be completed in the SAP. The Executive Director shall also brief the Ocean SAMP Subcommittee on each study design as it is being considered. Any applicant that initiates, conducts and/or completes site assessment studies or surveying activities shall demonstrate to the Council's satisfaction that the completed studies were conducted with approval from the Executive Director and in accordance with §§ 11.10.5(A), 11.10.5(C)(2), 11.9.8(B)(8)(a) and 11.9.8(B)(8)(b) of this Part.

B. Applicants shall meet the construction and operation plan (COP) requirements in § 11.10.5 of this Part and the following:

1. The applicant shall submit an oil spill response plan per the Oil Pollution Act of 1990, 33 U.S.C. § 2701 *et seq.*

2. The applicant shall submit the applicant's safety management system, the contents of which are described below:

   a. How the applicant plans to ensure the safety of personnel or anyone on or near the facility;

   b. Remote monitoring, control and shut down capabilities;

   c. Emergency response procedures;

   d. Fire suppression equipment (if needed);

   e. How and when the safety management system shall be implemented and tested; and

   f. How the applicant shall ensure personnel who operate the facility are properly trained.

3. The Council shall review the applicant's COP and the information provided to determine if it contains all the required information necessary to conduct the project's technical and environmental reviews. The Council shall notify the applicant if the applicant's COP lacks any necessary information.

4. As appropriate, the Council shall coordinate and consult with relevant Federal, State, and local agencies, the FAB and affected Indian tribes.

5. During the review process, the Council may request additional information if it is determined that the information provided is not sufficient to complete the review and approval process. If the applicant fails to provide the requested information, the Council may disapprove the applicant's COP.

6. Upon completion of the technical and environmental reviews and other reviews required, the Council may approve, disapprove, or approve with modifications the applicant's COP.

7. In the applicant's COP, the applicant may request development of the project area in phases. In support of the applicant's request, the applicant shall provide details as to what portions of the site shall be initially developed for commercial operations and what portions of the site shall be reserved for subsequent phased development.

8. If the application and COP is approved, prior to construction the applicant shall submit to the Council for approval the documents listed below in §§ 11.9.8(B)(8)(a), (b), (c), (d) and (e) of this Part:

a. Facility design report - The applicant's facility design report provides specific details of the design of any facilities, including cables and pipelines that are outlined in the applicant's approved SAP or COP. The applicant's facility design report shall demonstrate that the applicant's design conforms to the applicant's responsibilities listed in § 11.9(G) of this Part. The applicant shall include the following items in the applicant's facility design report:

(1) Table 1: Contents of the facility design report.

Required documents:	**Required contents:**	**Other requirements:**
(1) Cover letter	(i) Proposed facility designations; (ii)The type of facility	The applicant shall submit four (4) paper copies and one (1) electronic copy.
(2) Location	(i) Latitude and longitude coordinates, Universal Mercator grid-system coordinates, state plane coordinates in the Lambert or Transverse Mercator Projection System; (ii) These coordinates shall be based on the NAD (North American Datum) 83 datum plane coordinate system; and (iii) The location of any proposed project easement.	The applicant's plat shall be drawn to a scale of 1 inch equals 100 feet and include the coordinates of the project site, and boundary lines. The applicant shall submit four (4) paper copies and one (1) electronic copy.
(3) Front, Side, and Plan View drawings	(i) Facility dimensions and orientation;	The applicant's drawing sizes shall not exceed 11" x 17". The applicant shall submit four (4) paper

	(ii) Elevations relative to mean lower low water (MLLW); and (iii) Pile sizes and penetration.	copies and one (1) electronic copy.
(4) Complete set of structural drawings	The approved for construction fabrication drawings should be submitted, including, e.g., (i) Cathodic protection systems; (ii) Jacket design; (iii) Pile foundations; (iv) Mooring and tethering systems; (v) Foundations and anchoring systems; and (vi) Associated cable and pipeline designs.	The applicant's drawing sizes shall not exceed 11" x 17". The applicant shall submit four (4) paper copies and one (1) electronic copy.
(5) Summary of environmental data used for design	A summary of the environmental data used in the design or analysis of the facility. Examples of relevant data include information on: (i) Extreme weather; (ii) Seafloor conditions; and (iii) Waves, wind, currents, tides, temperature, sea level rise projections, snow and ice effects, marine growth, and water depth.	The applicant shall submit four (4) paper copies and one (1) electronic copy. If the applicant submitted these data as part of the SAP or COP, the applicant may reference the plan.
(6) Summary of the engineering design data	(i) Loading information (e.g., live, dead, environmental); (ii) Structural information (e.g., design-life; material types; cathode protection systems; design criteria; fatigue life; jacket	The applicant shall submit four (4) paper copies and one (1) electronic copy.

	design; deck design; production component design; foundation pilings and templates, and mooring or tethering systems; fabrication or installation guidelines); (iii) Location of foundation boreholes and foundation piles; and (iv) Foundation information (e.g., soil stability, design criteria).	
(7) A complete set of design calculations	Self-explanatory.	The applicant shall submit four (4) paper copies and one (1) electronic copy.
(8) Project-specific studies used in the facility design or installation	All studies pertinent to facility design or installation, (e.g., oceanographic and soil reports)	The applicant shall submit four (4) paper copies and one (1) electronic copy.
(9) Description of the loads imposed on the facility	(i) Loads imposed by jacket; (ii) Turbines; (iii) Transition pieces; (iv) Foundations, foundation pilings and templates, and anchoring systems; and (v) Mooring or tethering systems.	The applicant shall submit four (4) paper copies and one (1) electronic copy.
(10) Geotechnical report	A list of all data from borings and recommended design parameters.	The applicant shall submit four (4) paper copies and one (1) electronic copy.

b. For any floating facility, the applicant's design shall meet the requirements of the U.S. Coast Guard for structural integrity and stability (e.g., verification of center of gravity). The design shall also consider:

(1) Foundations, foundation pilings and templates, and anchoring systems; and

(2) Mooring or tethering systems.

c. The applicant is required to use a certified verified agent (CVA). The facility design report shall include two paper copies of the following certification statement: "The design of this structure has been certified by a Council approved CVA to be in accordance with accepted engineering practices and the approved SAP, or COP as appropriate. The certified design and as-built plans and specifications shall be on file at (given location)."

d. Fabrication and installation report - The applicant's fabrication and installation report shall describe how the applicant's facilities shall be fabricated and installed in accordance with the design criteria identified in the facility design report; the applicant's approved SAP or COP; and generally accepted industry standards and practices. The applicant's fabrication and installation report shall demonstrate how the applicant's facilities shall be fabricated and installed in a manner that conforms to the applicant's responsibilities listed in § 11.9(G) of this Part. The applicant shall include the following items in the applicant's fabrication and installation report:

(1) Table 2: Contents of the fabrication and installation report.

Required documents:	**Required contents:**	**Other requirements:**
(1) Cover letter	(i) Proposed facility designation; (ii) Area, name, and block number; and (iii) The type of facility	The applicant shall submit four (4) paper copies and one (1) electronic copy.
(2) Schedule	Fabrication and installation.	The applicant shall submit four (4) paper copies and one (1) electronic copy.
(3) Fabrication information	The industry standards the applicant shall use to ensure the facilities are fabricated to the design	The applicant shall submit four (4) paper copies and one (1) electronic copy.

	criteria identified in the facility design report.	
(4) Installation process information	Details associated with the deployment activities, equipment, and materials, including offshore and onshore equipment and support, and anchoring and mooring permits.	The applicant shall submit four (4) paper copies and one (1) electronic copy.
(5) Federal, State, and local permits (e.g., EPA, Army Corps of Engineers)	Either one (1) copy of the permit or information on the status of the application.	The applicant shall submit four (4) paper copies and one (1) electronic copy.
(6) Environmental information	(i) Water discharge; (ii) Waste disposal; (iii) Vessel information; and (iv) Onshore waste receiving treatment or disposal facilities.	The applicant shall submit four (4) paper copies and one (1) electronic copy. If the applicant submitted these data as part of the SAP or COP, the applicant may reference the plan.
(7) Project easement	Design of any cables, pipelines, or facilities. Information on burial methods and vessels.	The applicant shall submit four (4) paper copies and one (1) electronic copy.

e. A CVA report shall include the following: a fabrication and installation report which shall include four paper copies of the following certification statement: "The fabrication and installation of this structure has been certified by a Council approved CVA to be in accordance with accepted engineering practices and the approved SAP or COP as appropriate."

9. Based on the Council's environmental and technical reviews, if approved, the Council may specify terms and conditions to be incorporated into any approval the Council may issue. The applicant shall submit a certification of compliance annually (or another frequency as determined by the Council) with certain terms and conditions which may include:

a. Summary reports that show compliance with the terms and conditions which require certification; and

b. A statement identifying and describing any mitigation measures and monitoring methods, and their effectiveness. If the applicant identified measures that were not effective, then the applicant shall make recommendations for new mitigation measures or monitoring methods.

10. After the applicant's COP, facility design report, and fabrication and installation report is approved, and the Council has issued a permit and lease for the project site, construction shall begin by the date given in the construction schedule included as a part of the approved COP, unless the Council approves a deviation from the applicant's schedule.

11. The applicant shall seek approval from the Council in writing before conducting any activities not described in the applicant's approved COP. The application shall describe in detail the type of activities the applicant proposes to conduct. The Council shall determine whether the activities the applicant proposes are authorized by the applicant's existing COP or require a revision to the applicant's COP. The Council may request additional information from the applicant, if necessary, to make this determination.

12. The Council shall periodically review the activities conducted under an approved COP. The frequency and extent of the review shall be based on the significance of any changes in available information, and on onshore or offshore conditions affecting, or affected by, the activities conducted under the applicant's COP. If the review indicates that the COP should be revised, the Council may require the applicant to submit the needed revisions.

13. The applicant shall notify the Council, within 5 business days, any time the applicant ceases commercial operations, without an approved suspension, under the applicant's approved COP. If the applicant ceases commercial operations for an indefinite period which extends longer than 6 months, the Council may cancel the applicant's lease, and the applicant shall initiate the decommissioning process.

14. The applicant shall notify the Council in writing of the following events, within the time periods provided:

a. No later than ten (10) days after commencing activities associated with the placement of facilities on the lease area under a fabrication and installation report.

b. No later than ten (10) days after completion of construction and installation activities under a fabrication and installation report.

c. At least seven (7) days before commencing commercial operations.

15. The applicant may commence commercial operations within thirty (30) days after the CVA has submitted to the Council the final fabrication and installation report.

16. The applicant shall submit a project modification and repair report to the Council, demonstrating that all major repairs and modifications to a project conform to accepted engineering practices.

    a. A major repair is a corrective action involving structural members affecting the structural integrity of a portion of or all the facility.

    b. A major modification is an alteration involving structural members affecting the structural integrity of a portion of or all the facility.

    c. The report must also identify the location of all records pertaining to the major repairs or major modifications.

    d. The Council may require the applicant to use a CVA for project modifications and repairs.

C. Design, fabrication and installation standards

1. Certified verification agent - The certified verification agent (CVA) shall use good engineering judgment and practices in conducting an independent assessment of the design, fabrication and installation of the facility. The CVA shall certify in the facility design report to the Council that the facility is designed to withstand the environmental and functional load conditions appropriate for the intended service life at the proposed location. The CVA is paid for by the applicant, but is approved and reports to the Council.

    a. The applicant shall use a CVA to review and certify the facility design report, the fabrication and installation report, and the project modifications and repairs report. The applicant shall use a CVA to:

        (1) Ensure that the applicant's facilities are designed, fabricated, and installed in conformance with accepted engineering practices and the facility design report and fabrication and installation report;

        (2) Ensure that repairs and major modifications are completed in conformance with accepted engineering practices; and

        (3) Provide the Council immediate reports of all incidents that affect the design, fabrication, and installation of the project and its components.

2. Nominating a CVA for Council approval- The applicant shall nominate a CVA for the Council approval. The applicant shall specify whether the nomination is for the facility design report, fabrication and installation report, modification and repair report, or for any combination of these.

   a. For each CVA that the applicant nominates, the applicant shall submit to the Council a list of documents they shall forward to the CVA and a qualification statement that includes the following:

      (1) Previous experience in third-party verification or experience in the design, fabrication, installation, or major modification of offshore energy facilities;

      (2) Technical capabilities of the individual or the primary staff for the specific project;

      (3) Size and type of organization or corporation;

      (4) In-house availability of, or access to, appropriate technology (including computer programs, hardware, and testing materials and equipment);

      (5) Ability to perform the CVA functions for the specific project considering current commitments;

      (6) Previous experience with the Council requirements and procedures, if any; and

      (7) The level of work to be performed by the CVA.

3. Individuals or organizations acting as CVAs shall not function in any capacity that shall create a conflict of interest, or the appearance of a conflict of interest.

4. The verification shall be conducted by or under the direct supervision of registered professional engineers.

5. The Council shall approve or disapprove the applicant's CVA prior to construction.

6. The applicant shall nominate a new CVA for the Council approval if the previously approved CVA:

   a. Is no longer able to serve in a CVA capacity for the project; or

   b. No longer meets the requirements for a CVA set forth in this subpart.

7. The CVA shall conduct an independent assessment of all proposed:

   a. Planning criteria;

   b. Operational requirements;

   c. Environmental loading data;

   d. Load determinations;

   e. Stress analyses;

   f. Material designations;

   g. Soil and foundation conditions;

   h. Safety factors; and

   i. Other pertinent parameters of the proposed design.

8. For any floating facility, the CVA shall ensure that any requirements of the U.S. Coast Guard for structural integrity and stability (e.g., verification of center of gravity), have been met. The CVA shall also consider:

   a. Foundations;

   b. Foundation pilings and templates, and

   c. Anchoring systems.

9. The CVA shall do all of the following:

   a. Use good engineering judgment and practice in conducting an independent assessment of the fabrication and installation activities;

   b. Monitor the fabrication and installation of the facility;

   c. Make periodic onsite inspections while fabrication is in progress and verify the items required by § 11.9.8(C)(11) of this Part;

   d. Make periodic onsite inspections while installation is in progress and satisfy the requirements of § 11.9.8(C)(12) of this Part; and

   e. Certify in a report that project components are fabricated and installed in accordance with accepted engineering practices; the applicant's approved COP or SAP; and the fabrication and installation report.

(1) The report shall also identify the location of all records pertaining to fabrication and installation.

(2) The applicant may commence commercial operations or other approved activities thirty (30) days after the Council receives that certification report, unless the Council notifies the applicant within that time period of its objections to the certification report.

10. The CVA shall monitor the fabrication and installation of the facility to ensure that it has been built and installed according to the facility design report and fabrication and Installation Report.

a. If the CVA finds that fabrication and installation procedures have been changed or design specifications have been modified, the CVA shall inform the applicant and the Council.

11. The CVA shall make periodic onsite inspections while fabrication is in progress and shall verify the following items, as appropriate:

a. Quality control by lessee (or grant holder) and builder;

b. Fabrication site facilities;

c. Material quality and identification methods;

d. Fabrication procedures specified in the fabrication and installation report, and adherence to such procedures;

e. Welder and welding procedure qualification and identification;

f. Adherence to structural tolerances specified;

g. Nondestructive examination requirements and evaluation results of the specified examinations;

h. Destructive testing requirements and results;

i. Repair procedures;

j. Installation of corrosion protection systems and splash-zone protection;

k. Erection procedures to ensure that overstressing of structural members does not occur;

l. Alignment procedures;

m. Dimensional check of the overall structure, including any turrets, turret and- hull interfaces, any mooring line and chain and riser tensioning line segments; and

n. Status of quality-control records at various stages of fabrication.

12. The CVA shall make periodic onsite inspections while installation is in progress and shall, as appropriate, verify, witness, survey, or check, the installation items required by this section. The CVA shall verify, as appropriate, all of the following:

a. Load out and initial flotation procedures;

b. Towing operation procedures to the specified location, and review the towing records;

c. Launching and uprighting activities;

d. Submergence activities;

e. Pile or anchor installations;

f. Installation of mooring and tethering systems;

g. Transition pieces, support structures, and component installations; and

h. Installation at the approved location according to the facility design report and the fabrication and installation report.

13. For a fixed or floating facility, the CVA shall verify that proper procedures were used during the following:

a. The loadout of the transition pieces and support structures, piles, or structures from each fabrication site; and

b. The actual installation of the facility or major modification and the related installation activities.

14. For a floating facility, the CVA shall verify that proper procedures were used during the following:

a. The loadout of the facility;

b. The installation of foundation pilings and templates, and anchoring systems.

15. The CVA shall conduct an onsite survey of the facility after transportation to the approved location.

16. The CVA shall spot-check the equipment, procedures, and recordkeeping as necessary to determine compliance with the applicable documents incorporated by reference and the regulations under this part.

17. The CVA shall prepare and submit to the applicant and the Council all reports required by this subpart. The CVA shall also submit interim reports to the applicant and the Council, as requested by the Council. The CVA shall submit one electronic copy and four paper copies of each final report to the Council. In each report, the CVA shall:

    a. Give details of how, by whom, and when the CVA activities were conducted;

    b. Describe the CVA's activities during the verification process;

    c. Summarize the CVA's findings; and

    d. Provide any additional comments that the CVA deems necessary.

18. Until the Council releases the applicant's financial assurance under § 11.9.8(D)(2) of this Part, the applicant shall compile, retain, and make available to the Council representatives, all of the following:

    a. The as-built drawings;

    b. The design assumptions and analyses;

    c. A summary of the fabrication and installation examination records;

    d. Results from the required inspections and assessments;

    e. Records of repairs not covered in the inspection report submitted.

19. The applicant shall record and retain the original material test results of all primary structural materials during all stages of construction until the Council releases the applicant's financial assurance under § 11.9.8(D)(2) of this Part. Primary material is material that, should it fail, would lead to a significant reduction in facility safety, structural reliability, or operating capabilities. Items such as steel brackets, deck stiffeners and secondary braces or beams would not generally be considered primary structural members (or materials).

20. The applicant shall provide the Council with the location of these records in the certification statement.

21. The Council may hire its own CVA agent to review the work of the applicants CVA. The applicant shall be responsible for the cost of the

Council's CVA. The Council's CVA shall perform those duties as assigned by the Council.

D. Pre-construction standards

1. The Council may issue a permit for a period of up to fifty (50) years to construct and operate an offshore development. A lease shall be issued at the start of the construction phase and payment shall commence at the end of the construction phase. Lease payments shall be due when the project becomes operational. Lease renewal shall be submitted five (5) years before the end of the lease term. Council approval shall be required for any assignment or transfer of the permit or lease. This provision shall not apply to aquaculture permitting. Aquaculture permitting and leasing are governed by the provisions of R.I. Gen. Laws Chapter 20-10 and § 00-1.3.1(K) of this Chapter.

2. Prior to construction, the assent holder shall post a performance bond sufficient to ensure removal of all structures at the end of the lease and restoration of the site. The Council shall review the bond amount initially and every three (3) years thereafter to ensure the amount is sufficient.

3. Prior to construction, the assent holder shall show compliance with all federal and state agency requirements, which may include but are not limited to the requirements of the following agencies: the Rhode Island Coastal Resources Management Council, the Rhode Island Department of Environmental Management, the Rhode Island Energy Facilities Siting Board, the Rhode Island Historical Preservation and Heritage Commission, U.S. Department of the Interior Bureau of Ocean Energy Management, Army Corps of Engineers, National Oceanic and Atmospheric Administration, U.S. Fish and Wildlife Service, and the U.S. Environmental Protection Agency.

