

**STATE OF RHODE ISLAND**  
**COASTAL RESOURCES MANAGEMENT COUNCIL**  
Oliver Stedman Government Center  
4808 Tower Hill Road; Suite 3, Wakefield, RI 02879-1900

In accordance with and pursuant to the provisions of the "Administrative Procedures Act" (Section 42-35-3 of the General Laws of Rhode Island) and the Rule and Regulations of the Coastal Resources Management Council, notice is hereby given of the intention of the Coastal Resources Management Council to change the management plans, policies, procedures and regulations of the agency regarding planning and management of the coastal resources of the State relative to Chapter 46-23 of the State of Rhode Island.

The following changes are proposed:

**Revisions to the RI Coastal Resources Management Program/  
Ocean Special Area Management Plan (Ocean SAMP):**

The Ocean Special Area Management Plan (Ocean SAMP), adopted by the Rhode Island Coastal Resources Management Council last year serves as a regulatory, planning and adaptive management tool of the CRMC to uphold its regulatory responsibilities in the ocean environment. 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 Rhode Island have used and depended upon these offshore resources for subsistence, work, and play. It also documents important natural wildlife, fish, birds, marine mammals and sea turtles, their habitats and areas important to their survival. 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 within the state waters of the Ocean SAMP study area.

The comments raised by the agency's federal partner National Oceanic and Atmospheric Administration are being proposed for incorporation herein to address issues that will bring the plan into conformance with federal CZMA requirements. These proposed changes will serve as revisions to the Ocean SAMP document, approved on October 19, 2010.

Attached hereto are the proposed changes.

Additionally, please go to the following websites to review the proposed revisions:  
[www.crmc.ri.gov/samp\\_ocean.html](http://www.crmc.ri.gov/samp_ocean.html) and <http://seagrant.gso.uri.edu/oceansamp/>.

*The purpose of these proposed revisions to the Ocean Special Area Management Plan are in response to comments received from the NOAA Office of Ocean and Coastal Resource Management to address issues that would bring the plan into conformance with federal CZMA requirements.*

The Council has complied with the requirements of R.I. Gen. Laws Section 42-35-3 by considering alternative approaches to the proposed regulation(s) and has determined that there is/are no alternative

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approach(es) that would be as effective and less burdensome. The Council has also determined that the proposed regulation(s) do(es) not overlap or duplicate any other state regulation. The Council has complied with the requirements of R.I. Gen. Laws Section 42-35-3.3 by submitting copies of the proposed regulation(s) to the Governor's Office and the Economic Development Corporation (EDC).

Parties interested in or concerned with the above proposed changes are invited to **submit written comments by Monday, April 11, 2011**. All such comments should be directed to Grover J. Fugate, Executive Director, at the above address.

**A public workshop has been scheduled for these proposed changes to be held on Thursday, April 7, 2011 at 3 p.m. at the University of Rhode Island Coastal Institute large conference room, South Ferry Road, Narragansett, RI.**

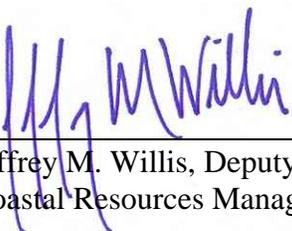
**A public hearing has been scheduled for these proposed changes to be held on Tuesday, April 26, 2011 at 6 p.m. in Conference Room A, Administration Building, One Capitol Hill, Providence, RI.**

Copies of the proposed revisions are also available from the Coastal Resources Management Council offices and its website – [www.crmc.ri.gov](http://www.crmc.ri.gov).

Individuals requesting interpreter services for the hearing impaired must notify the Council office at 783-3370, 72 hours in advance of the hearing date.

Further information may be obtained by contacting the Coastal Resources Management Council offices at 783-3370.

Signed this 10<sup>th</sup> day of March, 2011.

  
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Jeffrey M. Willis, Deputy Director  
Coastal Resources Management Council

/lmd



**State of Rhode Island and Providence Plantations**  
**COASTAL RESOURCES MANAGEMENT COUNCIL**  
Oliver Stedman Government Center  
4808 Tower Hill Road  
Wakefield, RI 02879  
(401) 783-3370

Michael M. Tikoian  
Chairman

Grover J. Fugate  
Executive Director

March 2, 2011

Coastal Resources Management Council  
Chairman Michael M. Tikoian  
Stedman Government Center- Suite 3  
4808 Tower Hill Road  
Wakefield, RI 02879-1900

Dear Chairman Tikoian:

Below please find a detailed summary of proposed changes for the Ocean Special Area Management Plan. All proposed changes listed here are suggested in response to comments received from the NOAA Office of Ocean and Coastal Resource Management, which must ultimately approve the Ocean SAMP as part of CRMC's federally approved coastal management program. We submit these to you for your review.

