

October 21, 2022

**VIA E-MAIL**

***jwillis@crmc.ri.gov***

Jeffrey Willis, Executive Director  
Rhode Island Coastal Resources Management Council  
Stedman Government Center  
Suite 116, 4808 Tower Hill Road  
Wakefield, RI 02879-1900

Subject: File No. 2021-07-005, Revolution Wind Request for Special Exception or Finding Regarding Rebuttable Presumption

Dear Executive Director Willis:

Revolution Wind, LLC (Revolution Wind) respectfully requests a special exception from or finding regarding the rebuttable presumption contained in § 11.10.2(B) of the Rhode Island Ocean Special Area Management Plan (“Ocean SAMP”) relating to Areas of Particular Concern (“APC”). Specifically, Section 11.10.2 of the Ocean SAMP establishes certain APC located within State waters. These include a recreational boating APC, which identifies certain areas heavily used for recreational boating and sailboat racing (the “Recreational Boating APC”). See Ocean SAMP § 11.10.2(C)(6). The Recreational Boating APC is located generally at the mouth of the Narragansett Bay where it feeds into Rhode Island Sound and is identified specifically in Figure 6 of § 11.10.2. The Ocean SAMP states that all offshore development is presumptively excluded from APCs.

Revolution Wind proposes that its export transmission cables (the “RWEC-RI”) will pass through the Recreational Boating APC, overlapping with approximately 10.3 percent of the Recreational Boating APC. Consequently, Revolution Wind requires relief from the Ocean SAMP’s presumptive exclusion from APC.

As described below, Revolution Wind believes that the evidence and testimony will demonstrate that Revolution Wind can successfully rebut the presumptive exclusive from the Recreational Boating APC. For this reason, Revolution Wind respectfully requests that the Council make a finding that Revolution Wind has rebutted the presumptive exclusion and may locate a portion of the RWEC-RI within the Recreational Boating APC. To the extent the Council finds that a special exception is needed, Revolution Wind meets the requirements for a special exception to locate the RWEC-RI in the Recreational Boating APC.

**I. Revolution Wind Meets the Requirements for a Special Exception to Locate the RWEC-RI in the Recreational Boating Area of Particular Concern.**

Revolution Wind meets the standard for the Council to grant a Special Exception to allow Revolution Wind to install the RWEC-RI within the Recreational Boating APC. The Red Book provides that the Council may grant a special exception for an activity that would otherwise be prohibited if the applicant can meet the following three requirements (650-RICR-20-00-1.1.8):

- a. “The proposed activity serves a compelling public purpose which provides benefits to the public as a whole as opposed to individual or private interests. The activity must be one or more of the following:
  - i. An activity associated with public infrastructure such as utility, energy, communications, transportation facilities, however, this exception shall not apply to activities proposed on all classes of barriers, barrier islands or spits except as provided in § 1.2.2(C)(4)(i) of this Part;
  - ii. A water-dependent activity or use that generates substantial economic gain to the state; and/or
  - iii. An activity that provides access to the shore for broad segments of the public.”

Revolution Wind meets this requirement. Revolution Wind’s Request for a Variance dated October 18, 2022, describes the important public need this project serves in delivering renewable offshore wind energy to Rhode Island and helping the State meet its renewable energy goals. Revolution Wind satisfies both subparts a. and b. of this requirement.

- b. “All reasonable steps shall be taken to minimize environmental impacts and/or use conflict.”

Revolution Wind meets this requirement. Revolution Wind will take all reasonable steps to minimize or eliminate any potential use conflict with the Recreational Boating APC by installing the RWEC-RI outside the prime recreational boating and sailboat racing season of May to September. Further, Revolution Wind will bury the RWEC-RI to a target burial depth of 4-6 feet, and the operation and maintenance of the RWEC-RI will not conflict with the uses of the Recreational Boating APC.

Specifically, the RWEC-RI installation will occur mainly outside the season for recreational boating and sailboat racing. Table 3.2-10 of Revolution Wind’s Application contains a list of the sailboat, distance, and buoy races that occur generally in the vicinity of the RWEC-RI. Of

the twenty-four races identified, only two occur after September: the Earl Mitchell Regatta, which occurs in October and has an average of 15 vessels, and the Volvo Ocean Race, which occurs triennially over the period of October to June and includes a stopover in Newport, Rhode Island. Application Table 3.2-10. According to the Ocean Race’s website, the Newport leg of the 2022-2023 Ocean Race will commence May 21, 2023. See The Ocean Race, [www.theoceanrace.com/en/route](http://www.theoceanrace.com/en/route). In short, the majority of recreational boating and sailboat racing occurs between May and September each year.