4. The Council shall consult with the U.S. Coast Guard, the U.S. Navy, marine pilots, the Fishermen's Advisory Board as defined in § 11.3(E) of this Part, fishermen's organizations, and recreational boating organizations when scheduling offshore marine construction or dredging activities. Where it is determined that there is a significant conflict with season-limited commercial or recreational fishing activities, recreational boating activities or scheduled events, or other navigation uses, the Council shall modify or deny activities to minimize conflict with these uses.

5. The Council shall require the assent holder to provide for communication with commercial and recreational fishermen, mariners, and recreational boaters regarding offshore marine construction or dredging activities. Communication shall be facilitated through a project website and shall complement standard U.S. Coast Guard procedures such as Notices to Mariners for notifying mariners of obstructions to navigation.

6. For all large-scale offshore developments, underwater cables, and other development projects as determined by the Council, the assent holder shall designate and fund a third-party fisheries liaison. The fisheries liaison must be knowledgeable about fisheries and shall facilitate direct communication between commercial and recreational fishermen and the project developer. Commercial and recreational fishermen shall have regular contact with and direct access to the fisheries liaison throughout all stages of an offshore development (pre-construction; construction; operation; and decommissioning).

7. Where possible, offshore developments should be designed in a configuration to minimize adverse impacts on other user groups, which include but are not limited to: recreational boaters and fishermen, commercial fishermen, commercial ship operators, or other vessel operators in the project area. Configurations which may minimize adverse impacts on vessel traffic include, but are not limited to, the incorporation of a traffic lane through a development to facilitate safe and direct navigation through, rather than around, an offshore development

8. Any assent holder of an approved offshore development shall work with the Council when designing the proposed facility to incorporate where possible mooring mechanisms to allow safe public use of the areas surrounding the installed turbine or other structure.

9. The facility shall be designed in a manner that minimizes adverse impacts to navigation. As part of its application package, the project applicant shall submit a navigation risk assessment under the U.S. Coast Guard's Navigation and Vessel Inspection Circular 02-07, "Guidance on the Coast Guard's Roles and Responsibilities for Offshore Renewable Energy Installations."

10. Applications for projects proposed to be sited in state waters pursuant to the Ocean SAMP shall not have a significant impact on marine transportation, navigation, and existing infrastructure. Where the Council, in consultation with the U.S. Coast Guard, the U.S. Navy, NOAA, the U.S. Bureau of Ocean Energy Management, Regulation and Enforcement, the U.S. Army Corps of Engineers, marine pilots, the R.I. Port Safety and Security Forums, or other entities, as applicable, determines that such an impact on marine transportation, navigation, and existing infrastructure is unacceptable, the Council shall require that the applicant modify the proposal or the Council shall deny the proposal. For the purposes of marine transportation policies and standards as summarized in Ocean SAMP Chapter 7, impacts will be evaluated according to the same criteria used by the U.S. Coast Guard, as follows; these criteria shall not be construed to apply to any other Ocean SAMP chapters or policies:

    a. Negligible: No measurable impacts.

b. Minor: Adverse impacts to the affected activity could be avoided with proper mitigation; or impacts would not disrupt the normal or routine functions of the affected activity or community; or once the impacting agent is eliminated, the affected activity would return to a condition with no measurable effects from the proposed action without any mitigation.

c. Moderate: Impacts to the affected activity are unavoidable; and proper mitigation would reduce impacts substantially during the life of the proposed action; or the affected activity would have to adjust somewhat to account for disruptions due to impacts of the proposed action; or once the impacting agent is eliminated, the affected activity would return to a condition with no measurable effects from the proposed action if proper remedial action is taken.

d. Major: Impacts to the affected activity are unavoidable; proper mitigation would reduce impacts somewhat during the life of the proposed action; the affected activity would experience unavoidable disruptions to a degree beyond what is normally acceptable; and once the impacting agent is eliminated, the affected activity may retain measurable effects of the proposed action indefinitely, even if remedial action is taken.

11. Prior to construction, the Applicant shall provide a letter from the U.S. Coast Guard showing it meets all applicable U.S. Coast Guard standards.

E. Standards for construction activities

1. The assent holder shall use the best available technology and techniques to minimize impacts to the natural resources and existing human uses in the project area.

2. The Council shall require the use of an environmental inspector to monitor construction activities. The environmental inspector shall be a private, third-party entity that is hired by the assent holder, but is approved and reports to the Council. The environmental inspector shall possess all appropriate qualifications as determined by the Council. This inspector service may be part of the CVA requirements.

3. Installation techniques for all construction activities should be chosen to minimize sediment disturbance. Jet plowing and horizontal directional drilling in near-shore areas shall be required in the installation of underwater transmission cables. Other technologies may be used provided the applicant can demonstrate they are as effective, or more effective, than these techniques in minimizing sediment disturbance.

4. All construction activities shall comply with the policies and standards outlined in the Rhode Island Coastal Resources Management Program

(RICRMP), as well as the regulations of other relevant state and federal agencies.

5. The applicant shall conduct all activities on the applicant's permit under this part in a manner that conforms with the applicant's responsibilities in § 11.10.1(E) of this Part, and using:

   a. Trained personnel; and

   b. Technologies, precautions, and techniques that shall not cause undue harm or damage to natural resources, including their physical, atmospheric, chemical and biological components.

6. The assent holder shall be required to use the best available technology and techniques to mitigate any associated adverse impacts of offshore renewable energy development.

   a. As required, the applicant shall submit to the Council:

      (1) Measures designed to avoid or minimize adverse effects and any potential incidental take of endangered or threatened species as well as all marine mammals;

      (2) Measures designed to avoid likely adverse modification or destruction of designated critical habitat of such endangered or threatened species; and

      (3) The applicant's agreement to monitor for the incidental take of the species and adverse effects on the critical habitat, and provide the results of the monitoring to the Council as required.

7. If the assent holder, the assent holder's subcontractors, or any agent acting on the assent holder's behalf discovers a potential archaeological resource while conducting construction activities or any other activity related to the Assent Holder's project, the applicant shall:

   a. Immediately halt all seafloor disturbing activities within the area of the discovery;

   b. Notify the Council of the discovery within 24 hours; and

   c. Keep the location of the discovery confidential and not take any action that may adversely affect the archaeological resource until the Council has made an evaluation and instructed the applicant on how to proceed.

(1) The Council may require the assent holder to conduct additional investigations to determine if the resource is eligible for listing in the National Register of Historic Places under 36 C.F.R. § 60.4. The Council shall do this if:

(AA) The site has been impacted by the assent holder's project activities; or

(BB) Impacts to the site or to the area of potential effect cannot be avoided.

(2) If the Council incurs costs in protecting the resource, under section 110(g) of the NHPA, the Council may charge the applicant reasonable costs for carrying out preservation responsibilities.

8. Post construction, the assent holder shall provide a side scan sonar survey of the entire construction site to verify that there is no post construction debris left at the project site. These side-scan sonar survey results shall be filed with the Council within ninety (90) days of the end of the construction period. The results of this side-scan survey shall be verified by a third-party reviewer, who shall be hired by the assent holder but who is pre-approved by and reports to the Council.

9. All pile-driving or drilling activities shall comply with any mandatory best management practices established by the Council in coordination with the Joint Agency Working Group and which are incorporated into the RICRMP.

10. The Council may require the assent holder to hire a CVA to perform periodic inspections of the structure(s) during the life of those structure(s). The CVA shall work for and be responsible to the council.

F. When mitigation is required by the Council, the reasonable costs associated with mitigation negotiations, which may include data collection and analysis, technical and financial analysis, and legal costs, shall be borne by the applicant. The applicant shall establish and maintain either an escrow account to cover said costs of the negotiations or such other mechanism as set forth in the permit or approval condition pertaining to mitigation.

G. The CRMC shall convene a Wind Energy Industry-Fishery Coordination Board that will be composed of invited representatives of wind energy developers with projects located within state waters and the Rhode Island 2011 and 2018 GLDs, fishery representatives of the major sectors from the states of Rhode Island and Massachusetts, and state fishery and coastal management representatives from each state, including any other representatives of state or federal agencies deemed necessary. The Board will meet semi-annually to discuss and resolve

fishery and wind industry interactions during and after the construction phase of each wind energy project.

11.9.9 Baseline Assessment Requirements and Standards in State Waters

A. The Council in coordination with the Joint Agency Working Group, as described in § 11.9.7(I) of this Part, shall determine requirements for the development of baseline assessments prior to, during, and post construction for all offshore projects. Monitoring of offshore projects is essential to determine whether construction and operation activities may have an adverse impact on the physical and biological components of offshore waters. In particular, establishment of pre-construction baseline assessments of commercial and recreational fishery resource conditions (i.e., community structure, biodiversity, and species biomass, abundance, size distribution) is necessary for evaluation of any potential coastal effects. Assessments and monitoring are essential to determine whether there are any potential coastal effects and potential cumulative impacts resulting from the construction and operation of multiple wind energy projects. Specific assessment and monitoring requirements shall be determined on a project-by-project basis and may include but are not limited to the assessment and monitoring of:

1. Coastal processes and physical oceanography
2. Underwater noise
3. Benthic ecology
4. Avian species
5. Marine mammals
6. Sea turtles
7. Fish and fish habitat
8. Commercial and recreational fishing
9. Recreation and tourism
10. Marine transportation, navigation and existing infrastructure
11. Cultural and historic resources

B. The Council shall require where appropriate that project developers perform systematic observations of recreational boating intensity at the project area at least three times: pre-construction; during construction; and post-construction. Observations may be made while conducting other field work or aerial surveys and may include either visual surveys or analysis of aerial photography or video

photography. The Council shall require where appropriate that observations capture both weekdays and weekends and reflect high-activity periods including, but not limited to, the July 4th holiday weekend, the week in June when the Block Island Race Week typically takes place, and other recreational boating events within Narragansett Bay, and Rhode Island and Block Island Sounds. The quantitative results of such observations, including raw boat counts and average number of vessels per day, will be provided to the Council.

C. The items listed below shall be required for all offshore developments:

1. A biological assessment of commercially and recreationally targeted fishery species shall be required within the project area for all offshore developments for the periods specified in § 11.9.9(E) of this Part. This assessment shall assess the relative abundance, distribution, and different life stages of these species at all four seasons of the year. This assessment shall comprise a series of surveys, using survey equipment and methods that are appropriate for sampling finfish, shellfish, and crustacean species at the project's proposed location. This assessment may include evaluation of survey data collected through an existing survey program, if data are available for the proposed site.

2. An assessment of commercial and recreational fisheries effort, landings, and landings value shall be required for all proposed offshore developments. The assessment shall focus on the proposed project area and any alternatives. This assessment shall evaluate commercial and recreational fishing effort, landings, and landings value at three different stages: pre-construction (to assess baseline conditions); during construction; and during operation, as specified in § 11.9.9(E) of this Part. At each stage, all four seasons of the year must be evaluated. Assessment may use existing fisheries monitoring data but shall be supplemented by interviews with commercial and recreational fishermen. Assessment shall address whether fishing effort, landings, and landings value has changed in comparison to baseline (pre-construction) conditions.

D. The Council in coordination with the Joint Agency Working Group may also require facility and infrastructure monitoring requirements that may include but are not limited to:

1. Post construction monitoring including regular visual inspection of inner array cables and the primary export cable to ensure proper burial, foundation and substructure inspection.

E. Assessment standards – applicants shall provide the following biological assessments necessary to establish the baseline conditions of the fishery resource conditions during the project phases detailed below so that an analysis of comparison between project phases can be completed to assess whether

project construction, installation and operation has resulted in significant adverse impacts to the commercial and recreational fishery resources.

1. Pre-construction baseline biological assessments of commercial and recreational targeted fishery species as specified in § 11.9.9(C) of this Part for a minimum of two (2) complete years before offshore construction and installation activities begin;

2. During construction biological assessments of commercial and recreational targeted fishery species as specified in § 11.9.9(C) for each year (if construction extends beyond a single year) of construction and installation; and

3. Post-construction biological assessments of commercial and recreational targeted fishery species as specified in § 11.9.9(C) of this Part for three (3) complete years following completion of construction and installation activities and during the operational phase of the project.

F. The Council shall require post-construction assessments of commercial and recreational targeted fishery species at five (5) year intervals following the post-construction monitoring required in § 11.9.9(E)(3) of this Part. The assessments shall be conducted during the four seasons of a year as specified in § 11.9.9(C) of this Part. If the analysis of post-construction assessments demonstrate adverse impacts to fishery species as compared to the baseline assessments required in § 11.9.9(E)(1) of this Part that are attributable to the construction or operation of a wind energy project, then the Council may require mitigation measures consistent with §§ 11.10.1(E) and (F) of this Part.

11.10 Regulatory Standards ~~(formerly § 1160)~~

A. This section contains all the regulatory standards outlined by the Ocean SAMP. The regulatory standards have been organized according to the following stages: application; design, fabrication and installation; pre-construction; construction and decommissioning and; monitoring. § 11.10.1 of this Part, Overall Regulatory Standards, applies to all stages of development. The regulatory standards contained within all previous chapters of the Ocean SAMP document have been incorporated into this section based upon the applicable stage of development. The "Regulatory Standards" in § 11.10 of this Part are enforceable policies for purposes of the federal CZMA federal consistency provision (16 U.S.C. § 1456 and 15 C.F.R. Part 930). For CZMA federal consistency purposes the Council shall use the Regulatory Standards, in addition to other applicable federally approved RICRMP enforceable policies, ~~shall be used~~ as the basis for a CRMC CZMA federal consistency concurrence or objection.

B. The federal offshore renewable energy leasing process, and subsequent regulation of renewable energy projects located in federal waters, ~~will remain~~are under the jurisdiction of the U.S. Department of the Interior, Bureau for Ocean

Energy Management (BOEM), in consultation and coordination with relevant federal agencies and affected state, local, and tribal officials, ~~as per~~under BOEM's statutory authority at 43 U.S.C. § 1337(p) and ~~the~~ BOEM's regulations found at 30 C.F.R. Part 285.

11.10.1 Overall Regulatory Standards ~~(formerly § 1160.1)~~

A. All offshore developments regardless of size, including energy projects, which are proposed for or located within state waters of the Ocean SAMP area, are subject to the policies and standards outlined in §§ 11.9 and 11.10 of this Part. ~~(e~~Except, as noted above, the Council shall not use § 11.9 of this Part ~~shall not be used~~ for CRMC concurrences or objections for CZMA federal consistency reviews~~)~~. For the purposes of the Ocean SAMP, offshore developments are defined as:

1. Large-scale projects, such as:

    a. offshore wind facilities (5 or more turbines within 2 km of each other, or 18 MW power generation);

    b. wave generation devices (2 or more devices, or 18 MW power generation);

    c. instream tidal or ocean current devices (2 or more devices, or 18 MW power generation);

    d. offshore LNG platforms (1 or more);

    e. Artificial reefs (1/2 acre footprint and at least 4 feet high), except for projects of a public nature whose primary purpose is habitat enhancement; and

    f. outer continental shelf (OCS) exploration, development, and production plans.

2. Small-scale projects, defined as any projects that are smaller than the above thresholds;

3 Underwater cables;

4. Mining and extraction of minerals, including sand and gravel;

5. Aquaculture projects of any size, as defined and regulated in § 00-1.3.1(K) of this Chapter;

6. Dredging, as defined and regulated in § 00-1.3.1(I) of this Chapter; or

7. Other development as defined in Subchapter 00 Part 1 of this Chapter (RICRMP – Red Book) which is located from the mouth of Narragansett Bay seaward, in tidal waters between 500 feet offshore and the 3-nautical mile, state water boundary.

B. In assessing the natural resources and existing human uses present in state waters of the Ocean SAMP area, the Council finds that the most suitable area for offshore renewable energy development in the state waters of the Ocean SAMP area is the renewable energy zone depicted in Figure 1 in § 11.10.1(~~R~~Q) of this Part, below. The Council designates this area as Type 4E waters. In the Rhode Island Coastal Resources Management Program (Subchapter 00 Part 1 of this Chapter) these waters were previously designated as Type 4 (multipurpose) but are hereby modified to show that this is the preferred site for large scale renewable energy projects in state waters. The Council may approve offshore renewable energy development elsewhere in the Ocean SAMP area, within state waters, where it is determined to have no significant adverse impact on the natural resources or human uses of the Ocean SAMP area. Large-scale offshore developments shall avoid areas designated as Areas of Particular Concern consistent with § 11.10.2 of this Part. No large-scale offshore renewable energy development shall be allowed in Areas Designated for Preservation consistent with § 11.10.3 of this Part.

C. Offshore developments shall not have a significant adverse impact on the natural resources or existing human uses of the Rhode Island coastal zone, as described in the Ocean SAMP. For purposes of the Rhode Island-based commercial and recreational fisheries, significant long-term negative impacts occur when commercial or recreational vessels are unable to access the project area because of the project design, or are limited in accessing a project area due to construction and operation activities, which results in negative economic impact for a period of two (2) years or more. In making the evaluation of the effect on human uses, the Council will determine, for example, if there is an overall net benefit to the Rhode Island marine economic sector from the development of the project or if there is an overall net loss. In addition, the Council will determine whether any adverse effects to coastal uses or resources are consistent with the other enforceable policies in this Part (§ 11.10 of this Part) and other applicable enforceable policies of the RICRMP. Where the Council determines that impacts on the natural resources or human uses of the Rhode Island coastal zone through the pre-construction, construction, operation, or decommissioning phases of a project constitute significant adverse effects not previously evaluated, the Council shall, through its permitting and enforcement authorities in state waters and through any subsequent CZMA federal consistency reviews, require that the applicant modify the proposal to avoid ~~and/or mitigate~~ the impacts. Therefore, consistent with federal permitting requirements for an activity, the Council may decide that it will not consider mitigation options until the applicant has demonstrated that all feasible options have been evaluated for modifying the project to avoid the impacts. If the applicant cannot modify the proposal to avoid impacts and the Council

determines that proposed mitigation is not sufficient to offset the impacts, then ~~or~~ the Council shall deny a CRMC Assent or, for purposes of the CZMA federal consistency provision, concur with, concur with conditions, or object to the ~~proposal~~applicant's consistency certification.