**Chapter 2, Ecology**

- 1. We propose the following revisions to the "Habitat Advisory Board" policy to clarify the distinction between General Policies and Regulatory Standards. Rearrange and revise the description of the Habitat Advisory Board, which is included in Chapter 2, Ecology, section 270.2, Regulatory Standards, #6, as follows. One section remains as Regulatory Standard #6; another section is moved to section 270.1, General Policies, new #5:**

**Revision to Chapter 2 section 270.2 (Regulatory Standards, which are Enforceable Policies):**

~~"6. 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. 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 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. 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.~~ Any Large-Scale Offshore Development, as defined in Chapter 11 in section 1160.1.1, shall require a ~~pre-application~~ 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, ~~and~~ measures to mitigate the potential impacts of proposed projects on habitats and marine resources. ~~During the pre-application meeting for a Large-Scale Offshore Development, the HAB can also identify, 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 and the meeting 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. 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.”~~

**Insertion into section 270.1 (General Policies), new #5:**

~~“5. 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 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 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. 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.”~~

- 2. If the Council approves this change, similar changes will also need to be made in Chapter 8, section 860.2.1, #12, and Chapter 11, sections 1160.1 and 1150.1, as follows:**

**Revision to Chapter 8, section 860.2.1 (Regulatory Standards, which are Enforceable Policies):**

~~“12. 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 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 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. 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. Any Large-Scale Offshore Development, as defined in section 860.2.1.1, shall require a ~~pre-application~~ 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, ~~and~~ measures to mitigate the potential impacts of proposed projects on habitats and marine resources. ~~During the pre-application meeting for a Large Scale Offshore Development, the HAB can also identify, 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 and the meeting 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. 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."~~

**Revision to Chapter 11 section 1160.1 #12 (Regulatory Standards, which are Enforceable Policies):**

~~"12. 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. 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 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. 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.~~ Any Large-Scale Offshore Development, as defined in Chapter 11 in section 1160.1.1, shall require a ~~pre-application~~ 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, ~~and~~ measures to mitigate the potential impacts of proposed projects on habitats and marine resources. ~~During the pre-application meeting for a Large Scale Offshore Development, the HAB can also identify 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 and the meeting 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. 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.”~~

**Chapter 11 section 1150.1, new #5 (General Policies):**

~~“5. 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. 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 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. 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.”~~

**Chapter 5, Commercial and Recreational Fisheries:**

**3. Revise Chapter 5, section 560.1 #6, to clarify the state’s role in reviewing federal decisions about navigation (General Policies):**

“6. 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

navigation 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 also requests ongoing review of any federal agency decisions regarding 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.

- 4. If the Council approves the aforementioned change, this same change must be repeated in Chapter 6, section 660.1 #6; Chapter 7, section 770.1 #5; Chapter 8, section 860.1 #9; and in Chapter 11 sections 1150.4 #6 and 1150.7 #8 as follows:**

**Chapter 6, section 660.1 #6 (General Policies):**

"6. 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 also requests ongoing review of any federal agency decisions regarding 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."

**Chapter 7, section 770.1 #5 (General Policies):**

“5. 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 also requests ongoing review of any federal agency decisions regarding 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.”

**Chapter 8, section 860.1 #9 (General Policies):**

“9. 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 also requests ongoing review of any federal agency decisions regarding 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.”

**Chapter 11, section 1150.4 #6 (General Policies):**

“6. 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 also requests ongoing review of any federal agency decisions regarding 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.”

**Chapter 11, section 1150.7 #8 (General Policies):**

“7. 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 also requests ongoing review of any federal agency decisions regarding 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.”