By contrast, RWEC-RI installation will not commence until the middle of Quarter 3 in 2024. Attached as Exhibit A is the Revolution Wind Indicative Construction Schedule showing that export cable installation will occur from the middle of Quarter 3 to the middle of Quarter 4 in 2024. RWEC-RI installation will begin at the Landfall Work Area and head south along the export cable route. Accordingly, RWEC-RI installation is unlikely to intersect with the Recreational Boating APC before September or October of 2024. Furthermore, the first race routes that the RWEC-RI installation will intersect with are for the Annapolis to Newport Race, which occurs biennially in June and will not occur in 2024. Figure 3.2-3 of the application maps the Recreational Boating APC along with distance sailing races and the RWEC-RI project area. Exhibit B contains images identifying the distance sailing races furthest to the left of Figure 3.2-3 as the Annapolis to Newport Race. In other words, by the time RWEC-RI installation reaches the Recreational Boating APC, the recreational boating and sailboat racing season will be largely or completely over, and installation will not intersect at all with any distance sailing races.

The RWEC-RI will be buried to a target burial depth of 4-6 feet. Even in areas where secondary cable protection may be applied, such protection will be well below any depth that would affect recreational boating or sailing. The operation and maintenance of the RWEC-RI is therefore not anticipated to have any impact on recreational boating and sailboat racing. Furthermore, the RWEC-RI overlaps with only approximately ten percent of the Recreational Boating APC, leaving a substantial portion of the APC completely unaffected by the RWEC-RI. Attached as Exhibit C is a map of the Recreational Boating APC and the RWEC-RI demonstrating this percentage of overlap.

Accordingly, Revolution Wind satisfies this requirement.

- c. “There is no reasonable alternative means of, or location for, serving the compelling public purpose cited.”

Revolution Wind meets this requirement. The Ocean SAMP signals that underwater cables will receive more relaxed treatment with respect to their placement within APC: “The Council will permit underwater cables, only in certain categories of Areas of Particular Concern, as determined by the Council . . . .” Ocean SAMP § 11.10.2(B). The Recreational Boating APC is the type of APC where such placement is appropriate because the installed cable will not interfere with recreational boating or sailboat racing.

Furthermore, the Recreational Boating APC spans nearly 16,000 acres in state waters right at the mouth of Narragansett Bay. There is no reasonable cable route from the Massachusetts/Rhode Island Wind Energy Area to a landfall location along the West or East Passage of Narragansett Bay that does not pass through the Recreational Boating APC. Notably, CRMC's proposed cable corridor also passes through the Recreational Boating APC.

For all of these reasons, Revolution Wind meets the criteria for a special exception to permit installation of the RWEC-RI within the Recreational Boating APC.

**II. Revolution Wind Can Rebut the Presumption Against Offshore Development in the Recreational Boating APC.**

While Revolution Wind meets the criteria for a special exception, Revolution Wind can also overcome the presumptive exclusion of offshore development from the Recreational Boating APC. The Ocean SAMP's presumptive exclusion of offshore development in APC 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." Ocean SAMP § 11.10.2(B). If an applicant can make this initial showing, then the applicant must also meet the following criteria:

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.

Ocean SAMP § 11.10.2(B). As explained above, the Ocean SAMP also indicates that underwater cables may be installed within APC like the Recreational Boating APC. *Id.*

The evidence that Revolution Wind has submitted, along with the testimony the Council will hear at the hearings, demonstrate that Revolution Wind can rebut the presumptive exclusion from locating the RWEC-RI within the Recreational Boating APC. As described above, "the proposed project will not result in a significant alteration to the values and resources of the [Recreational Boating] APC." *Id.* And, the evidence and testimony will show

that Revolution Wind has made “all feasible efforts” “to avoid damage to the [Recreational Boating] APC resources and values.”

For all of these reasons, Revolution Wind successfully rebuts the presumptive exclusion from the Recreational APC.

\* \* \*


As described above, Revolution Wind satisfies the criteria for the Council to grant a special exception or for the Council to make a finding that Revolution Wind has rebutted the presumptive exclusion of offshore development from the Recreational Boating APC. Revolution Wind therefore respectfully requests that the Council grant a either a special exception from the requirement of § 11.10.2(B) or the requested finding and permit Revolution Wind to install the RWECC-RI within the Recreational Boating APC.