~~D. Any assent holder of an approved offshore development shall:~~

~~1. Design the project and conduct all activities in a manner that ensures safety and shall not cause undue harm or damage to natural resources, including their physical, chemical, and biological components to the extent practicable; and take measures to prevent unauthorized discharge of pollutants including marine trash and debris into the offshore environment.~~

~~2. Submit requests, applications, plans, notices, modifications, and supplemental information to the Council as required;~~

~~3. Follow up, in writing, any oral request or notification made by the Council, within three (3) business days;~~

~~4. Comply with the terms, conditions, and provisions of all reports and notices submitted to the Council, and of all plans, revisions, and other Council approvals, as provided in § 11.10.5 of this Part.;~~

~~5. Make all applicable payments on time;~~

~~6. Conduct all activities authorized by the permit in a manner consistent with the provisions of this document, the Rhode Island Coastal Resources Management Program (Subchapter 00 Part 1 of this Chapter), and all relevant federal and state statutes, regulations and policies;~~

~~7. Compile, retain, and make available to the Council within the time specified by the Council any information related to the site assessment, design, and operations of a project; and~~

~~8. Respond to requests from the Council in a timeframe specified by the Council.~~ (Note: (D)(1) through (8) moved in its entirety to new § 11.9 (C))

~~E~~D. Any large-scale offshore development, as defined in § 11.3(~~F~~H) of this Part, shall require a meeting between the Fisherman's Advisory Board (FAB), the applicant, and the Council staff to discuss potential fishery-related impacts, such as, but not limited to, project location, wind turbine configuration and spacing, construction schedules, alternative locations, project minimization and identification of high fishing activity or habitat edges. For any state permit process for a large-scale offshore development this meeting shall occur prior to submission of the state permit application. The Council cannot require a pre-application meeting for federal permit applications, but the Council strongly encourages applicants for any large-scale offshore development, as defined in § 11.3(~~F~~H) of this Part, in federal waters to meet with the FAB and the Council staff prior to the submission

of a federal application, lease, license, or authorization. These pre-application meetings, however, do not constitute a formal meeting to satisfy the necessary data and information required for federal consistency reviews, unless mutually agreed to between the CRMC and the applicant. However, for federal permit applicants, a meeting with the FAB as described within this section shall be necessary data and information required for federal consistency reviews for purposes of starting the CZMA 6-month review period for federal license or permit activities under 15 C.F.R. Part 930, Subpart D, and OCS Plans under 15 C.F.R. Part 930, Subpart E, pursuant to 15 C.F.R. § 930.58(a)(2). ~~Any necessary data and information shall be provided before the 6-month CZMA review period begins for a proposed project.~~

1. For purposes of BOEM's renewable energy program under the Outer Continental Shelf Lands Act, the CZMA federal consistency process cannot begin until a construction and operations plan (COP) has been submitted for BOEM's review and approval. Once BOEM has determined the COP and supporting information is sufficient to begin its environmental review under the National Environmental Policy Act, a Notice of Intent to prepare an Environmental Impact Statement will be issued. Only when BOEM issues the COP Notice of Intent can the CZMA review period begin. In most cases, an applicant provides the necessary data and information to the state at the time the applicant files its consistency certification and once the consistency certification and necessary data and information are submitted to the state, the six-month CZMA review period begins. However, for CZMA purposes the CRMC FAB meeting can occur before BOEM issues the COP Notice of Intent if the CRMC and the applicant mutually agree. If the FAB meeting does not occur until after BOEM issues the COP Notice of Intent, then the CZMA six-month review period shall not begin until the day after the FAB meeting, providing that the applicant has submitted all other necessary data and information and the consistency certification pursuant to NOAA's regulations. If the applicant requests the FAB meeting, it must be made in writing to the CRMC and the Chair of the FAB. The CRMC shall schedule the meeting in a timely manner to ensure that the CZMA process is not delayed.

~~F. The Council shall prohibit any other uses or activities that would result in significant long-term negative impacts to Rhode Island's commercial or recreational fisheries. Long-term impacts are defined as those that affect more than one or two seasons.~~(Note: first sentence is covered in § 11.10.1(C), second sentence added to § 11.10.1(C))

~~G~~E. The Council shall require that the potential adverse impacts of offshore developments and other uses on commercial or recreational fisheries be evaluated, considered and avoided. To assist the Council in concurring with CZMA consistency certification, offshore wind energy projects should be designed in accordance with § 11.9.4(C)(1) of this Part to avoid significant adverse impacts to commercial fishing activities. If adverse impacts cannot be

avoided through the modification of the project, then the applicant shall~~and~~ mitigate~~d~~ for adverse impacts as described in § 11.10.1(~~H~~F) of this Part. The Council may decide that it will not consider mitigation options until the applicant has demonstrated that all feasible options have been evaluated for modifying the project layout and design to avoid significant adverse impacts to Rhode Island's commercial or recreational fisheries. Mitigation may include compensation if the Council and applicant mutually agree to compensation for any fishing gear or fisheries harvest losses by Rhode Island vessels, including any secondary impacts to fisheries such as increased vessel operating costs and associated effects on seafood processing facilities, resulting from the project. The Council cannot compel monetary compensation through the CZMA federal consistency process, but the Council and applicant can agree to compensation as one means to meet the mitigation policy in § 11.10.1(F) of this Part

~~H~~F. For the purposes of fisheries policies and standards as summarized in Ocean SAMP Chapter 5, Commercial and Recreational Fisheries, §§ 5.3.1 and 5.3.2 of this Subchapter, mitigation is defined as a process to make whole those fisheries user groups, including related shore-side seafood processing facilities, that are adversely affected by offshore development proposals ~~to be undertaken,~~ or ~~undertaken~~ projects~~, in the Ocean SAMP area~~. Mitigation measures shall be consistent with the purposes of duly adopted fisheries management plans, programs, strategies and regulations of the agencies and regulatory bodies with jurisdiction over commercial and recreational fisheries ~~in the Ocean SAMP area~~, including but not limited to those set forth above in § 11.9.4(B) of this Part. Mitigation shall not be designed or implemented in a manner that substantially diminishes the effectiveness of duly adopted fisheries management programs. Mitigation measures may include, but are not limited to, compensation, effort reduction, habitat preservation, restoration and construction, marketing, and infrastructure and commercial fishing fleet improvements. Where there are potential impacts associated with proposed projects, the need for mitigation shall be presumed (see § 11.10.1(F) of this Part). ~~Negotiation of mitigation agreements shall be a necessary condition of any approval or permit of a project by the Council.~~ Mitigation shall be negotiated between the Council staff, the FAB, the project developer, and approved by the Council. The final mitigation will be the mitigation required by the CRMC and included in the CRMC's Assent for the project or, included within the CRMC's federal consistency decision for a project's federal permit application.~~The reasonable costs associated with the negotiation, which may include data collection and analysis, technical and financial analysis, and legal costs, shall be borne by the applicant. The applicant shall establish and maintain either an escrow account to cover said costs of this negotiation or such other mechanism as set forth in the permit or approval condition pertaining to mitigation. This policy shall apply to all large-scale offshore developments, underwater cables, and other projects as determined by the Council.~~

~~I~~G. The Council recognizes that moraine edges, as illustrated in Figures 3 and 4 in § 11.10.2 of this Part, are important to commercial and recreational fishermen. In addition to these mapped areas, the FAB may identify other edge areas that are

important to fisheries within a proposed project location. The Council shall consider the potential adverse impacts of future activities or projects on these areas to Rhode Island's commercial and recreational fisheries. Where it is determined that there is a significant adverse impact, the Council will modify or deny activities that would impact these areas. In addition, the Council will require assent holders for offshore developments to employ micro-siting techniques in order to minimize the potential impacts of such projects on these edge areas.

~~J~~H. The finfish, shellfish, and crustacean species that are targeted by commercial and recreational fishermen rely on appropriate habitat at all stages of their life cycles. While all fish habitat is important, spawning and nursery areas are especially important in providing shelter for these species during the most vulnerable stages of their life cycles. The Council shall protect sensitive habitat areas where they have been identified through the Site Assessment Plan or Construction and Operation Plan review processes for offshore developments as described in § 11.10.5(C) of this Part.

~~K~~I. Any large-scale offshore development, as defined in ~~§ 11.10.1(A) of~~ this Part, shall require a meeting between the HAB, the applicant, and the Council staff to discuss potential marine resource and habitat-related issues such as, but not limited to, impacts to marine resource and habitats during construction and operation, project location, construction schedules, alternative locations, project minimization, measures to mitigate the potential impacts of proposed projects on habitats and marine resources, and the identification of important marine resource and habitat areas. For any state permit process for a large-scale offshore development, this meeting shall occur prior to submission of the state permit application. The Council cannot require a pre-application meeting for federal permit applications, but the Council strongly encourages applicants for any large-scale offshore development, as defined in ~~§ 11.10.1(A) of~~ this Part, in federal waters to meet with the HAB and the Council staff prior to the submission of a federal application, lease, license, or authorization. However, for federal permit applicants, a meeting with the HAB shall be necessary data and information required for federal consistency reviews for purposes of starting the CZMA ~~6~~six-month review period for federal license or permit activities under 15 C.F.R. Part 930, Subpart D, and OCS Plans under 15 C.F.R. Part 930, Subpart E, pursuant to 15 C.F.R. § 930.58(a)(2). ~~Any necessary data and information shall be provided before the 6-month CZMA review period begins for a proposed project.~~

1. For purposes of BOEM's renewable energy program under the Outer Continental Shelf Lands Act, the CZMA federal consistency process cannot begin until a construction and operations plan (COP) has been submitted for BOEM's review and approval. Once BOEM has determined the COP and supporting information is sufficient to begin its environmental review under the National Environmental Policy Act, a Notice of Intent to prepare an Environmental Impact Statement will be issued. Only when BOEM issues the COP Notice of Intent can the CZMA review period

begin. In most cases, an applicant provides the necessary data and information to the state at the time the applicant files its consistency certification and once the consistency certification and necessary data and information are submitted to the state, the six-month CZMA review period begins. However, for CZMA purposes the HAB meeting can occur before BOEM issues the COP Notice of Intent if the CRMC and the applicant mutually agree. If the HAB meeting does not occur until after BOEM issues the COP Notice of Intent, then the CZMA six-month review period shall not begin until the day after the HAB meeting, providing that the applicant has submitted all other necessary data and information and the consistency certification pursuant to NOAA's regulations. If the applicant requests the HAB meeting, it must be made in writing to the CRMC. The CRMC shall schedule the meeting in a timely manner to ensure that the CZMA process is not delayed.

~~L~~J. The potential impacts of a proposed project on cultural and historic resources will be evaluated in accordance with the National Historic Preservation Act and Antiquities Act, and the Rhode Island Historical Preservation Act and Antiquities Act as applicable. Depending on the project and the lead federal agency, the projects that may impact marine historical or archaeological resources identified through the joint agency review process ~~shall~~ may require a marine archaeology assessment that documents actual or potential impacts the completed project will have on submerged cultural and historic resources.

~~M~~K. Guidelines for marine archaeology assessment in the Ocean SAMP area can be obtained through the RIHPHC in their document, "Performance Standards and Guidelines for Archaeological Projects: Standards for Archaeological Survey" (RIHPHC 2007), or the lead federal agency responsible for reviewing the proposed development.

~~N~~L. The potential non-physical impacts of a proposed project on cultural and historic resources shall be evaluated in accordance with 36 C.F.R. § 800.5, assessment of adverse effects, including the introduction of visual, atmospheric, or audible elements that diminish the integrity of the property's significant historic features. Depending on the project and the lead federal agency, the Ocean SAMP Interagency Working Group may require that a project undergo a visual impact assessment that evaluates the visual impact a completed project will have on onshore cultural and historic resources.

~~O~~M. A visual impact assessment may require the development of detailed visual simulations illustrating the completed project's visual relationship to onshore properties that are designated National Historic Landmarks, listed on the National Register of Historic Places, or determined to be eligible for listing on the National Register of Historic Places. Assessment of impacts to specific views from selected properties of interest may be required by relevant state and federal agencies to properly evaluate the impacts and determination of adverse effect of the project on onshore cultural or historical resources.

~~P~~N. A visual impact assessment may require description and images illustrating the potential impacts of the proposed project.

~~Q. Guidelines for landscape and visual impact assessment in the Ocean SAMP area can be obtained through the lead federal agency responsible for reviewing the proposed development.~~(Note: This text moved to 11.9.3(J))

O. Construction noise. All construction and pile driving operations shall be performed using the best available control technology (BACT) as necessary to minimize acoustic energy (noise) impacts, including any hammer energy transfer to sediments. The applicant shall provide an analysis of available wind tower designs and pile driving technologies comparing the costs, site specific impacts to species and habitat, and availability. Potentially impacted organisms (receptors) including all life stages shall be evaluated for their individual sensitivity to acoustic energy perturbation. The BACT approach shall be presented in an evaluation table format consisting of the available technologies, effectiveness of minimizing acoustic energy impacts, potentially impacted receptors, and cost of implementation. The applicant shall use this analysis to identify the selected acoustic energy reduction technology and strategy selected for the project. The CRMC in consultation with the FAB and HAB shall determine if the applicant has chosen the BACT based on this analysis.

P. Cable burial

1. All utility power cables, including but not limited to, wind turbine generator (WTG), inter-array, electrical service platform (ESP) and export cables proposed for installation on a stable seafloor bottom shall be buried below the seafloor surface a minimum of 1.5 meters. A stable seafloor bottom shall be considered those areas that have been determined through suitable geophysical investigation techniques to have minimal, if any, sediment transport or formation of sand waves.

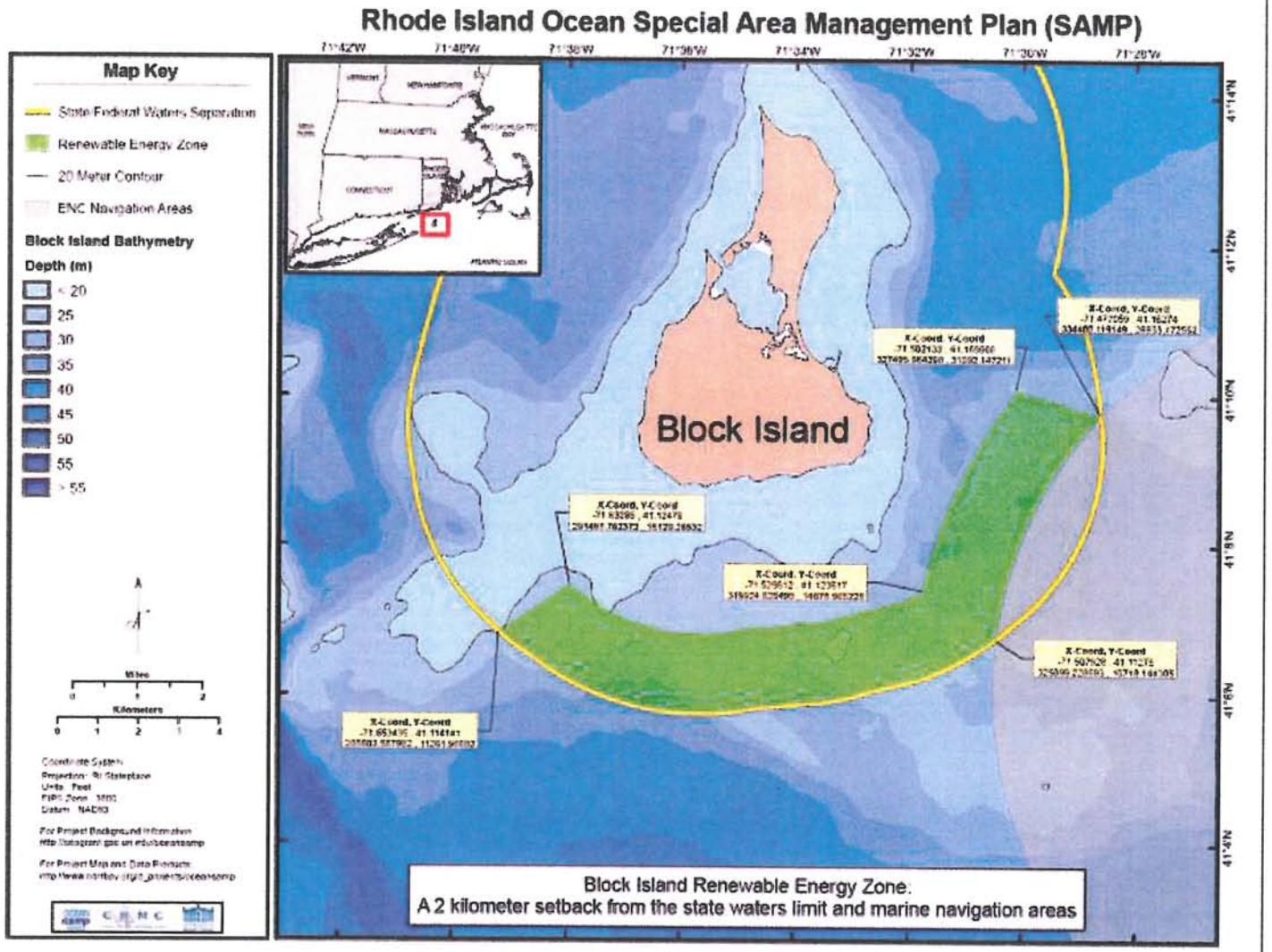
2. In areas of unstable seafloor bottoms, including areas of sand waves and other bottoms which experience periodic and/or storm-induced sediment transport, power cables shall be buried to a depth where the best available geophysical investigation techniques have determined the cables will not be exposed during the intended service life of the cable(s), but in no case less than 1.5 meters.

3. In areas of hard-bottom crossings, the applicant must use the best available equipment and installation techniques to assure a minimum burial depth of 1.5 meters. In general, jet plow installation techniques shall not be considered suitable for cable installation in areas of hard bottom (those containing rocks, cobble, excess clay and silt and other known obstructions). Absent an adequate demonstration that exposed or shallow cable burial or subsequent armoring of shallow or exposed cable will not impact marine organisms or the use of marine resources, the CRMC shall

consider any and all expected areas of potential shallow cable burial to be a significant impact on such resources and their uses. Anticipated coastal effects include the potential for electro-magnetic field (EMF) impacts to sensitive marine resources (including elasmobranchs and lobsters), an impact on the ability to harvest fishery and shellfish resources, and an impact on the ability to anchor a vessel. The advice to the CRMC by the FAB and HAB on whether such impacts will be a factor with regard to a particular project and project location shall be based on the best available site information and marine science. Because cable armoring has adverse impacts on commercial fishing mobile gear by creating obstructions that will snag and cause damage to mobile fishing gear (e.g., trawl nets), the CRMC shall consider cable armoring that exceeds two (2) percent of the overall length of proposed cable installation (combined length of inter-array and export cables) to be a significant coastal effect and an unnecessary impact on coastal resources and uses.

4. All utility power cables and export cables shall have a minimum cable burial depth of 3.0 meters MLLW for any cable landings on sandy or erodible shorelines.

RQ. Figure 1: Renewable energy zone



11.10.2 Areas of Particular Concern ~~(formerly § 1160.2)~~

A. Areas of Particular Concern (APCs) have been designated in state waters through the Ocean SAMP process with the goal of protecting areas that have high conservation value, cultural and historic value, or human use value from large-scale offshore development. These areas may be limited in their use by a particular regulatory agency (e.g., shipping lanes), or have inherent risk associated with them (e.g., unexploded ordnance locations), or have inherent natural value or value assigned by human interest (e.g., glacial moraines, historic shipwreck sites). Areas of Particular Concern have been designated by reviewing habitat data, cultural and historic features data, and human use data that has been developed and analyzed through the Ocean SAMP process. Currently designated Areas of Particular Concern are based on current knowledge and available datasets; additional Areas of Particular Concern may be identified by the Council in the future as new datasets are made available. Areas of Particular Concern may be elevated to Areas Designated for Preservation in the future if future studies show that Areas of Particular Concern cannot risk even low levels of large-scale offshore development within these areas. Areas of Particular Concern include:

1. Areas with unique or fragile physical features, or important natural habitats;

2. Areas of high natural productivity;

3. Areas with features of historical significance or cultural value;

4. Areas of substantial recreational value;

5. Areas important for navigation, transportation, military and other human uses; and

6. Areas of high fishing activity.

B. The Council has designated the areas listed below in § 11.10.2(C) of this Part in state waters as Areas of Particular Concern. All large-scale, small-scale, or other offshore development, or any portion of a proposed project, shall be presumptively excluded from APCs. This exclusion is rebuttable if the applicant can demonstrate by clear and convincing evidence that there are no practicable alternatives that are less damaging in areas outside of the APC, or that the proposed project will not result in a significant alteration to the values and resources of the APC. When evaluating a project proposal, the Council shall not consider cost as a factor when determining whether practicable alternatives exist. Applicants which successfully demonstrate that the presumptive exclusion does not apply to a proposed project because there are no practicable alternatives that are less damaging in areas outside of the APC must also demonstrate that all feasible efforts have been made to avoid damage to APC resources and values

and that there will be no significant alteration of the APC resources or values. Applicants successfully demonstrating that the presumptive exclusion does not apply because the proposed project will not result in a significant alteration to the values and resources of the APC must also demonstrate that all feasible efforts have been made to avoid damage to the APC resources and values. The Council may require a successful applicant to provide a mitigation plan that protects the ecosystem. The Council will permit underwater cables, only in certain categories of Areas of Particular Concern, as determined by the Council in coordination with the Joint Agency Working Group. The maps listed below in § 11.10.2(C) of this Part depicting Areas of Particular Concern may be superseded by more detailed, site-specific maps created with finer resolution data.