5. Revise “Fishermen’s Advisory Board” as follows to clarify distinction between General Policies and Regulatory Standards. Rearrange and revise the description of the Fishermen’s Advisory Board, which is included in Chapter 5 section 560.2, Regulatory Standards, #8, as follows. One section remains as Regulatory Standard #1; another section is moved to section 560.1, General Policies, new #8, as follows:

**Chapter 5, section 560.2 (Regulatory Standards, which are Enforceable Policies), revised #1:**

~~“1. 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.G.L. 20-3-1 et. seq. The FAB shall be comprised of nine members, one representing each of the following six Rhode Island fisheries: bottom trawling; scallop dredging; gillnetting; lobstering; party and charter boat fishing; and recreational angling; and three members, including two commercial fishermen and one recreational fisherman, who are Massachusetts fishermen who fish in the Ocean SAMP area. FAB members shall serve four year terms and will serve no more than two consecutive 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 will 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. Any Large-Scale Offshore Development, as defined above in section 1160.1.1, shall require a pre-application 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, construction schedules, alternative locations, and project minimization and identification. During the pre-application meeting for a Large Scale Offshore Development, the FAB can also identify areas 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 and the meeting 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. 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.”~~

**Chapter 5, section 560.1, new #8 (General Policies):**

“8. 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.G.L. 20-3-1 *et. seq.* The FAB shall be comprised of nine members, one representing each of the following six Rhode Island fisheries: bottom trawling; scallop dredging; gillnetting; lobstering; party and charter boat fishing; and recreational angling; and three members, including two commercial fishermen and one recreational fisherman, who are Massachusetts fishermen who fish in the Ocean SAMP area. FAB members shall serve four-year terms and shall serve no more than two consecutive 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.”

6. If the aforementioned change is approved, similar changes will need to be made in Chapter 8, Renewable Energy, and Chapter 11, Policies of the Ocean SAMP, as follows:

**Chapter 8, Renewable Energy, section 860.2.1 (Regulatory Standards, which are Enforceable Policies) #6:**

~~“6. 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.G.L. 20-3-1 *et. seq.* The FAB shall be comprised of nine members, one representing each of the following six Rhode Island fisheries: bottom trawling; scallop dredging; gillnetting; lobstering; party and charter boat fishing; and recreational angling; and three members, including two commercial fishermen and one recreational fisherman, who are Massachusetts fishermen who fish in the Ocean SAMP area. FAB members shall serve four-year terms and will serve no more than two consecutive 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 will 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. Any Large-Scale Offshore Development, as defined above in section 1160.1.1, shall require a pre-application 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, construction schedules, alternative locations, and project minimization and identification. During the pre-application meeting for a Large Scale Offshore Development, the FAB can also identify areas 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 and the meeting 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. 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."~~

#### **Chapter 11, section 1160.1 (Regulatory Standards, which are Enforceable Policies) #6:**

~~"1. 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.G.L. 20-3-1 et. seq. The FAB shall be comprised of nine members, one representing each of the following six Rhode Island fisheries: bottom trawling; scallop dredging; gillnetting; lobstering; party and charter boat fishing; and recreational angling; and three members, including two commercial fishermen and one recreational fisherman, who are Massachusetts fishermen who fish in the Ocean SAMP area. FAB members shall serve four year terms and will serve no more than two consecutive 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 will 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. Any Large-Scale Offshore Development, as defined above in section 1160.1.1, shall require a pre-application 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, construction schedules, alternative locations, and project minimization and identification. During the pre-application meeting for a Large Scale Offshore Development, the FAB can also identify areas 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 and the meeting 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. 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."~~

**Chapter 11, section 1150.4 (General Policies), new #8:**

~~"8. 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.G.L. 20-3-1 et. seq. The FAB shall be comprised of nine members, one representing each of the following six Rhode Island fisheries: bottom trawling; scallop dredging; gillnetting; lobstering; party and charter boat fishing; and recreational angling; and three members, including two commercial fishermen and one recreational fisherman, who are Massachusetts fishermen who fish in the Ocean SAMP area. FAB members shall serve four-year terms and shall serve no more than two consecutive 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.”

## **Chapter 8, Renewable Energy and Other Offshore Development**

### **7. Revise Chapter 8 section 860.1 (General Policies) #4 to clarify the distinction between General Policies and Regulatory Standards as applied through federal consistency:**

“4. Offshore Developments proposed to be sited in state waters shall not have a significant adverse impact on the natural resources or existing human uses described in the Ocean SAMP. Offshore developments proposed to be sited in federal waters are subject to the licensing federal agencies’ legal authorities and the enforceable policies of the federally-approved RICRMP through the CZMA Federal Consistency authority. Offshore Developments are bound by all the applicable provisions listed in Chapter 11, The Policies of the Ocean SAMP For purposes of CZMA federal consistency reviews of federal license or permit applications for Offshore Developments proposed to be sited in state waters, the state only applies the Section 1160 regulatory standards. However, for State permitting purposes, Offshore Developments proposed to be sited in State waters are bound by both the General Policies (1150) and Regulatory Standards (1160) listed in Chapter 11, The Policies of the Ocean SAMP. Where the Council determines that impacts on the natural resources or human uses of the SAMP area through the pre-construction, construction, operation, or decommissioning phases of a project constitute significant adverse impacts, the Council shall require that the applicant modify the proposal to avoid and/or mitigate the impacts or the Council shall deny the proposal.”