Thank you for your attention to Revolution Wind’s request. Please do not hesitate to contact Megan Eakin, Permit Manager – Revolution Wind, at [MEGEA@orsted.com](mailto:MEGEA@orsted.com) or (857) 275-1462 with any questions or if additional information is needed in connection with this request.

Sincerely,



Kellen Ingalls  
Authorized Person  
Revolution Wind, LLC



Kenneth Bowes  
Authorized Person  
Revolution Wind, LLC

CC:

Kevin A. Sloan, Coastal Policy Analyst, CRMC  
David Ciochetto, Principal Ocean Engineer, CRMC  
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Melanie Gearon, Head of Northeast Permitting, Orsted North America  
Megan Eakin, Permit Manager, Revolution Wind  
Marvin Bellis, Esq., Eversource  
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# EXHIBIT A

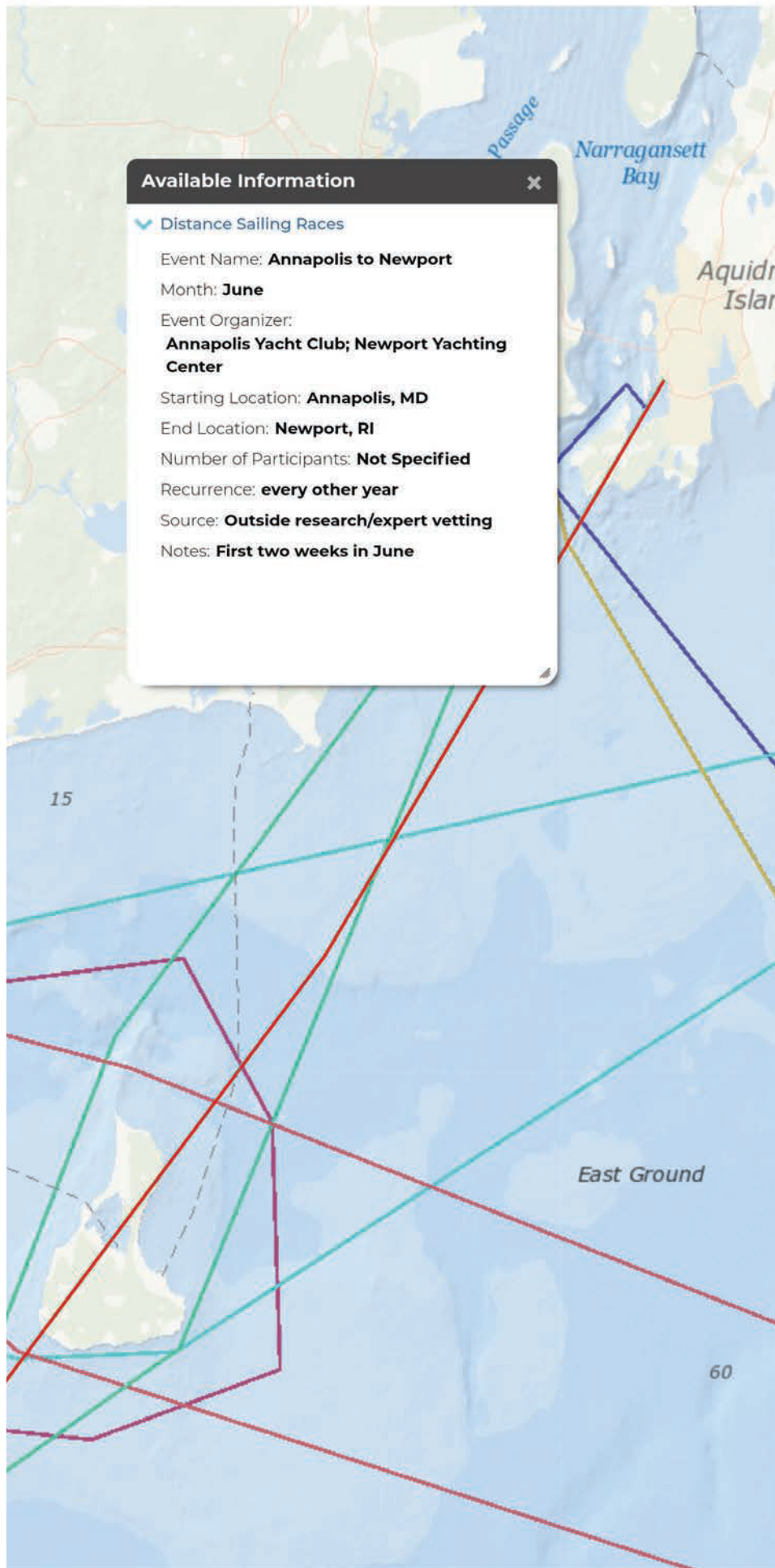
# Revolution Wind Indicative Construction Schedule