C. Areas of particular concern that have been identified in the Ocean SAMP area in state waters are described as follows:

1. Historic shipwrecks, archeological or historical sites and their buffers as described in Ocean SAMP Chapter 4, Cultural and Historic Resources, Sections 440.1.1 through 440.1.4, are Areas of Particular Concern. For the latest list of these sites and their locations please refer to the Rhode Island State Historic Preservation and Heritage Commission.

2. Offshore dive sites within the Ocean SAMP area, as shown in Figure 2 in § 11.10.2 of this Part, are designated Areas of Particular Concern. The Council recognizes that offshore dive sites, most of which are shipwrecks, are valuable recreational and cultural ocean assets and are important to sustaining Rhode Island's recreation and tourism economy.

3. Glacial moraines are important habitat areas for a diversity of fish and other marine plants and animals because of their relative structural permanence and structural complexity. Glacial moraines create a unique bottom topography that allows for habitat diversity and complexity, which allows for species diversity in these areas and creates environments that exhibit some of the highest biodiversity within the entire Ocean SAMP area. The Council also recognizes that because glacial moraines contain valuable habitats for fish and other marine life, they are also important to commercial and recreational fishermen. Accordingly, the Council shall designate glacial moraines as identified in Figures 3 and 4 in § 11.10.2 of this Part as Areas of Particular Concern.

4. Navigation, military, and infrastructure areas including: designated shipping lanes, precautionary areas, recommended vessel routes, ferry routes, dredge disposal sites, military testing areas, unexploded ordnance, pilot boarding areas, anchorages, and a coastal buffer of 1 km as depicted in Figure 5 in § 11.10.2 of this Part are designated as Areas of Particular Concern. The Council recognizes the importance of these areas to marine transportation, navigation and other activities in the Ocean SAMP area.

5. Areas of high fishing activity as identified during the pre-application process by the Fishermen's Advisory Board, as defined in § 11.3(E) of this Part, may be designated by the Council as Areas of Particular Concern.

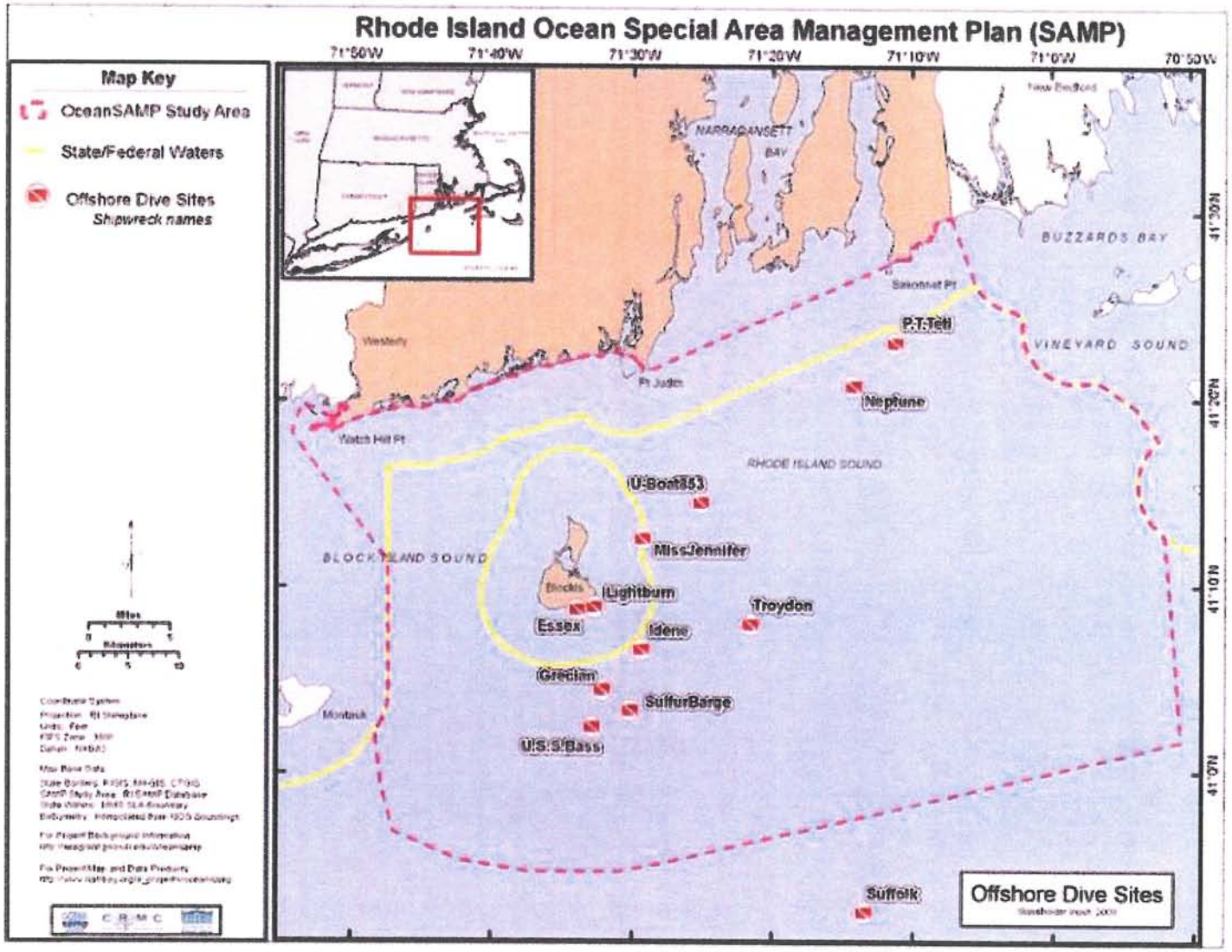
6. Several heavily-used recreational boating and sailboat racing areas, as shown in Figure 6 in § 11.10.2 of this Part, are designated as Areas of Particular Concern. The Council recognizes that organized recreational boating and sailboat racing activities are concentrated in these particular areas, which are therefore important to sustaining Rhode Island's recreation and tourism economy.

7. Naval fleet submarine transit lanes, as described in Ocean SAMP Chapter 7, Marine Transportation, Navigation, and Infrastructure Section 720.7, are designated as Areas of Particular Concern.

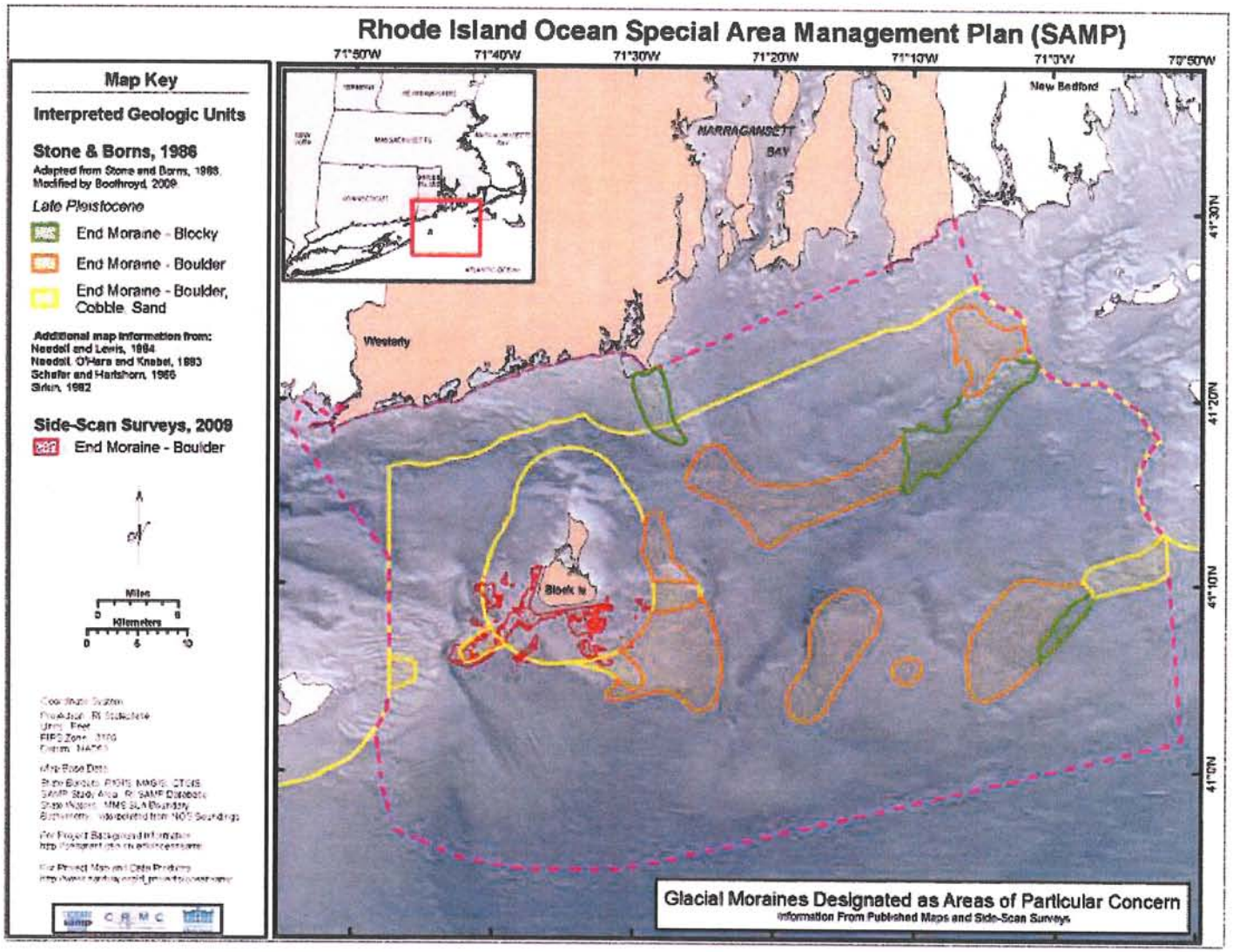
8. Other Areas of Particular Concern may be identified during the pre-application review by state and federal agencies as areas of importance.

D. Developers proposing projects for within the renewable energy zone as described in § 11.10.1(B) of this Part shall adhere to the requirements outlined in § 11.10.2 of this Part regarding Areas of Particular Concern in state waters, including any Areas of Particular Concern that overlap the renewable energy zone (see Figure 7 in § 11.10.2 of this Part).

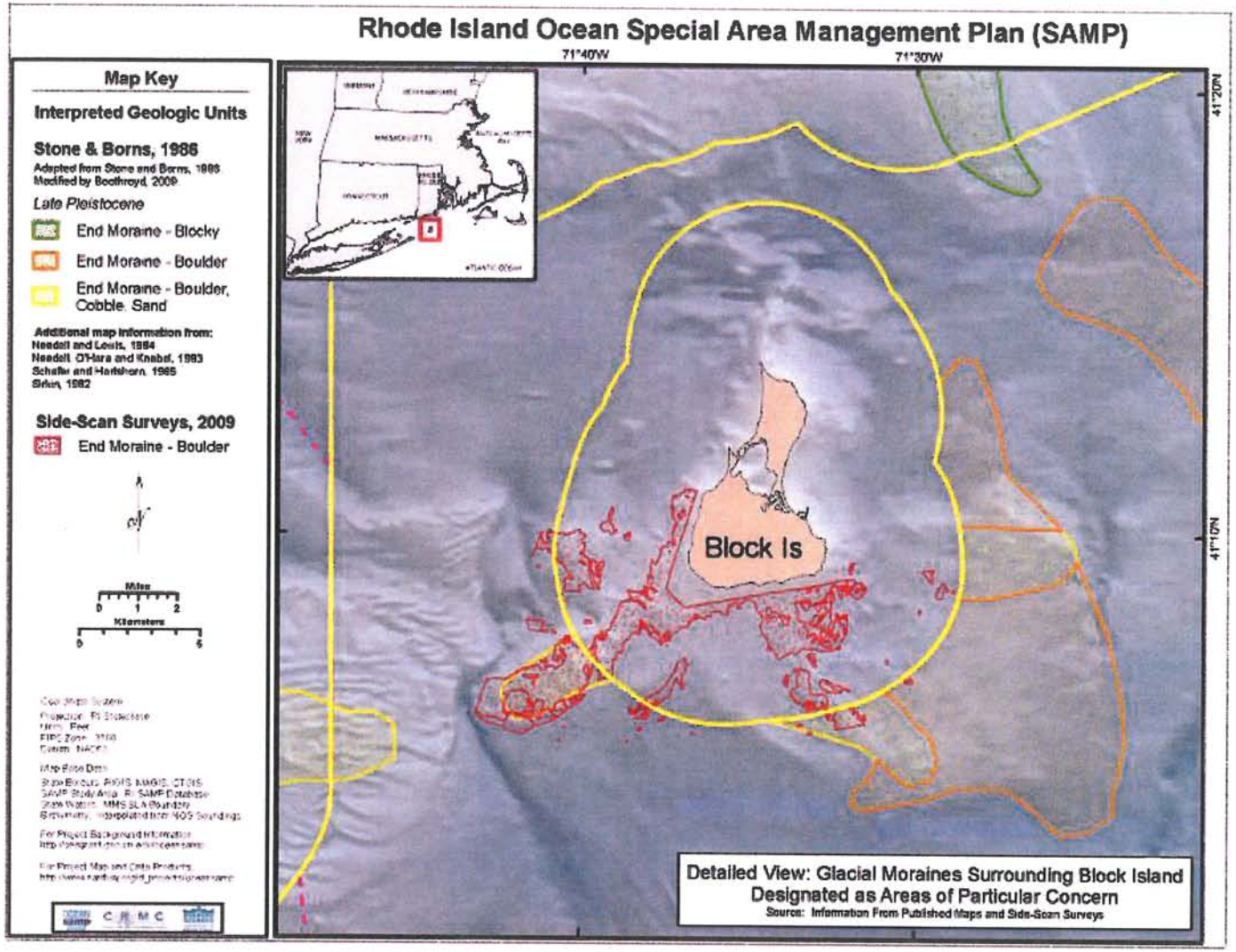
E. Figure 2: Offshore dive sites designated as Areas of Particular Concern in state waters



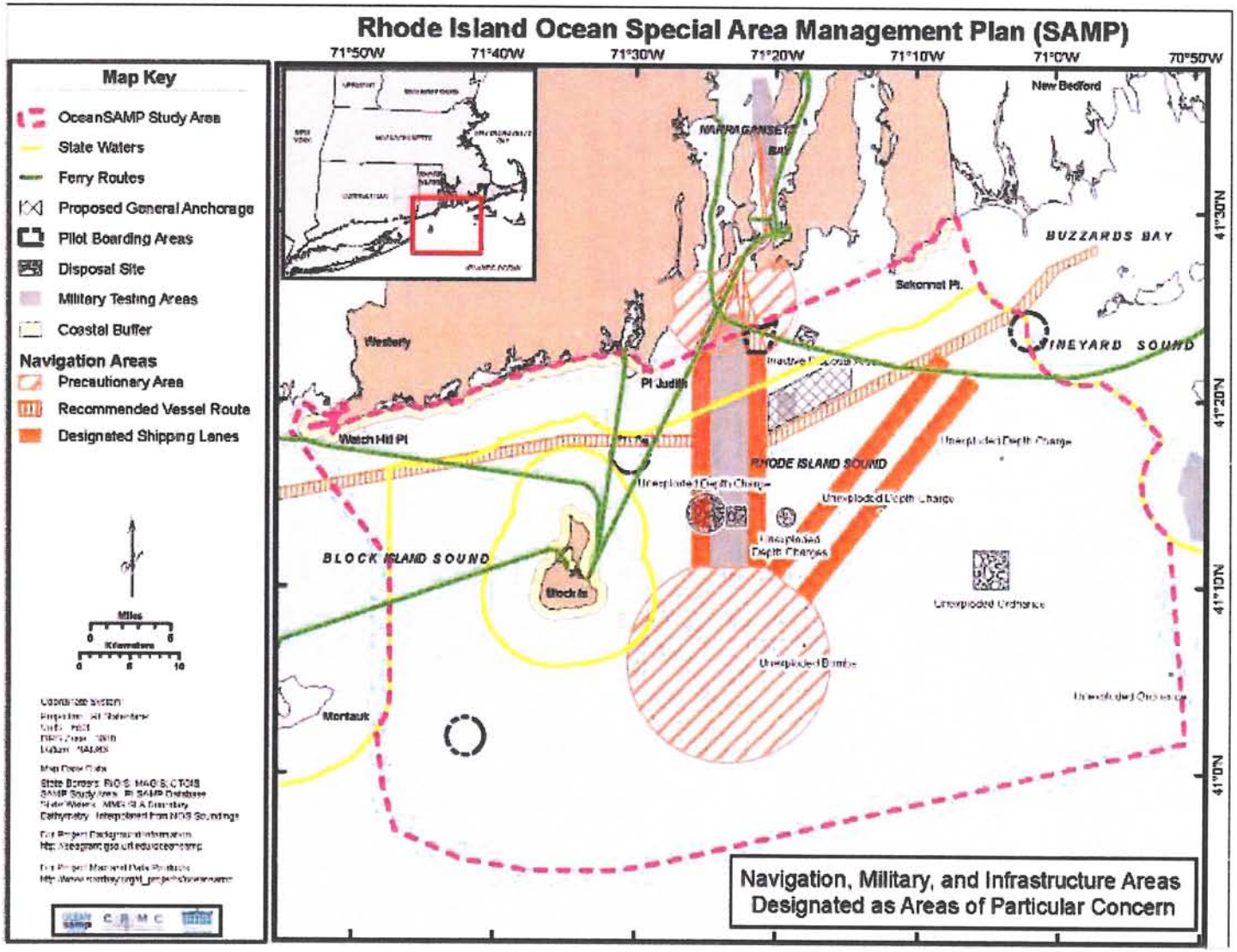
F. Figure 3: Glacial moraines designated as Areas of Particular Concern in state waters



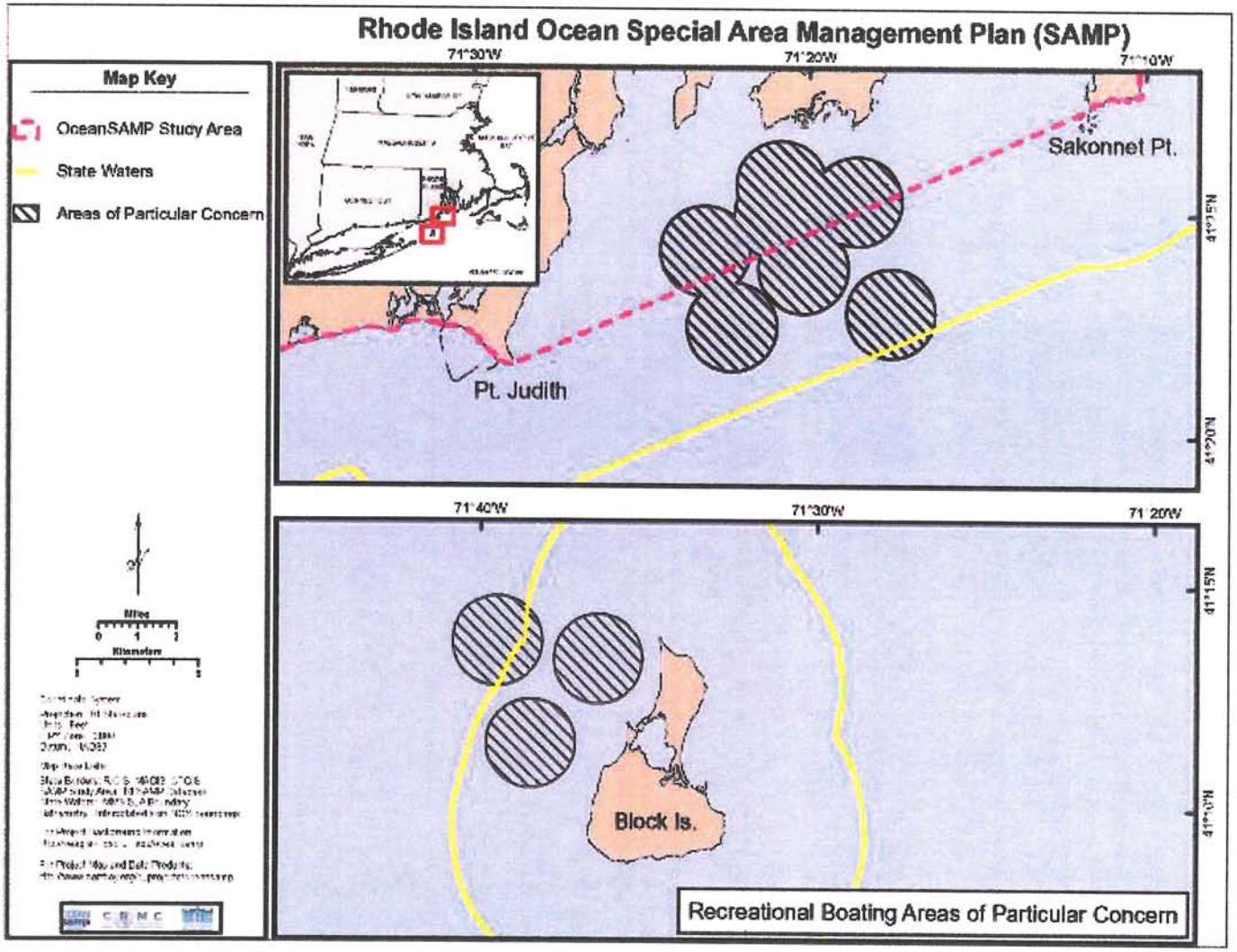
G. Figure 4: Detailed view: Glacial moraines surrounding Block Island designated as Areas of Particular Concern in state waters



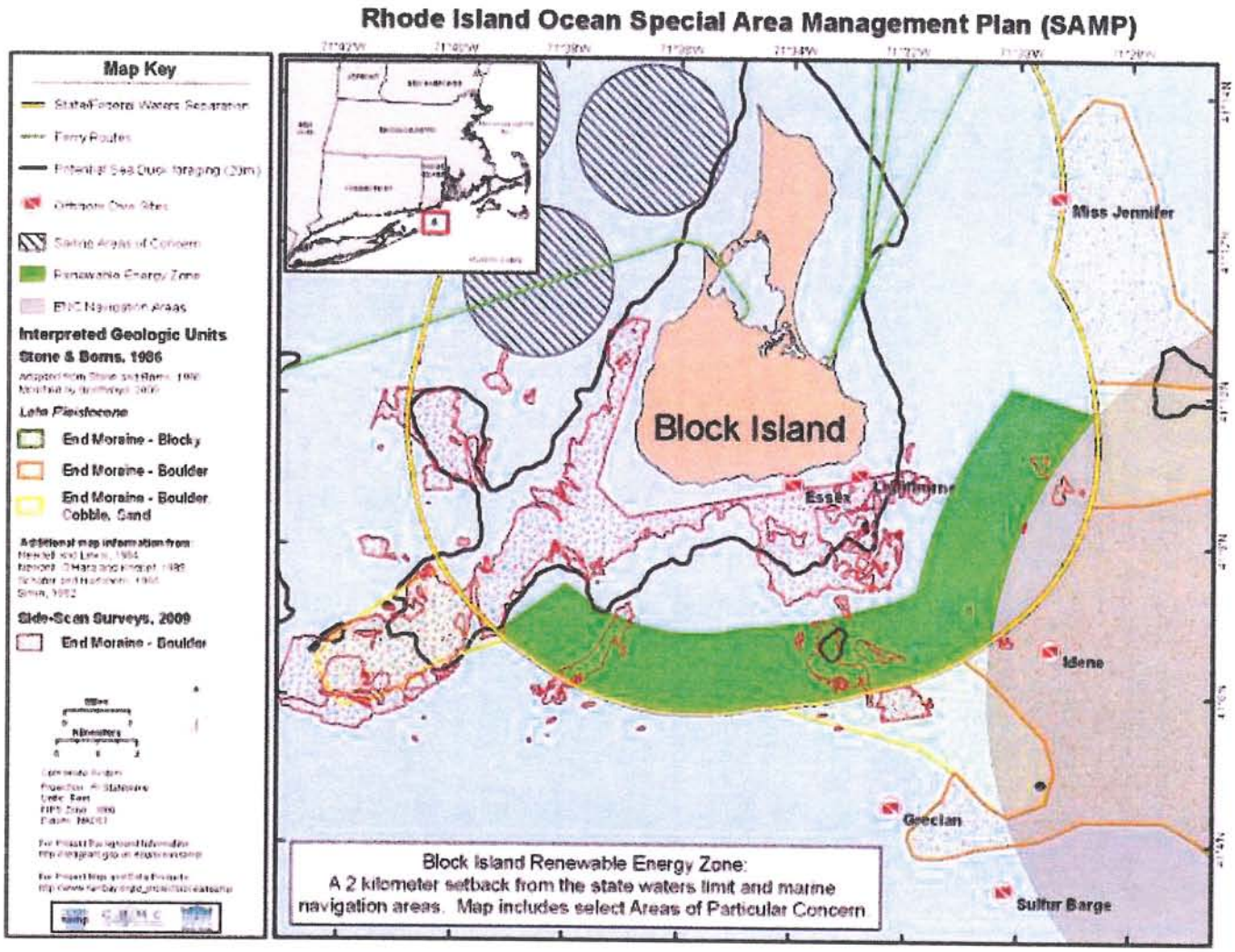
H. Figure 5: Navigation, military, and infrastructure areas designated as Areas of Particular Concern in state waters



I. Figure 6: Recreational boating areas designated as Areas of Particular Concern in state waters



J. Figure 7: Areas of Particular Concern overlapping the Renewable Energy Zone in state waters



11.10.3 Prohibitions and Areas Designated for Preservation ~~(formerly § 1160.3)~~

A. Areas Designated for Preservation are designated in the Ocean SAMP area in state waters for the purpose of preserving them for their ecological value. Areas Designated for Preservation were identified by reviewing habitat and other ecological data and findings that have resulted from the Ocean SAMP process. Areas Designated for Preservation are afforded additional protection than Areas of Particular Concern (see § 11.10.2 of this Part) because of scientific evidence indicating that large-scale offshore development in these areas may result in significant habitat loss. The areas described in § 11.10.3 of this Part are designated as Areas Designated for Preservation. The Council shall prohibit any large-scale offshore development, mining and extraction of minerals, or other development that has been found to be in conflict with the intent and purpose of an Area Designated for Preservation. Underwater cables are exempt from this prohibition. Areas Designated for Preservation include:

1. Ocean SAMP sea duck foraging habitat in water depths less than or equal to 20 meters [65.6 feet] (as shown in Figure 8 in § 11.10.3 of this Part) are designated as Areas Designated for Preservation due to their ecological value and the significant role these foraging habitats play to avian species, and existing evidence suggesting the potential for permanent habitat loss as a result of offshore wind energy development. The current research regarding sea duck foraging areas indicates that this habitat is depth limited and generally contained within the 20 meter depth contour. It is likely there are discreet areas within this region that are prime feeding areas, however at present there is no long-term data set that would allow this determination. Thus, the entire area within the 20 meter contour is being protected as an Area Designated for Preservation until further research allows the Council and other agencies to make a more refined determination.

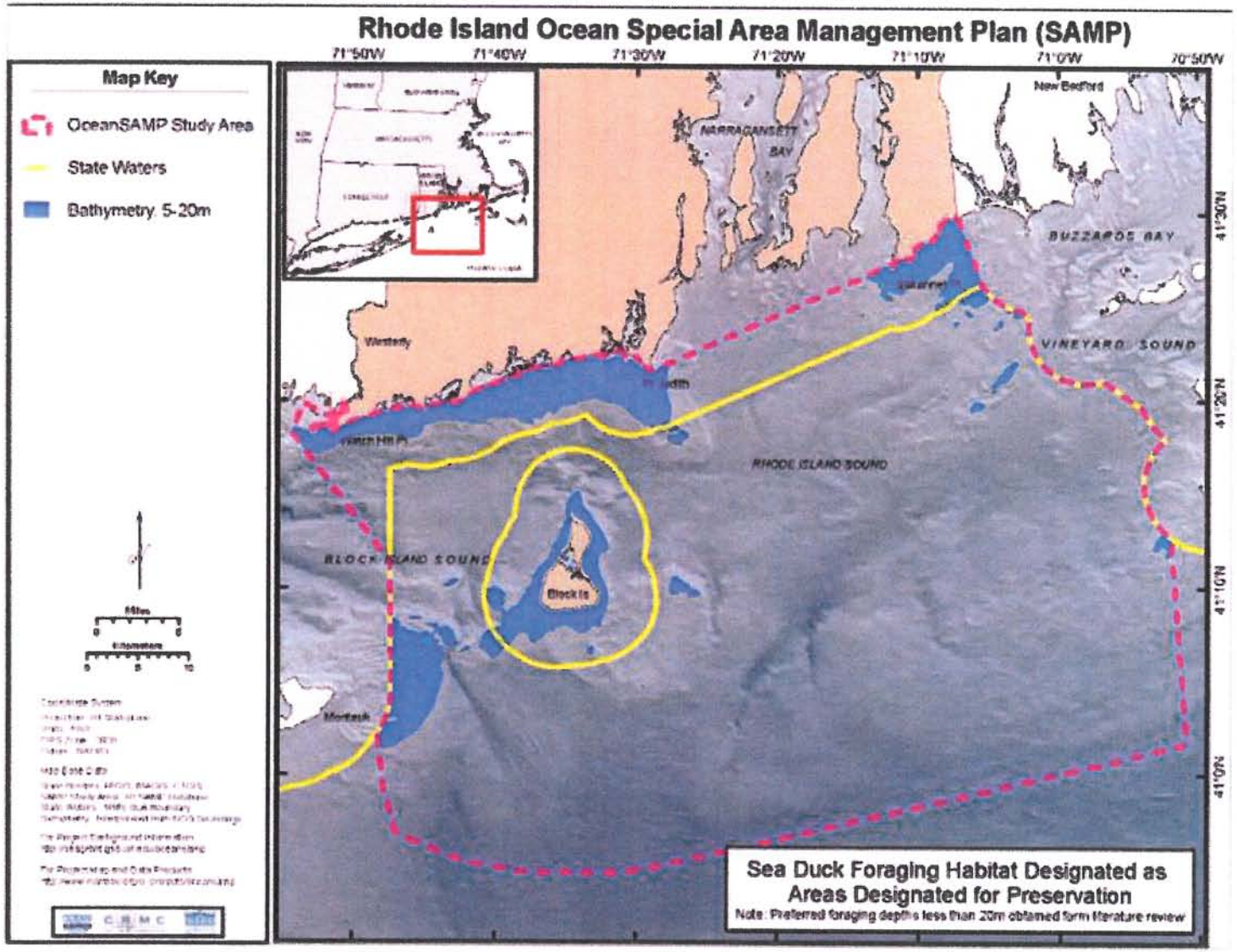
2. The mining and extraction of minerals, including sand and gravel, from tidal waters and salt ponds is prohibited. This prohibition does not apply to dredging for navigation purposes, channel maintenance, habitat restoration, or beach replenishment for public purposes.

3. The Council shall prohibit any offshore development in areas identified as Critical Habitat under the Endangered Species Act.

4. Dredged material disposal, as defined and regulated in § 1.3.1(l) of this Chapter, is further limited in the Ocean SAMP area by the prohibition of dredged material disposal in the following Areas of Particular Concern as defined in § 11.10.2 of this Part: historic shipwrecks, archaeological, or historic sites; offshore dive sites; navigation, military, and infrastructure areas; and moraines. Beneficial reuse may be allowed in Areas

Designated for Preservation, whereas all other dredged material disposal is prohibited in those areas. All disposal of dredged material will be conducted in accordance with the U.S. EPA and U.S. Army Corps of Engineers' manual, Evaluation of Dredged Material Proposed for Ocean Disposal.

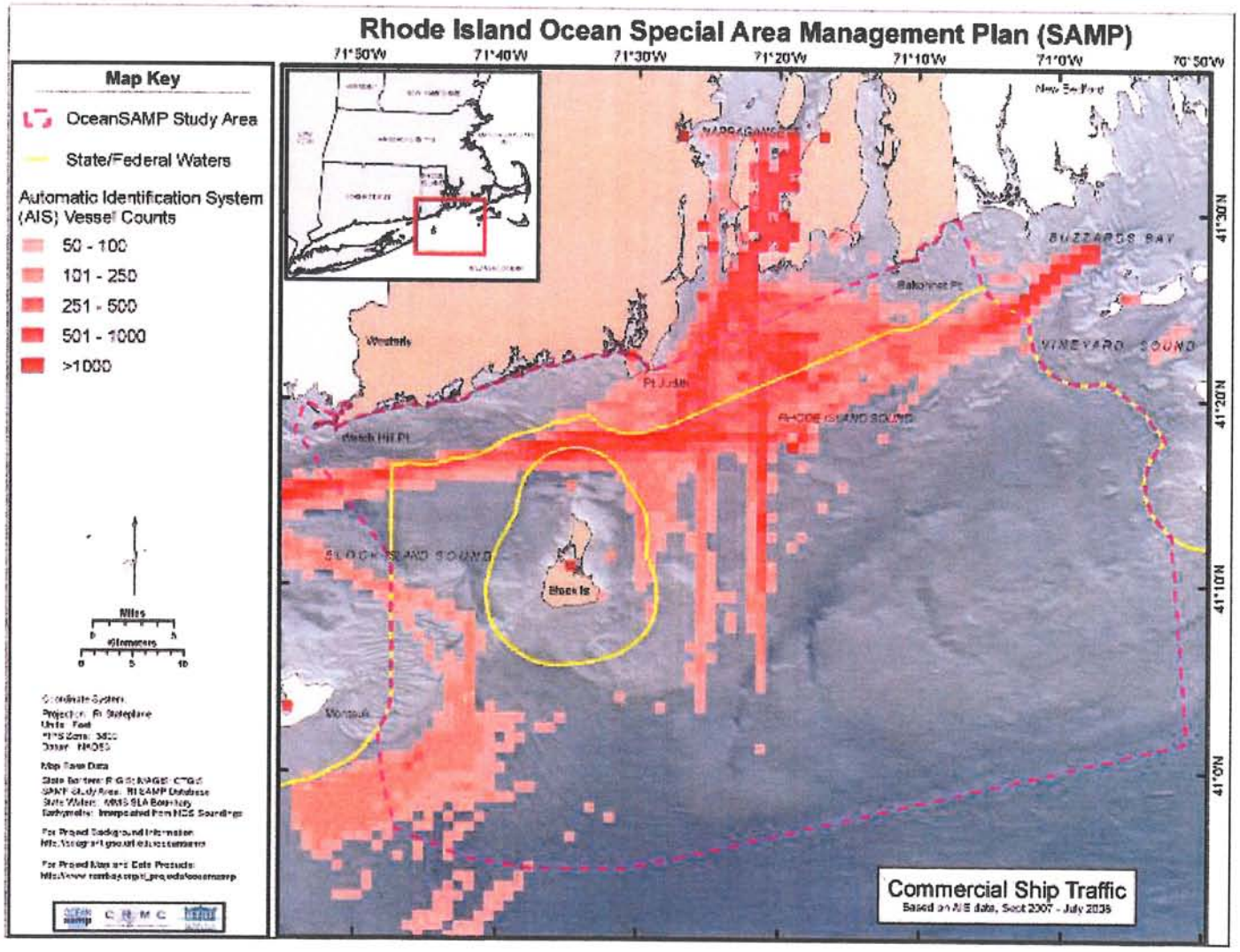
B. Figure 8: Sea duck foraging habitat designated as Areas Designated for Preservation in state waters



11.10.4 Other Areas ~~(formerly § 1160.4)~~

A. Large-scale projects or other development which is found to be a hazard to commercial navigation shall avoid areas of high intensity commercial marine traffic in state waters. Avoidance shall be the primary goal of these areas. Areas of high intensity commercial marine traffic are defined as having 50 or more vessel counts within a 1 km by 1 km grid, as shown in Figure 9 in § 11.10.~~2~~ 4(B) of this Part.

B. Figure 9: Areas of high intensity commercial ship traffic in state waters.



11.10.5 Application Requirements ~~(formerly § 1160.5)~~

A. For the purposes of this document, the phrase "'necessary data and information'" shall refer to the necessary data and information required for federal consistency reviews for purposes of starting the Coastal Zone Management Act (CZMA) ~~6~~six-month review period for federal license or permit activities under 15 C.F.R. Part 930, Subpart D, and OCS Plans under 15 C.F.R. Part 930, Subpart E, pursuant to 15 C.F.R. § 930.58(a)(2). Any necessary data and information shall be provided before the ~~6~~six-month CZMA review period begins for a proposed project or at the time the applicant provides the consistency certification. It should be noted that other federal and state agencies may require other types of data or information as part of their review processes.

B. For the purposes of this document, the following terms shall be defined as:

1. A site assessment plan (SAP) is defined as a pre-application plan that describes the activities and studies the applicant plans to perform for the characterization of the project site.

2. A construction and operations plan (COP) is defined as a plan that describes the applicant's construction, operations, and conceptual decommissioning plans for a proposed facility, including the applicant's project easement area.

3. A certified verification agent (CVA) is defined as an independent third-party agent that shall use good engineering judgment and practices in conducting an independent assessment of the design, fabrication and installation of the facility. The CVA should have licensed and qualified Professional Engineers on staff.