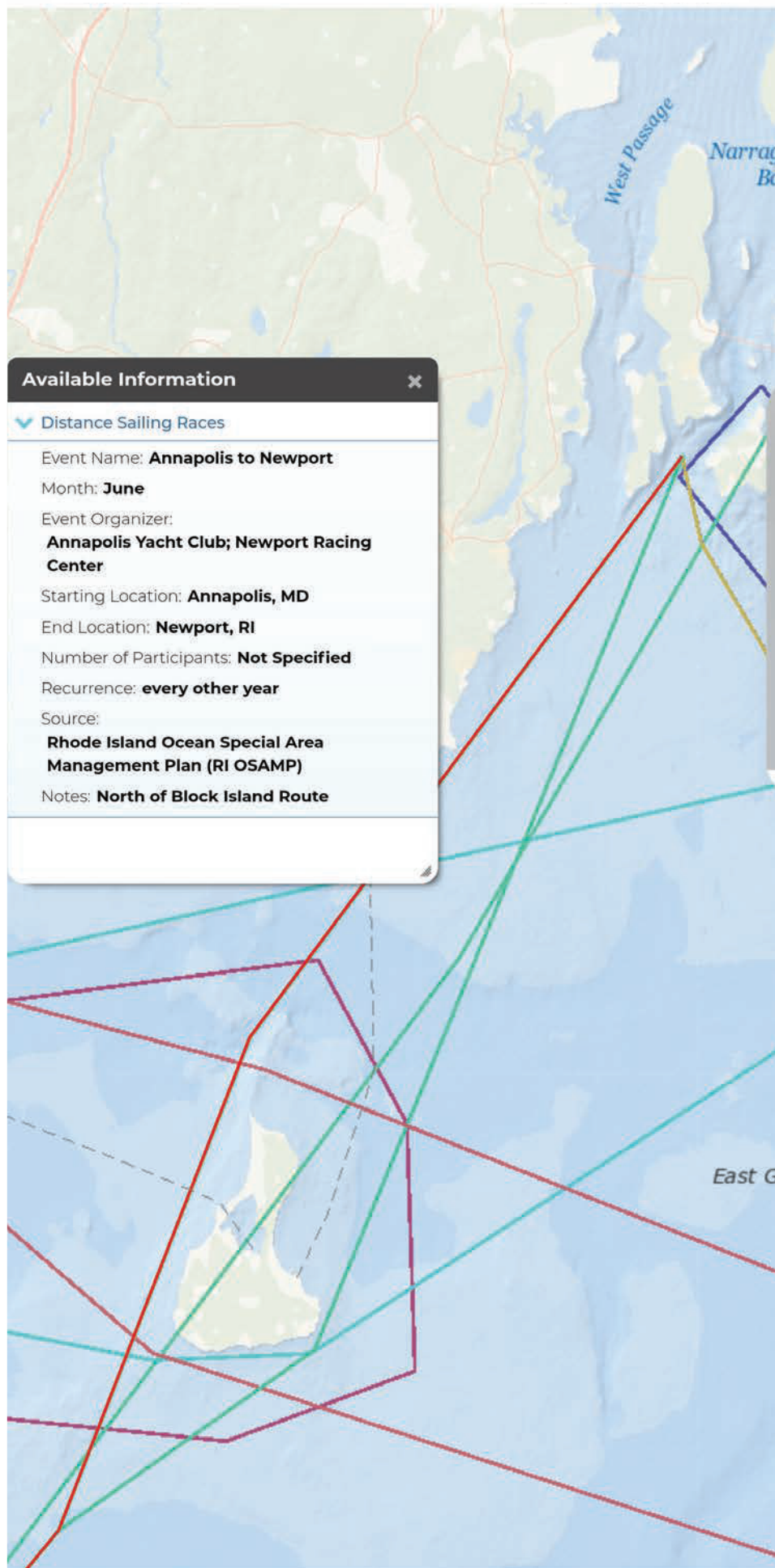
2023									2024				2025
Project Component	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1					
OnSS and ICF													
Onshore Transmission Cable													
Landfall Construction													
RWEC (incl. route clearance)													
IAC (incl. route clearance)													
WTGs													
OSSs (including foundations and OSS-Link Cable)													