C. Prior to construction, the following sections shall be considered necessary data and information ~~and shall be required by the Council~~:

1. Site assessment plan – A SAP is a pre-application plan that describes the activities and studies (e.g., installation of meteorological towers, meteorological buoys) the applicant plans to perform for the characterization of the project site. ~~Within the renewable energy zone, if an applicant applies within 2 years of CRMC's adoption of the Ocean Special Area Management Plan they may elect to combine the SAP and construction and operation plan (COP) phase, but only within the renewable energy zone and only for 2 years after the adoption date. If an applicant elects to combine these two phases all requirements shall still be met.~~ The SAP shall describe how the applicant shall conduct the resource assessment (e.g., meteorological and oceanographic data collection) or technology testing activities. For projects in state waters t~~T~~he applicant shall receive the approval of the SAP by the Council (see § 11.9.8 of this Part). For projects within Type 4E waters (depicted in Figure 1 in § 11.10.1

of this Part), pre-construction data requirements may incorporate data generated by the Ocean SAMP provided the data was collected within 2 years of the date of application, or where the Ocean SAMP data is determined to be current enough to meet the requirements of the Council in coordination with the Joint Agency Working Group. The applicant shall reference information and data discussed in the Ocean SAMP (including appendices and technical reports) in their SAP. For a SAP required by BOEM under the Outer Continental Shelf Lands Act for projects in federal waters, if BOEM combines the SAP with the COP, then the SAP and COP would be filed at the same time. If BOEM does not require a SAP for a project in federal waters, then the SAP shall not be necessary data and information for federal consistency reviews.

a. The applicant's SAP shall include data from:

(1) Physical characterization surveys (e.g., geological and geophysical surveys or hazards surveys); and

(2) Baseline environmental surveys (e.g., biological or archaeological surveys).

b. The SAP shall demonstrate that the applicant has planned and is prepared to conduct the proposed site assessment activities in a manner that conforms to the applicant's responsibilities listed above in § 11.10.1(E) of this Part:

(1) Conforms to all applicable laws, regulations;

(2) Is safe;

(3) Does not unreasonably interfere with other existing uses of the state waters,

(4) Does not cause undue harm or damage to natural resources; life (including human and wildlife); the marine, coastal, or human environment; or sites, structures, or direct harm to objects of historical or archaeological significance;

(5) Uses best available and safest technology;

(6) Uses best management practices; and

(7) Uses properly trained personnel.

c. The applicant shall also demonstrate that the site assessment activities shall collect the necessary data and information required for the applicant's COP, as described below in § 11.10.5(C)(2) of this Part.

d. The applicant's SAP shall include the information described in Table ~~1~~3 in § 11.10.5 of this Part, as applicable.

(1) Table ~~1~~3: Contents of a site assessment plan.

Project information:	**Including:**
(1) Contact information	The name, address, e-mail address, and phone number of an authorized representative.
(2) The site assessment or technology testing concept.	A discussion of the objectives; description of the proposed activities, including the technology to be used; and proposed schedule from start to completion.
(4) Stipulations and compliance.	A description of the measures the applicant took, or shall take, to satisfy the conditions of any permit stipulations related to the applicant's proposed activities.
(5) A location.	The surface location and water depth for all proposed and existing structures, facilities, and appurtenances located both offshore and onshore.
(6) General structural and project design, fabrication, and installation.	Information for each type of facility associated with the applicant's project.
(7) Deployment activities.	A description of the safety, prevention, and environmental protection features or measures that the applicant will use.
(8) The applicant's proposed measures for avoiding, minimizing, reducing, eliminating, and monitoring environmental impacts.	A description of the measures the applicant shall take to avoid or minimize adverse effects and any potential incidental take, before the applicant conducts activities on the project site, and how the applicant shall mitigate environmental impacts from proposed activities, including a description of the measures to be used.
(9) Reference information.	Any document or published sources that the applicant cites as part of the plan. The

	applicant shall reference information and data discussed in the Ocean SAMP (including appendices and technical reports), other plans referenced in the Ocean SAMP, and other plans previously submitted by the applicant or that are otherwise readily available to the Council.
(10) Decommissioning and site clearance procedures.	A discussion of methodologies.
(11) Air quality information.	Information required for the Clean Air Act (42 U.S.C. § 7409) and implementing regulations
(12) A listing of all Federal, State, and local authorizations or approvals required to conduct site assessment activities on the project site.	A statement indicating whether such authorization or approval has been applied for or obtained.
(13) A list of agencies or persons with whom the applicant has communicated, or will communicate, regarding potential impacts associated with the proposed activities.	Contact information and issues discussed.
(14) Financial assurance information.	Statements attesting that the activities and facilities proposed in the applicant's SAP are or shall be covered by an appropriate performance bond or other Council approved security.
(15) Other information.	Additional information as requested by the Council in coordination with the Joint Agency Working Group

e. The applicant's SAP shall provide the results of geophysical and geological surveys, hazards surveys, archaeological surveys (as required by the Council in coordination with the Joint Agency Working Group), and biological surveys outlined in Table ~~2~~ 4 in § 11.10.5 of this Part (with the supporting data) in the applicant's SAP:

(1) Table ~~2~~4: Necessary data and information to be provided in the site assessment plan.

Information.	Report contents.	Including.
(1) Geotechnical.	Reports from the geotechnical survey with supporting data.	A description of all relevant seabed and engineering information to allow for the design of the foundation of that facility. The applicant shall provide information to depths below which the underlying conditions shall not influence the integrity or performance of the structure. This could include a series of sampling locations (borings and *in situ* tests) as well as laboratory testing of soil samples.
(2) Shallow hazards.	The results from the shallow hazards survey with supporting data, if required.	A description of information sufficient to determine the presence of the following features and their likely effects on the proposed facility, including: (i) Shallow faults; (ii) Gas seeps or shallow gas; (iii) Slump blocks or slump sediments; (iv) Hydrates; and (v) Ice scour of seabed sediments.
(3) Archaeological resources.	The results from the archaeological survey with supporting data, if required.	(i) A description of the results and data from the archaeological survey; (ii) A description of the historic and prehistoric archaeological resources, as required by the National Historic Preservation Act and Antiquities Act (16 U.S.C. § 470 *et. seq.*), as amended, the

		Rhode Island Historical Preservation Act and Antiquities Act and §§ 00-1.2.3 and 00-1.3.5 of this Chapter, as applicable; (iii) For more information on the archeological surveys and assessments required see § 4.3 of this Subchapter.
(4) Geological survey.	The results from the geological survey with supporting data.	A report that describes the results of a geological survey that includes descriptions of: (i) Seismic activity at the proposed site; (ii) Fault zones; (iii) The possibility and effects of seabed subsidence; and (iv) The extent and geometry of faulting attenuation effects of geologic conditions near the site.
(5) Biological survey.	The results from the biological survey with supporting data.	A description of the results of a biological survey, including descriptions of the presence of live bottoms; hard bottoms; topographic features; and surveys of other marine resources such as fish populations (including migratory populations) not targeted by commercial or recreational fishing, marine mammals, sea turtles, and sea birds.
(6) Fish and fisheries survey	The results from the fish and fisheries survey with supporting data.	A report that describes the results of: (i) A biological assessment of commercially and recreationally targeted species. This assessment shall assess the relative abundance, distribution, and

		different life stages of these species at all four seasons of the year. This assessment shall comprise a series of surveys, employing survey equipment and methods that are appropriate for sampling finfish, shellfish, and crustacean species at the project's proposed location. This assessment may include evaluation of survey data collected through an existing survey program, if data are available for the proposed site. (ii) An assessment of commercial and recreational fisheries effort, landings, and landings value. Assessment shall focus on the proposed project area and alternatives across all four seasons of the year must. Assessment may use existing fisheries monitoring data but shall be supplemented by interviews with commercial and recreational fishermen. (iii) For more information on these assessments see § 11.~~10~~9.9~~(C)~~ of this Part.

f. The applicant shall submit a SAP that describes those resources, conditions, and activities listed in Table ~~3~~-5 in § 11.10.5 of this Part that could be affected by the applicant's proposed activities, or that could affect the activities proposed in the applicant's SAP, including but not limited to:

(1) Table ~~3~~5: Resource data and uses that shall be described in the site assessment plan.

Type of information	**Including:**
(1) Hazard information.	Meteorology, oceanography, sediment transport, geology, and shallow geological or manmade hazards.

(2) Water quality.	Turbidity and total suspended solids from construction.
(3) Biological resources.	Benthic communities, marine mammals, sea turtles, coastal and marine birds, fish and shellfish (not targeted by commercial or recreational fishing), plankton, seagrasses, and plant life.
(4) Threatened or endangered species.	As required by the Endangered Species Act (ESA) of 1973 (16. U.S.C. § 1531 *et seq.*).
(5) Sensitive biological resources or habitats.	Essential fish habitat, refuges, preserves, Areas of Particular Concern, Areas Designated for Preservation, sanctuaries, rookeries, hard bottom habitat, and calving grounds; barrier islands, beaches, dunes, and wetlands.
(6) Archaeological and visual resources.	As required by the National Historic Preservation Act and Antiquities Act (16 U.S.C. 470 *et seq.*), as amended, the Rhode Island Historical Preservation Act and Antiquities Act and §§ 00-1.2.3 and 00-1.3.5 of this Chapter, as applicable.
(7) Social and economic resources.	Employment, existing offshore and coastal infrastructure (including major sources of supplies, services, energy, and water), land use, subsistence resources and harvest practices, recreation, minority and lower income groups, and view shed.
(8) Fisheries resources and uses	Commercially and recreationally targeted species, recreational and commercial fishing (including fishing seasons, location, and type), commercial and recreational fishing activities, effort, landings, and landings value.
(9) Coastal and marine uses.	Military activities, vessel traffic, and energy and non-energy mineral exploration or development.

g. The Council shall review the applicant's SAP in coordination with the Joint Agency Working Group to determine if it contains the information necessary to conduct technical and environmental reviews and shall notify the applicant if the SAP lacks any necessary information. If the Council determines that necessary data and information is missing, the CRMC may only delay the CZMA six-month federal consistency review period in accordance with NOAA's regulations at 15 C.F.R. §§ 930.60(a) and 930.77(a)(1).

~~h. As appropriate, the Council shall coordinate and consult with relevant Federal and State agencies, and affected Indian tribes.~~(Note: moved to § 11.9.8(A))

~~i~~h. Any large-scale offshore development, as defined above in § 11.10.1(A) of this Part, shall require a pre-application meeting between the FAB, the applicant, and the Council staff to discuss potential fishery-related impacts, such as, but not limited to, project location, construction schedules, alternative locations, and project minimization. During the pre-application meeting for a large-scale offshore development, the FAB can also identify areas of high fishing activity or habitat edges to be considered during the review process. See § 11.10.1(D) of this Part describing the FAB meeting and necessary data and information.

~~j. During the review process, the Council may request additional information if it is determined that the information provided is not sufficient to complete the review and approval process.~~

~~k. Once the SAP is approved by the Council the applicant may begin conducting the activities approved in the SAP.~~

~~l. Reporting requirements of the applicant under an approved SAP:~~

~~(1) Following the approval of a SAP, the applicant shall notify the Council in writing within 30 days of completing installation activities of any temporary measuring devices approved by the Council.~~

~~(2) The applicant shall prepare and submit to the Council a report semi-annually. The first report shall be due 6 months after work on the SAP begins; subsequent reports shall be submitted every 6 month thereafter until the SAP period is complete. The report shall summarize the applicant's site assessment activities and the results of those activities.~~

~~(3) The Council reserves the right to require additional environmental and technical studies, if it is found there is a critical area lacking or missing information.~~

~~m. The applicant shall seek the Council's approval before conducting any activities not described in the approved SAP, describing in detail the type of activities the applicant proposes to conduct and the rationale for these activities. The Council shall determine whether the activities proposed are authorized by the applicant's existing SAP or require a revision to the applicant's SAP. The Council may request additional information from the applicant, if necessary, to make this determination.~~

~~n. The Council shall periodically review the activities conducted under an approved SAP. The frequency and extent of the review shall be based on the significance of any changes in available information and on onshore or offshore conditions affecting, or affected by, the activities conducted under the applicant's SAP. If the review indicates that the SAP should be revised to meet the requirements of this part, the Council shall require the applicant to submit the needed revisions.~~

~~o. The applicant may keep approved facilities (such as meteorological towers) installed during the SAP period in place during the time that the Council reviews the applicant's COP for approval. Note: Structures in state waters shall require separate authorizations outside the SAP process.~~

~~p. The applicant is not required to initiate the decommissioning process for facilities that are authorized to remain in place under the applicant's approved COP. If, following the technical and environmental review of the applicant's submitted COP, the Council determines that such facilities may not remain in place the applicant shall initiate the decommissioning process.~~

~~q. The Executive Director on behalf of the Council will be responsible for reviewing and approving study designs conducted as part of the necessary data and information contained in the SAP. The Executive Director shall seek the advice of the FAB and HAB in setting out the study designs to be completed in the SAP. The Executive Director shall also brief the Ocean SAMP Subcommittee on each study design as it is being considered. Any applicant that initiated, conducted and/or completed site assessment studies or surveying activities prior to the adoption of the policies set forth in the SAMP, shall demonstrate that the studies were done in accordance with federal protocols for such studies or in the alternative, to the Council's satisfaction that the completed studies were conducted with approval from the Executive Director and in accordance~~

~~with §§ 11.10.5(A), 11.10.5(C)(2), 11.10.5(C)(3) and 11.10.5(C)(4) of this Part.~~ (Note: (j) through (q) moved to §11.9.8(A))2. Construction and operations plan (COP) - The COP describes the applicant's construction, operations, and conceptual decommissioning plans for the proposed facility, including the applicant's project easement area.

a. The applicant's COP shall describe all planned facilities that the applicant shall construct and use for the applicant's project, including onshore and support facilities and all anticipated project easements.

b. The applicant's COP shall describe all proposed activities including the applicant's proposed construction activities, commercial operations, and conceptual decommissioning plans for all planned facilities, including onshore and support facilities.

c. The applicant shall receive the Council's approval of the COP before the applicant can begin any of the approved activities on the applicant's project site, lease or easement.

d. The COP shall demonstrate that the applicant has planned and is prepared to conduct the proposed activities in a manner that:

(1) Conforms to all applicable laws, implementing regulations.

(2) Is safe;

(3) Does not unreasonably interfere with other uses of state waters;

(4) Does not cause undue harm or damage to natural resources; life (including human and wildlife); the marine, coastal, or human environment; or direct impact to sites, structures, or objects of historical or archaeological significance;

(5) Uses best available and safest technology;

(6) Uses best management practices; and

(7) Uses properly trained personnel.

e. The applicant's COP shall include the following project-specific information, as applicable.

(1) Table 46: Contents of the construction and operations plan.

Project information:	Including:

(1) Contact information	The name, address, e-mail address, and phone number of an authorized representative.
(2) Designation of operator, if applicable	
(3) The construction and operation concept	A discussion of the objectives, description of the proposed activities, tentative schedule from start to completion, and plans for phased development.
(4) A location	The surface location and water depth for all proposed and existing structures, facilities, and appurtenances located both offshore and onshore, including all anchor/mooring data.
(5) General structural and project design, fabrication, and installation	Information for each type of structure associated with the project and, unless the Council provides otherwise, how the applicant shall use a CVA to review and verify each stage of the project.
(6) All cables and pipelines, including cables on project easements	Location, design and installation methods, testing, maintenance, repair, safety devices, exterior corrosion protection, inspections, and decommissioning. The applicant shall prior to construction also include location of all cable crossings and appropriate clearance from the owners of existing cables.
(7) A description of the deployment activities	Safety, prevention, and environmental protection features or measures that the applicant shall use.
(8) A list of solid and liquid wastes generated	Disposal methods and locations.
(9) A list of chemical products used (if stored volume exceeds Environmental Protection Agency (EPA) Reportable Quantities)	A list of chemical products used; the volume stored on location; their treatment, discharge, or disposal methods used; and the name and location of the onshore waste receiving, treatment, and/or disposal facility. A description of how these products would be brought onsite, the number of transfers that may take place, and the quantity that shall be transferred each time.

(10) Decommissioning and site clearance procedures	A discussion of general concepts and methodologies.
(11) A list of all federal, state, and local authorizations, approvals, or permits that are required to conduct the proposed activities, including commercial operations	A list of all federal, state, and local authorizations, approvals, or permits that are required to conduct the proposed activities, including commercial operations. In addition, a statement indicating whether the applicant has applied for or obtained such authorizations, approvals, or permits.
(12) The applicant's proposed measures for avoiding, minimizing, reducing, eliminating, and monitoring environmental impacts	A description of the measures the applicant shall take to avoid or minimize adverse effects and any potential incidental take before conducting activities on the project site, and how the applicant shall minimize environmental impacts from proposed activities, including a description of the measures.
(13) Information the applicant incorporates by reference	A list of the documents referenced and the actual document if requested.
(14) A list of agencies and persons with whom the applicant has communicated, or with whom the applicant shall communicate, regarding potential impacts associated with the proposed activities	Contact information, issues discussed and the actual document if requested
(15) Reference	Contact information
(16) Financial assurance	Statements attesting that the activities and facilities proposed in the applicant's COP are or shall be covered by an appropriate bond or security, as required by § 11.9.8(D)(2)~~11.10.7(B)~~ of this Part.
(17) CVA nominations	CVA nominations for reports required.
(18) Construction schedule.	A reasonable schedule of construction activity showing significant milestones leading to the commencement of commercial operations.

(19) Air quality information.	Information required for the Clean Air Act (42 U.S.C. § 7409) and implementing regulations.
(20) Other information	Additional information as required by the Council.

f. The applicant's COP shall include the following information and surveys for the proposed site(s) of the applicant's facility or facilities:

(1) Table ~~5~~7: Necessary data and information to be provided in the construction and operations plan.

Information:	**Report contents:**	**Including:**
(1) Shallow hazards	The results of the shallow hazards survey with supporting data, if required.	Information sufficient to determine the presence of the following features and their likely effects on the proposed facility, including: (i) Shallow faults; (ii) Gas seeps or shallow gas; (iii) Slump blocks or slump sediments; (iv) Hydrates; or (v) Ice scour of seabed sediments.
(2) Geological survey relevant to the siting and design of the facility	The results of the geological survey with supporting data.	Assessment of: (i) Seismic activity at the proposed site; (ii) Fault zones; (iii) The possibility and effects of seabed subsidence; and (iv) The extent and geometry of faulting attenuation effects of geologic conditions near the site.

(3) Biological survey	The results of the biological survey with supporting data.	A description of the results of biological surveys used to determine the presence of live bottoms, hard bottoms, and topographic features, and surveys of other marine resources such as fish populations (including migratory populations) not targeted by commercial or recreational fishing, marine mammals, sea turtles, and sea birds.
(4) Fish and fisheries survey	The results from the fish and fisheries survey with supporting data.	A report that describes the results of: (i) A biological assessment of commercially and recreationally targeted species. This assessment shall assess the relative abundance, distribution, and different life stages of these species at all four seasons of the year. This assessment shall comprise a series of surveys, employing survey equipment and methods that are appropriate for sampling finfish, shellfish, and crustacean species at the project's proposed location. This assessment may include evaluation of survey data collected through an existing survey program, if data are available for the proposed site. (ii) An assessment of commercial and recreational fisheries effort, landings, and landings value. Assessment shall focus on the proposed project area and alternatives across all four seasons of the year must. Assessment may use existing fisheries monitoring data but shall be supplemented by interviews with commercial and recreational fishermen.

		(iii) For more information on these assessments see § 11.9.8(D)(2)~~11.10.9(C)~~ of this Part.
(5) Geotechnical survey	The results of any sediment testing program with supporting data, the various field and laboratory tests employed, and the applicability of these methods as they pertain to the quality of the samples, the type of sediment, and the anticipated design application. The applicant shall explain how the engineering properties of each sediment stratum affect the design of the facility. In the explanation, the applicant shall describe the uncertainties inherent in the overall testing program, and the reliability and applicability of each method.	(i) The results of a testing program used to investigate the stratigraphic and engineering properties of the sediment that may affect the foundations or anchoring systems of the proposed facility. (ii) The results of adequate in situ testing, boring, and sampling at each foundation location, to examine all important sediment and rock strata to determine its strength classification, deformation properties, and dynamic characteristics. A minimum of one boring shall be taken per turbine planned, and the boring shall be taken within 50 feet of the final location of the turbine. (iii) The results of a minimum of one deep boring (with soil sampling and testing) at each edge of the project area and within the project area as needed to determine the vertical and lateral variation in seabed conditions and to provide the relevant geotechnical data required for design.
(6) Archaeological and visual resources, if required	The results of the archaeological resource survey with supporting data.	A description of the historic and prehistoric archaeological resources, as required by the National Historic Preservation Act and Antiquities Act (16 U.S.C. § 470 *et seq.*), as amended, the Rhode Island Historical Preservation Act and Antiquities Act and §§ 00-1.2.3 and 00-1.3.5 of this Chapter, as applicable.

(7) Overall site investigation	An overall site investigation report for the proposed facility that integrates the findings of the shallow hazards surveys and geologic surveys, and, if required, the subsurface surveys with supporting data.	An analysis of the potential for: (i) Scouring of the seabed; (ii) Hydraulic instability; (iii) The occurrence of sand waves; (iv) Instability of slopes at the facility location; (v) Liquefaction, or possible reduction of sediment strength due to increased pore pressures; (vi) Cyclic loading; (vii) Lateral loading; (viii) Dynamic loading; (ix) Settlements and displacements; (x) Plastic deformation and formation collapse mechanisms; and (xi) Sediment reactions on the facility foundations or anchoring systems.

g. **The applicant's COP shall describe those resources, conditions, and activities listed in Table ~~6~~ 8 in § 11.10.5 of this Part that could be affected by the applicant's proposed activities, or that could affect the activities proposed in the applicant's COP, including:**

(1) Table ~~6~~8: Resources, conditions and activities that shall be described in the construction and operations plan.

Type of Information:	**Including:**
(1) Hazard information and sea level rise	Meteorology, oceanography, sediment transport, geology, and shallow geological or manmade hazards. Provide an analysis of historic and project (medium and high) rates of sea level rise and shall at minimum assess the risks for each

	alternative on public safety and environmental impacts resulting from the project (see Ocean SAMP Chapter 3, Section 350.2 for more information).
(2) Water quality and circulation	Turbidity and total suspended solids from construction. Modeling of circulation and stratification to ensure that water flow patterns and velocities are not altered in ways that would lead to major ecosystem change.
(3) Biological resources	Benthic communities, marine mammals, sea turtles, coastal and marine birds, fish and shellfish not targeted by commercial or recreational fishing, plankton, sea grasses, and plant life.
(4) Threatened or endangered species	As defined by the ESA (16 U.S.C. § 1531 *et seq.*)
(5) Sensitive biological resources or habitats	Essential fish habitat, refuges, preserves, Areas of Particular Concern, sanctuaries, rookeries, hard bottom habitat, barrier islands, beaches, dunes, and wetlands.
(6) Fisheries resources and uses	Commercially and recreationally targeted species, recreational and commercial fishing (including fishing seasons, location, and type), commercial and recreational fishing activities, effort, landings, and landings value.
(6) Archaeological resources	As required by the NHPA (16 U.S.C. § 470 *et seq.*), as amended.
(7) Social and economic resources	As determined by the Council in coordination with the Joint Agency Working Group.
(8) Coastal and marine uses	Military activities, vessel traffic, and energy and non-energy mineral exploration or development.

~~h. The applicant shall submit an oil spill response plan per the Oil Pollution Act of 1990, 33 U.S.C. § 2701 *et seq.*~~

~~i. The applicant shall submit the applicant's Safety Management System, the contents of which are described below:~~

~~(1) How the applicant plans to ensure the safety of personnel or anyone on or near the facility;~~

~~(2) Remote monitoring, control and shut down capabilities;~~

~~(3) Emergency response procedures;~~

~~(4) Fire suppression equipment (if needed);~~

~~(5) How and when the safety management system shall be implemented and tested; and~~

~~(6) How the applicant shall ensure personnel who operate the facility are properly trained.~~

~~j. The Council shall review the applicant's COP and the information provided to determine if it contains all the required information necessary to conduct the project's technical and environmental reviews. The Council shall notify the applicant if the applicant's COP lacks any necessary information.~~

~~k. As appropriate, the Council shall coordinate and consult with relevant Federal, State, and local agencies, the FAB and affected Indian tribes.~~

~~l. During the review process, the Council may request additional information if it is determined that the information provided is not sufficient to complete the review and approval process. If the applicant fails to provide the requested information, the Council may disapprove the applicant's COP.~~

~~m. Upon completion of the technical and environmental reviews and other reviews required, the Council may approve, disapprove, or approve with modifications the applicant's COP.~~

~~n. In the applicant's COP, the applicant may request development of the project area in phases. In support of the applicant's request, the applicant shall provide details as to what portions of the site shall be initially developed for commercial operations and what portions of the site shall be reserved for subsequent phased development.~~

~~o. If the application and COP is approved, prior to construction the applicant shall submit to the Council for approval the documents listed below:~~ (Note: (h) through (o) moved to § 11.9.8(B))

~~(1) Facility design report - The applicant's facility design report provides specific details of the design of any facilities, including cables and pipelines that are outlined in the applicant's approved SAP or COP. The applicant's facility design report shall demonstrate that the applicant's design conforms to the applicant's responsibilities listed in § 11.10.6 of this Part. The applicant shall include the following items in the applicant's facility design report:~~

~~(AA) Table 7: Contents of the facility design report.~~

~~Required documents:~~	~~Required contents:~~	~~Other requirements:~~
~~(1) Cover letter~~	~~(i) Proposed facility designations;~~ ~~(ii)The type of facility~~	~~The applicant shall submit four (4) paper copies and one (1) electronic copy.~~
~~(2) Location~~	~~(i) Latitude and longitude coordinates, Universal Mercator grid-system coordinates, state plane coordinates in the Lambert or Transverse Mercator Projection System;~~ ~~(ii) These coordinates shall be based on the NAD (North American Datum) 83 datum plane coordinate system; and~~ ~~(iii) The location of any proposed project easement.~~	~~The applicant's plat shall be drawn to a scale of 1 inch equals 100 feet and include the coordinates of the project site, and boundary lines. The applicant shall submit four (4) paper copies and one (1) electronic copy.~~
~~(3) Front, Side, and Plan View drawings~~	~~(i) Facility dimensions and orientation;~~ ~~(ii) Elevations relative to mean lower low water (MLLW); and~~ ~~(iii) Pile sizes and penetration.~~	~~The applicant's drawing sizes shall not exceed 11" x 17". The applicant shall submit four (4) paper copies and one (1) electronic copy.~~

~~(4) Complete set of structural drawings~~	~~The approved for construction fabrication drawings should be submitted, including, e.g.,~~ ~~(i) Cathodic protection systems;~~ ~~(ii) Jacket design;~~ ~~(iii) Pile foundations;~~ ~~(iv) Mooring and tethering systems;~~ ~~(v) Foundations and anchoring systems; and~~ ~~(vi) Associated cable and pipeline designs.~~	~~The applicant's drawing sizes shall not exceed 11" x 17". The applicant shall submit four (4) paper copies and one (1) electronic copy.~~
~~(5) Summary of environmental data used for design~~	~~A summary of the environmental data used in the design or analysis of the facility. Examples of relevant data include information on:~~ ~~(i) Extreme weather;~~ ~~(ii) Seafloor conditions; and~~ ~~(iii) Waves, wind, currents, tides, temperature, sea level rise projections, snow and ice effects, marine growth, and water depth.~~	~~The applicant shall submit four (4) paper copies and one (1) electronic copy. If the applicant submitted these data as part of the SAP or COP, the applicant may reference the plan.~~
~~(6) Summary of the engineering design data~~	~~(i) Loading information (e.g., live, dead, environmental);~~ ~~(ii) Structural information (e.g., design-life; material types; cathode protection systems; design criteria; fatigue life; jacket design; deck design; production component design; foundation pilings and templates, and mooring or tethering systems;~~	~~The applicant shall submit four (4) paper copies and one (1) electronic copy.~~

	~~fabrication or installation guidelines);~~ ~~(iii) Location of foundation boreholes and foundation piles; and~~ ~~(iv) Foundation information (e.g., soil stability, design criteria).~~	
~~(7) A complete set of design calculations~~	~~Self-explanatory.~~	~~The applicant shall submit four (4) paper copies and one (1) electronic copy.~~
~~(8) Project-specific studies used in the facility design or installation~~	~~All studies pertinent to facility design or installation, (e.g., oceanographic and soil reports)~~	~~The applicant shall submit four (4) paper copies and one (1) electronic copy.~~
~~(9) Description of the loads imposed on the facility~~	~~(i) Loads imposed by jacket;~~ ~~(ii) Turbines;~~ ~~(iii) Transition pieces;~~ ~~(iv) Foundations, foundation pilings and templates, and anchoring systems; and~~ ~~(v) Mooring or tethering systems.~~	~~The applicant shall submit four (4) paper copies and one (1) electronic copy.~~
~~(10) Geotechnical report~~	~~A list of all data from borings and recommended design parameters.~~	~~The applicant shall submit four (4) paper copies and one (1) electronic copy.~~

~~(2) For any floating facility, the applicant's design shall meet the requirements of the U.S. Coast Guard for structural integrity and stability (e.g., verification of center of gravity). The design shall also consider:~~

~~(AA) foundations, foundation pilings and templates, and anchoring systems; and~~

~~(BB) mooring or tethering systems.~~

(3) The applicant is required to use a certified verified agent (CVA). The facility design report shall include two paper copies of the following certification statement: "The design of this structure has been certified by a Council approved CVA to be in accordance with accepted engineering practices and the approved SAP, or COP as appropriate. The certified design and as-built plans and specifications shall be on file at (given location)."

(4) Fabrication and installation report - The applicant's fabrication and installation report shall describe how the applicant's facilities shall be fabricated and installed in accordance with the design criteria identified in the facility design report; the applicant's approved SAP or COP; and generally accepted industry standards and practices. The applicant's fabrication and installation report shall demonstrate how the applicant's facilities shall be fabricated and installed in a manner that conforms to the applicant's responsibilities listed in § 11.10.6 of this Part. The applicant shall include the following items in the applicant's fabrication and installation report:

(AA) Table 8: Contents of the fabrication and installation report.

Required documents:	Required contents:	Other requirements:
(1) Cover letter	(i) Proposed facility designation; (ii) Area, name, and block number; and (iii) The type of facility	The applicant shall submit four (4) paper copies and one (1) electronic copy.
(2) Schedule	Fabrication and installation.	The applicant shall submit four (4) paper copies and one (1) electronic copy.
(3) Fabrication information	The industry standards the applicant shall use to ensure the facilities are fabricated to the design criteria identified in the facility design report.	The applicant shall submit four (4) paper copies and one (1) electronic copy.

~~(4) Installation process information~~	~~Details associated with the deployment activities, equipment, and materials, including offshore and onshore equipment and support, and anchoring and mooring permits.~~	~~The applicant shall submit four (4) paper copies and one (1) electronic copy.~~
~~(5) Federal, State, and local permits (e.g., EPA, Army Corps of Engineers)~~	~~Either one (1) copy of the permit or information on the status of the application.~~	~~The applicant shall submit four (4) paper copies and one (1) electronic copy.~~
~~(6) Environmental information~~	~~(i) Water discharge;~~ ~~(ii) Waste disposal;~~ ~~(iii) Vessel information; and~~ ~~(iv) Onshore waste receiving treatment or disposal facilities.~~	~~The applicant shall submit four (4) paper copies and one (1) electronic copy. If the applicant submitted these data as part of the SAP or COP, the applicant may reference the plan.~~
~~(7) Project easement~~	~~Design of any cables, pipelines, or facilities. Information on burial methods and vessels.~~	~~The applicant shall submit four (4) paper copies and one (1) electronic copy.~~

~~(5) A CVA report shall include the following: a fabrication and installation report which shall include four paper copies of the following certification statement: "The fabrication and installation of this structure has been certified by a Council approved CVA to be in accordance with accepted engineering practices and the approved SAP or COP as appropriate."~~

~~p. Based on the Council's environmental and technical reviews, if approved, the Council may specify terms and conditions to be incorporated into any approval the Council may issue. The applicant shall submit a certification of compliance annually (or another frequency as determined by the Council) with certain terms and conditions which may include:~~

(1) Summary reports that show compliance with the terms and conditions which require certification; and

(2) A statement identifying and describing any mitigation measures and monitoring methods, and their effectiveness. If the applicant identified measures that were not effective, then the applicant shall make recommendations for new mitigation measures or monitoring methods.

q. After the applicant's COP, facility design report, and fabrication and installation report is approved, and the Council has issued a permit and lease for the project site, construction shall begin by the date given in the construction schedule included as a part of the approved COP, unless the Council approves a deviation from the applicant's schedule.

r. The applicant shall seek approval from the Council in writing before conducting any activities not described in the applicant's approved COP. The application shall describe in detail the type of activities the applicant proposes to conduct. The Council shall determine whether the activities the applicant proposes are authorized by the applicant's existing COP or require a revision to the applicant's COP. The Council may request additional information from the applicant, if necessary, to make this determination.

s. The Council shall periodically review the activities conducted under an approved COP. The frequency and extent of the review shall be based on the significance of any changes in available information, and on onshore or offshore conditions affecting, or affected by, the activities conducted under the applicant's COP. If the review indicates that the COP should be revised, the Council may require the applicant to submit the needed revisions.

t. The applicant shall notify the Council, within 5 business days, any time the applicant ceases commercial operations, without an approved suspension, under the applicant's approved COP. If the applicant ceases commercial operations for an indefinite period which extends longer than 6 months, the Council may cancel the applicant's lease, and the applicant shall initiate the decommissioning process.

u. The applicant shall notify the Council in writing of the following events, within the time periods provided:

(1) No later than ten (10) days after commencing activities associated with the placement of facilities on the lease area under a fabrication and installation report.

~~(2) No later than ten (10) days after completion of construction and installation activities under a fabrication and installation report.~~

~~(3) At least seven (7) days before commencing commercial operations.~~

~~v. The applicant may commence commercial operations within thirty (30) days after the CVA has submitted to the Council the final fabrication and installation report.~~

~~w. The applicant shall submit a project modification and repair report to the Council, demonstrating that all major repairs and modifications to a project conform to accepted engineering practices.~~

~~(1) A major repair is a corrective action involving structural members affecting the structural integrity of a portion of or all the facility.~~

~~(2) A major modification is an alteration involving structural members affecting the structural integrity of a portion of or all the facility.~~

~~(3) The report must also identify the location of all records pertaining to the major repairs or major modifications.~~

~~(4) The Council may require the applicant to use a CVA for project modifications and repairs.~~(Note: this section in its entirety moved to new § 11.9.8(B)(8)

~~**11.10.6 Design, Fabrication and Installation Standards (formerly § 1160.6)**~~

~~A. Certified verification agent - The certified verification agent (CVA) shall use good engineering judgment and practices in conducting an independent assessment of the design, fabrication and installation of the facility. The CVA shall certify in the facility design report to the Council that the facility is designed to withstand the environmental and functional load conditions appropriate for the intended service life at the proposed location. The CVA is paid for by the applicant, but is approved and reports to the Council.~~

~~1. The applicant shall use a CVA to review and certify the facility design report, the fabrication and installation report, and the project modifications and repairs report. The applicant shall use a CVA to:~~

~~a. Ensure that the applicant's facilities are designed, fabricated, and installed in conformance with accepted engineering practices and the facility design report and fabrication and installation report;~~

~~b. Ensure that repairs and major modifications are completed in conformance with accepted engineering practices; and~~

~~c. Provide the Council immediate reports of all incidents that affect the design, fabrication, and installation of the project and its components.~~

~~2. Nominating a CVA for Council approval- The applicant shall nominate a CVA for the Council approval. The applicant shall specify whether the nomination is for the facility design report, fabrication and installation report, modification and repair report, or for any combination of these.~~

~~a. For each CVA that the applicant nominates, the applicant shall submit to the Council a list of documents they shall forward to the CVA and a qualification statement that includes the following:~~

~~(1) Previous experience in third-party verification or experience in the design, fabrication, installation, or major modification of offshore energy facilities;~~

~~(2) Technical capabilities of the individual or the primary staff for the specific project;~~

~~(3) Size and type of organization or corporation;~~

~~(4) In-house availability of, or access to, appropriate technology (including computer programs, hardware, and testing materials and equipment);~~

~~(5) Ability to perform the CVA functions for the specific project considering current commitments;~~

~~(6) Previous experience with the Council requirements and procedures, if any; and~~

~~(7) The level of work to be performed by the CVA.~~

~~3. Individuals or organizations acting as CVAs shall not function in any capacity that shall create a conflict of interest, or the appearance of a conflict of interest.~~

~~4. The verification shall be conducted by or under the direct supervision of registered professional engineers.~~

~~5. The Council shall approve or disapprove the applicant's CVA prior to construction.~~

6. ~~The applicant shall nominate a new CVA for the Council approval if the previously approved CVA:~~

   a. ~~Is no longer able to serve in a CVA capacity for the project; or~~

   b. ~~No longer meets the requirements for a CVA set forth in this subpart.~~

7. ~~The CVA shall conduct an independent assessment of all proposed:~~

   a. ~~Planning criteria;~~

   b. ~~Operational requirements;~~

   c. ~~Environmental loading data;~~

   d. ~~Load determinations;~~

   e. ~~Stress analyses;~~

   f. ~~Material designations;~~

   g. ~~Soil and foundation conditions;~~

   h. ~~Safety factors; and~~

   i. ~~Other pertinent parameters of the proposed design.~~

8. ~~For any floating facility, the CVA shall ensure that any requirements of the U.S. Coast Guard for structural integrity and stability (e.g., verification of center of gravity), have been met. The CVA shall also consider:~~

   a. ~~Foundations;~~

   b. ~~Foundation pilings and templates, and~~

   c. ~~Anchoring systems.~~

9. ~~The CVA shall do all of the following:~~

   a. ~~Use good engineering judgment and practice in conducting an independent assessment of the fabrication and installation activities;~~

   b. ~~Monitor the fabrication and installation of the facility;~~

   c. ~~Make periodic onsite inspections while fabrication is in progress and verify the items required by § 11.10.6(A)(11) of this Part;~~

d. Make periodic onsite inspections while installation is in progress and satisfy the requirements of § 11.10.6(A)(12) of this Part; and

e. Certify in a report that project components are fabricated and installed in accordance with accepted engineering practices; the applicant's approved COP or SAP; and the fabrication and installation report.

(1) The report shall also identify the location of all records pertaining to fabrication and installation.

(2) The applicant may commence commercial operations or other approved activities thirty (30) days after the Council receives that certification report, unless the Council notifies the applicant within that time period of its objections to the certification report.

10. The CVA shall monitor the fabrication and installation of the facility to ensure that it has been built and installed according to the facility design report and fabrication and Installation Report.

a. If the CVA finds that fabrication and installation procedures have been changed or design specifications have been modified, the CVA shall inform the applicant and the Council.

11. The CVA shall make periodic onsite inspections while fabrication is in progress and shall verify the following items, as appropriate:

a. Quality control by lessee (or grant holder) and builder;

b. Fabrication site facilities;

c. Material quality and identification methods;

d. Fabrication procedures specified in the fabrication and installation report, and adherence to such procedures;

e. Welder and welding procedure qualification and identification;

f. Adherence to structural tolerances specified;

g. Nondestructive examination requirements and evaluation results of the specified examinations;

h. Destructive testing requirements and results;

i. Repair procedures;

j. Installation of corrosion protection systems and splash-zone protection;

k. Erection procedures to ensure that overstressing of structural members does not occur;

l. Alignment procedures;

m. Dimensional check of the overall structure, including any turrets, turret and- hull interfaces, any mooring line and chain and riser tensioning line segments; and

n. Status of quality-control records at various stages of fabrication.

12. The CVA shall make periodic onsite inspections while installation is in progress and shall, as appropriate, verify, witness, survey, or check, the installation items required by this section. The CVA shall verify, as appropriate, all of the following:

a. Load out and initial flotation procedures;

b. Towing operation procedures to the specified location, and review the towing records;

c. Launching and uprighting activities;

d. Submergence activities;

e. Pile or anchor installations;

f. Installation of mooring and tethering systems;

g. Transition pieces, support structures, and component installations; and

h. Installation at the approved location according to the facility design report and the fabrication and installation report.