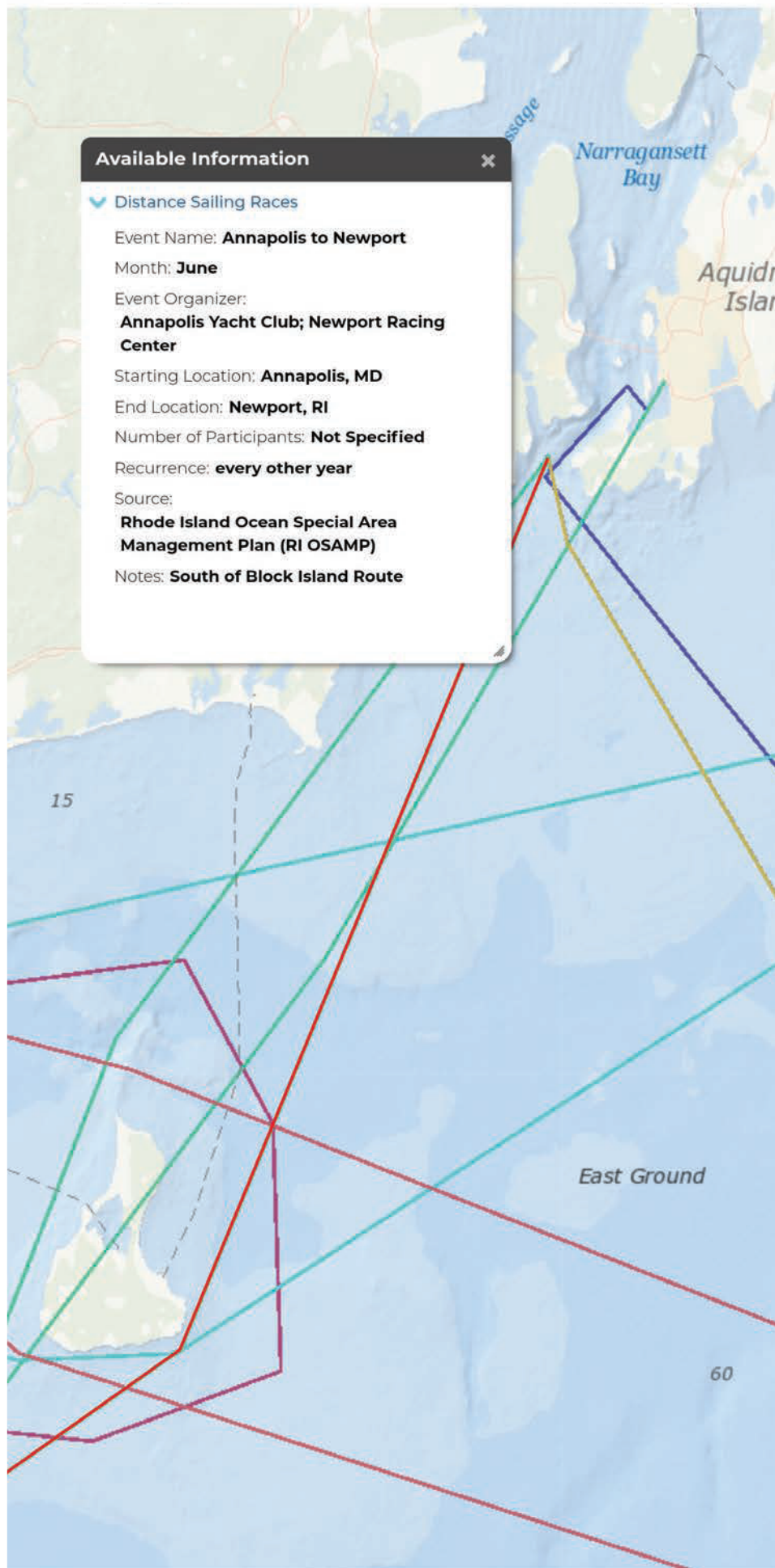
**This schedule is demonstrating an indicative construction phasing assuming a Q3 2023 construction start date for Onshore Facilities.**



# **EXHIBIT B**







# **EXHIBIT C**







RI

Aquidneck  
Island

The RWEC-RI overlaps with 10.3% of the  
Recreational Boating APC in RI State Waters

**OSAMP**

-  RWEC-RI Corridor / Recreational Boating APC  
Overlap (1,641 acres)
-  REV APE (State Waters) (5,721 acres)
-  Recreational Boating APC (16,283 acres;  
15,949 acres in State Waters)
-  OSAMP Study

-- -- State Waters Boundary

0 2 4 6 8 10 Kilometers