13. For a fixed or floating facility, the CVA shall verify that proper procedures were used during the following:

a. The loadout of the transition pieces and support structures, piles, or structures from each fabrication site; and

b. The actual installation of the facility or major modification and the related installation activities.

14. For a floating facility, the CVA shall verify that proper procedures were used during the following:

a. The loadout of the facility;

b. The installation of foundation pilings and templates, and anchoring systems.

15. The CVA shall conduct an onsite survey of the facility after transportation to the approved location.

16. The CVA shall spot-check the equipment, procedures, and recordkeeping as necessary to determine compliance with the applicable documents incorporated by reference and the regulations under this part.

17. The CVA shall prepare and submit to the applicant and the Council all reports required by this subpart. The CVA shall also submit interim reports to the applicant and the Council, as requested by the Council. The CVA shall submit one electronic copy and four paper copies of each final report to the Council. In each report, the CVA shall:

a. Give details of how, by whom, and when the CVA activities were conducted;

b. Describe the CVA's activities during the verification process;

c. Summarize the CVA's findings; and

d. Provide any additional comments that the CVA deems necessary.

18. Until the Council releases the applicant's financial assurance under § 11.10.7(B) of this Part, the applicant shall compile, retain, and make available to the Council representatives, all of the following:

a. The as-built drawings;

b. The design assumptions and analyses;

c. A summary of the fabrication and installation examination records;

d. Results from the required inspections and assessments;

e. Records of repairs not covered in the inspection report submitted.

19. The applicant shall record and retain the original material test results of all primary structural materials during all stages of construction until the Council releases the applicant's financial assurance under § 11.10.7(B) of this Part. Primary material is material that, should it fail, would lead to a significant reduction in facility safety, structural reliability, or operating capabilities. Items such as steel brackets, deck stiffeners and secondary

~~braces or beams would not generally be considered primary structural members (or materials).~~

20. ~~The applicant shall provide the Council with the location of these records in the certification statement.~~

21. ~~The Council may hire its own CVA agent to review the work of the applicants CVA. The applicant shall be responsible for the cost of the Council's CVA. The Council's CVA shall perform those duties as assigned by the Council.~~(Note: this section in its entirety moved to new § 11.9.8(C)

~~**11.10.7 Pre-Construction Standards (formerly § 1160.7)**~~

A. ~~The Council may issue a permit for a period of up to fifty (50) years to construct and operate an offshore development. A lease shall be issued at the start of the construction phase and payment shall commence at the end of the construction phase. Lease payments shall be due when the project becomes operational. Lease renewal shall be submitted five (5) years before the end of the lease term. Council approval shall be required for any assignment or transfer of the permit or lease. This provision shall not apply to aquaculture permitting. Aquaculture permitting and leasing are governed by the provisions of R.I. Gen. Laws Chapter 20-10 and § 00-1.3.1(K) of this Chapter.~~

B. ~~Prior to construction, the assent holder shall post a performance bond sufficient to ensure removal of all structures at the end of the lease and restore the site. The Council shall review the bond amount initially and every three (3) years thereafter to ensure the amount is sufficient.~~

C. ~~Prior to construction, the assent holder shall show compliance with all federal and state agency requirements, which may include but are not limited to the requirements of the following agencies: the Rhode Island Coastal Resources Management Council, the Rhode Island Department of Environmental Management, the Rhode Island Energy Facilities Siting Board, the Rhode Island Historical Preservation and Heritage Commission, U.S. Department of the Interior Bureau of Ocean Energy Management, Army Corps of Engineers, National Oceanic and Atmospheric Administration, U.S. Fish and Wildlife Service, and the U.S. Environmental Protection Agency.~~

D. ~~The Council shall consult with the U.S. Coast Guard, the U.S. Navy, marine pilots, the Fishermen's Advisory Board as defined in § 11.3(E) of this Part, fishermen's organizations, and recreational boating organizations when scheduling offshore marine construction or dredging activities. Where it is determined that there is a significant conflict with season-limited commercial or recreational fishing activities, recreational boating activities or scheduled events, or other navigation uses, the Council shall modify or deny activities to minimize conflict with these uses.~~

E. The Council shall require the assent holder to provide for communication with commercial and recreational fishermen, mariners, and recreational boaters regarding offshore marine construction or dredging activities. Communication shall be facilitated through a project website and shall complement standard U.S. Coast Guard procedures such as Notices to Mariners for notifying mariners of obstructions to navigation.

F. For all large-scale offshore developments, underwater cables, and other development projects as determined by the Council, the assent holder shall designate and fund a third-party fisheries liaison. The fisheries liaison must be knowledgeable about fisheries and shall facilitate direct communication between commercial and recreational fishermen and the project developer. Commercial and recreational fishermen shall have regular contact with and direct access to the fisheries liaison throughout all stages of an offshore development (pre-construction; construction; operation; and decommissioning).

G. Where possible, offshore developments should be designed in a configuration to minimize adverse impacts on other user groups, which include but are not limited to: recreational boaters and fishermen, commercial fishermen, commercial ship operators, or other vessel operators in the project area. Configurations which may minimize adverse impacts on vessel traffic include, but are not limited to, the incorporation of a traffic lane through a development to facilitate safe and direct navigation through, rather than around, an offshore development

H. Any assent holder of an approved offshore development shall work with the Council when designing the proposed facility to incorporate where possible mooring mechanisms to allow safe public use of the areas surrounding the installed turbine or other structure.

I. The facility shall be designed in a manner that minimizes adverse impacts to navigation. As part of its application package, the project applicant shall submit a navigation risk assessment under the U.S. Coast Guard's Navigation and Vessel Inspection Circular 02-07, "Guidance on the Coast Guard's Roles and Responsibilities for Offshore Renewable Energy Installations."

J. Applications for projects proposed to be sited in state waters pursuant to the Ocean SAMP shall not have a significant impact on marine transportation, navigation, and existing infrastructure. Where the Council, in consultation with the U.S. Coast Guard, the U.S. Navy, NOAA, the U.S. Bureau of Ocean Energy Management, Regulation and Enforcement, the U.S. Army Corps of Engineers, marine pilots, the R.I. Port Safety and Security Forums, or other entities, as applicable, determines that such an impact on marine transportation, navigation, and existing infrastructure is unacceptable, the Council shall require that the applicant modify the proposal or the Council shall deny the proposal. For the purposes of marine transportation policies and standards as summarized in Ocean SAMP Chapter 7, impacts will be evaluated according to the same criteria

~~used by the U.S. Coast Guard, as follows; these criteria shall not be construed to apply to any other Ocean SAMP chapters or policies:~~

~~1. Negligible: No measurable impacts.~~

~~2. Minor: Adverse impacts to the affected activity could be avoided with proper mitigation; or impacts would not disrupt the normal or routine functions of the affected activity or community; or once the impacting agent is eliminated, the affected activity would return to a condition with no measurable effects from the proposed action without any mitigation.~~

~~3. Moderate: Impacts to the affected activity are unavoidable; and proper mitigation would reduce impacts substantially during the life of the proposed action; or the affected activity would have to adjust somewhat to account for disruptions due to impacts of the proposed action; or once the impacting agent is eliminated, the affected activity would return to a condition with no measurable effects from the proposed action if proper remedial action is taken.~~

~~4. Major: Impacts to the affected activity are unavoidable; proper mitigation would reduce impacts somewhat during the life of the proposed action; the affected activity would experience unavoidable disruptions to a degree beyond what is normally acceptable; and once the impacting agent is eliminated, the affected activity may retain measurable effects of the proposed action indefinitely, even if remedial action is taken.~~

~~K. Prior to construction, the Applicant shall provide a letter from the U.S. Coast Guard showing it meets all applicable U.S. Coast Guard standards.~~ (Note: this section in its entirety moved to new § 11.9.8(D)

~~**11.10.8 Standards for Construction Activities (formerly § 1160.8)**~~

~~A. The assent holder shall use the best available technology and techniques to minimize impacts to the natural resources and existing human uses in the project area.~~

~~B. The Council shall require the use of an environmental inspector to monitor construction activities. The environmental inspector shall be a private, third-party entity that is hired by the assent holder, but is approved and reports to the Council. The environmental inspector shall possess all appropriate qualifications as determined by the Council. This inspector service may be part of the CVA requirements.~~

~~C. Installation techniques for all construction activities should be chosen to minimize sediment disturbance. Jet plowing and horizontal directional drilling in nearshore areas shall be required in the installation of underwater transmission cables. Other technologies may be used provided the applicant can demonstrate they~~

~~are as effective, or more effective, than these techniques in minimizing sediment disturbance.~~

~~D. All construction activities shall comply with the policies and standards outlined in the Rhode Island Coastal Resources Management Program (RICRMP), as well as the regulations of other relevant state and federal agencies.~~

~~E. The applicant shall conduct all activities on the applicant's permit under this part in a manner that conforms with the applicant's responsibilities in § 11.10.1(E) of this Part, and using:~~

~~1. Trained personnel; and~~

~~2. Technologies, precautions, and techniques that shall not cause undue harm or damage to natural resources, including their physical, atmospheric, chemical and biological components.~~

~~F. The assent holder shall be required to use the best available technology and techniques to mitigate any associated adverse impacts of offshore renewable energy development.~~

~~1. As required, the applicant shall submit to the Council:~~

~~a. Measures designed to avoid or minimize adverse effects and any potential incidental take of endangered or threatened species as well as all marine mammals;~~

~~b. Measures designed to avoid likely adverse modification or destruction of designated critical habitat of such endangered or threatened species; and~~

~~c. The applicant's agreement to monitor for the incidental take of the species and adverse effects on the critical habitat, and provide the results of the monitoring to the Council as required; and~~

~~G. If the assent holder, the assent holder's subcontractors, or any agent acting on the assent holder's behalf discovers a potential archaeological resource while conducting construction activities or any other activity related to the Assent Holder's project, the applicant shall:~~

~~1. Immediately halt all seafloor disturbing activities within the area of the discovery;~~

~~2. Notify the Council of the discovery within 24 hours; and~~

~~3. Keep the location of the discovery confidential and not take any action that may adversely affect the archaeological resource until the Council has made an evaluation and instructed the applicant on how to proceed.~~

~~a. The Council may require the assent holder to conduct additional investigations to determine if the resource is eligible for listing in the National Register of Historic Places under 36 C.F.R. 60.4. The Council shall do this if:~~

~~(1) The site has been impacted by the assent holder's project activities; or~~

~~(2) Impacts to the site or to the area of potential effect cannot be avoided.~~

~~b. If the Council incurs costs in protecting the resource, under section 110(g) of the NHPA, the Council may charge the applicant reasonable costs for carrying out preservation responsibilities.~~

~~H. Post construction, the assent holder shall provide a side scan sonar survey of the entire construction site to verify that there is no post construction debris left at the project site. These side-scan sonar survey results shall be filed with the Council within ninety (90) days of the end of the construction period. The results of this side-scan survey shall be verified by a third-party reviewer, who shall be hired by the assent holder but who is pre-approved by and reports to the Council.~~

~~I. All pile-driving or drilling activities shall comply with any mandatory best management practices established by the Council in coordination with the Joint Agency Working Group and which are incorporated into the RICRMP.~~

~~J. The Council may require the assent holder to hire a CVA to perform periodic inspections of the structure(s) during the life of those structure(s). The CVA shall work for and be responsible to the council.~~ (Note: this section in its entirety moved to new § 11.9.8(E)

11.10.~~9~~6 ~~Monitoring~~ Baseline Assessment Requirements ~~(formerly § 1160.9)~~

A. The Council in coordination with the Joint Agency Working Group, as described in § 11.9.7(~~J~~I) of this Part, shall determine requirements for developing baseline assessments ~~monitoring prior to, during, and post construction~~as specified in § 11.9.9 of this Part. For CZMA federal consistency purposes the Council must identify any baseline assessments and construction monitoring activities during its CZMA six-month review of the COP. The Council cannot require monitoring actions after its CZMA review. A detailed commercial fisheries baseline assessment shall be considered necessary data and information to be filed with the applicant's consistency certification for a CZMA review and to demonstrate compliance with this enforceable policy.~~Specific monitoring requirements shall be determined on a project-by-project basis and may include but are not limited to the monitoring of:~~

~~1. Coastal processes and physical oceanography~~

2. Underwater noise

3. Benthic ecology

4. Avian species

5. Marine mammals

6. Sea turtles

7. Fish and fish habitat

8. Commercial and recreational fishing

9. Recreation and tourism

10. Marine transportation, navigation and existing infrastructure

11. Cultural and historic resources

B. The Council shall require where appropriate that project developers perform systematic observations of recreational boating intensity at the project area at least three times: pre-construction; during construction; and post-construction. Observations may be made while conducting other field work or aerial surveys and may include either visual surveys or analysis of aerial photography or video photography. The Council shall require where appropriate that observations capture both weekdays and weekends and reflect high-activity periods including the July 4th holiday weekend and the week in June when Block Island Race Week takes place. The quantitative results of such observations, including raw boat counts and average number of vessels per day, will be provided to the Council.

C. The items listed below shall be required for all offshore developments:

1. A biological assessment of commercially and recreationally targeted species shall be required within the project area for all offshore developments. This assessment shall assess the relative abundance, distribution, and different life stages of these species at all four seasons of the year. This assessment shall comprise a series of surveys, employing survey equipment and methods that are appropriate for sampling finfish, shellfish, and crustacean species at the project's proposed location. Such an assessment shall be performed at least four times: pre-construction (to assess baseline conditions); during construction; and at two different intervals during operation (i.e. one (1) year after construction and then post-construction). At each time this assessment must capture all four seasons of the year. This assessment may include evaluation of survey data collected through an existing survey program, if data are available for the proposed site. The Council will not require this assessment for

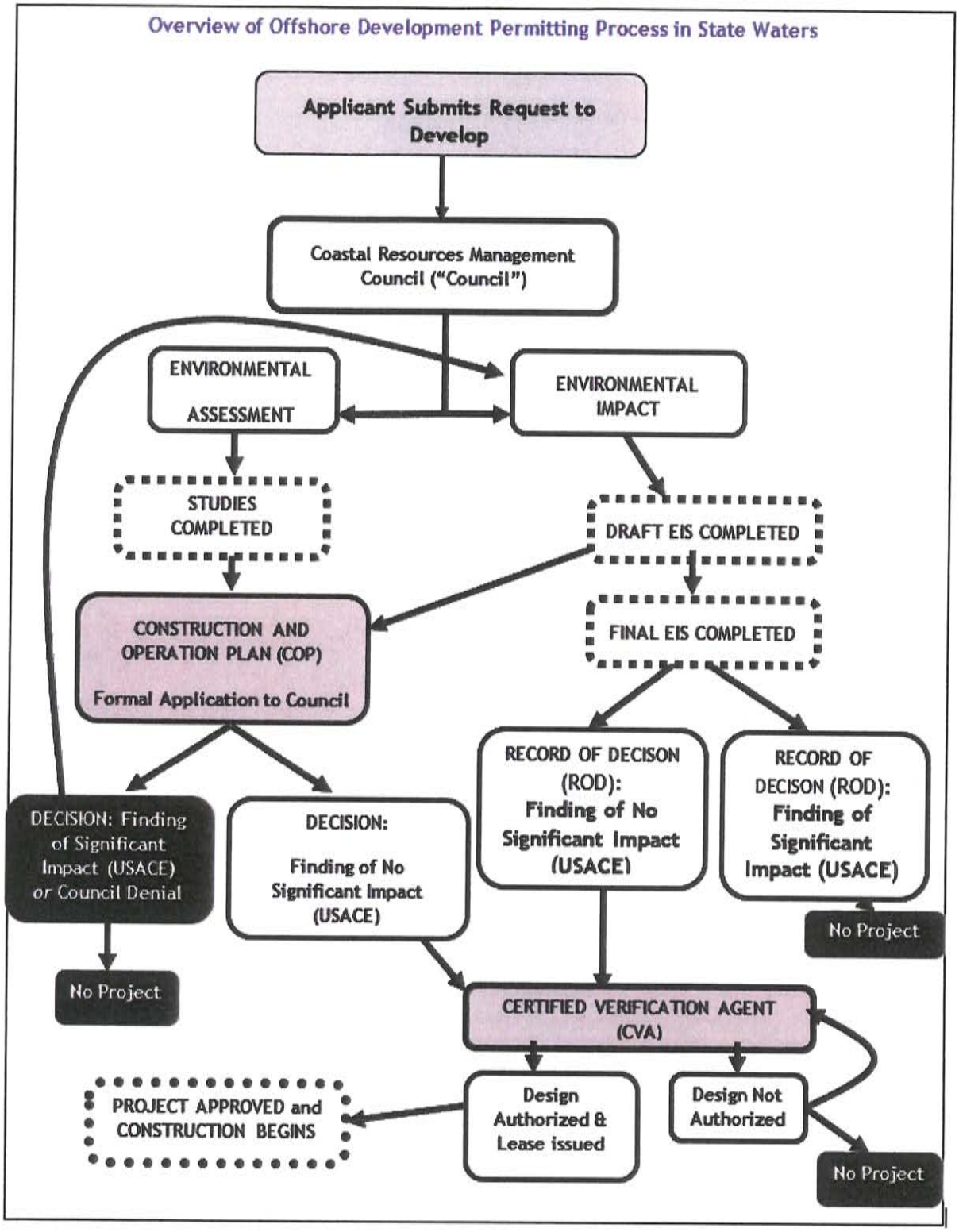
~~proposed projects within the renewable energy zone that are proposed within two (2) years of the adoption of the Ocean SAMP.~~

~~2. An assessment of commercial and recreational fisheries effort, landings, and landings value shall be required for all proposed offshore developments. Assessment shall focus on the proposed project area and alternatives. This assessment shall evaluate commercial and recreational fishing effort, landings, and landings value at three different stages: pre-construction (to assess baseline conditions); during construction; and during operation. At each stage, all four seasons of the year must be evaluated. Assessment may use existing fisheries monitoring data but shall be supplemented by interviews with commercial and recreational fishermen. Assessment shall address whether fishing effort, landings, and landings value has changed in comparison to baseline conditions. The Council will not require this assessment for proposed projects within the renewable energy zone that are proposed within two (2) years of the adoption of the Ocean SAMP.~~

~~D. The Council in coordination with the Joint Agency Working Group may also require facility and infrastructure monitoring requirements that may include but are not limited to:~~

~~1. Post construction monitoring including regular visual inspection of inner array cables and the primary export cable to ensure proper burial, foundation and substructure inspection.~~ (Note: deleted text within this section has been moved to new § 11.9.9)

11.11 Appendix 1 - Overview of offshore development permitting process in state waters


Overview of Offshore Development Permitting Process in State Waters
Applicant Submits Request to Develop
Coastal Resources Management Council ("Council")
ENVIRONMENTAL ASSESSMENT
ENVIRONMENTAL IMPACT
STUDIES COMPLETED
DRAFT EIS COMPLETED
CONSTRUCTION AND OPERATION PLAN (COP)
Formal Application to Council
FINAL EIS COMPLETED
DECISION: Finding of Significant Impact (USACE) or Council Denial
DECISION: Finding of No Significant Impact (USACE)
RECORD OF DECISON (ROD): Finding of No Significant Impact (USACE)
RECORD OF DECISON (ROD): Finding of Significant Impact (USACE)
No Project
No Project
CERTIFIED VERIFICATION AGENT (CVA)
PROJECT APPROVED and CONSTRUCTION BEGINS
Design Authorized & Lease issued
Design Not Authorized
No Project