### **8. If the Council approves the aforementioned change, the same change must be made in Chapter 11, section 1150.7 (General Policies), #3, as follows:**

“3. Offshore Developments proposed to be sited in state waters shall not have a significant adverse impact on the natural resources or existing human uses described in the Ocean SAMP. Offshore developments proposed to be sited in federal waters are subject to the licensing federal agencies’ legal authorities and the enforceable policies of the federally-approved RICRMP through the CZMA Federal Consistency authority. Offshore Developments are bound by all the applicable provisions listed in Chapter 11, The Policies of the Ocean SAMP For purposes of CZMA federal consistency reviews of federal license or permit applications for Offshore Developments proposed to be sited in state waters, the state only applies the Section 1160 regulatory standards. However, for State permitting purposes, Offshore Developments proposed to be sited in State waters are bound by both the General Policies (1150) and Regulatory Standards (1160) listed in Chapter 11, The Policies of the Ocean SAMP. Where the

Council determines that impacts on the natural resources or human uses of the SAMP area through the pre-construction, construction, operation, or decommissioning phases of a project constitute significant adverse impacts, the Council shall require that the applicant modify the proposal to avoid and/or mitigate the impacts or the Council shall deny the proposal.”

**9. Revise Chapter 8 section 860.2.1 (Regulatory Standards, which are Enforceable Policies) #1 to clarify the distinction between General Policies and Regulatory Standards as applied through federal consistency:**

“1. 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 Sections 1150 and 1160 (except, as noted above, Section 1150 policies shall not be used for CRMC concurrence or objection for CZMA Federal Consistency reviews). For the purposes of the Ocean SAMP, Offshore Developments are defined as:”

**10. If the Council approves the aforementioned change, the same change must be made to Chapter 11, section 1160.1 (Regulatory Standards, which are Enforceable Policies) #1, as follows:**

“1. 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 Sections 1150 and 1160 (except, as noted above, Section 1150 policies shall not be used for CRMC concurrence or objection for CZMA Federal Consistency reviews). For the purposes of the Ocean SAMP, Offshore Developments are defined as:”

**11. Move items 860.2.1 #3 and 4 out of section 860.2.1, Regulatory Standards (for CZMA purposes, “Enforceable Policies”), and into section 860.1, General Policies, to clarify the distinction between the two, as follows:**

**Delete items #3 and 4 from 860.2.1, Regulatory Standards (“Enforceable Policies” per CZMA):**

~~“3. To minimize permitting inefficiencies and streamline the review process for offshore wind energy developments, the Council shall adopt a format of regulatory review similar to the regulations 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 CFR §§285 et seq.”~~

~~“4. 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. 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 generally include the lead federal agency with primary jurisdiction over the proposed project and the CRMC. The pre-construction survey requirements outlined in Section 860.2.5.1(i) may be reduced for small-scale offshore developments as specified by the Joint Agency Working Group.”~~

**Add new items #11 and 12 to 860.1, General Policies:**

“11. To minimize permitting inefficiencies and streamline the review process for offshore wind energy developments, the Council shall adopt a format of regulatory review similar to the regulations 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 CFR §§285 *et seq.*”

“12. 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. 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 generally include the lead federal agency with primary jurisdiction over the proposed project and the CRMC. The pre-construction survey requirements outlined in Section 860.2.5.1(i) may be reduced for small-scale offshore developments as specified by the Joint Agency Working Group.”

**12. If the Council approves the aforementioned change, the same change must be made to Chapter 11, Policies of the Ocean SAMP, as follows:**

**Delete items #3 and 4 from section 1160.1, Regulatory Standards (“Enforceable Policies” per CZMA):**

~~“3. To minimize permitting inefficiencies and streamline the review process for offshore wind energy developments, the Council shall adopt a format of regulatory review similar to the~~

~~regulations 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 CFR §§285 et seq.”~~

~~“4. 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. 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 generally include the lead federal agency with primary jurisdiction over the proposed project and the CRMC. The pre-construction survey requirements outlined in Section 860.2.5.1(i) may be reduced for small-scale offshore developments as specified by the Joint Agency Working Group.”~~

**Add new items #9 and 10 to 1150.7, General Policies:**

“9. To minimize permitting inefficiencies and streamline the review process for offshore wind energy developments, the Council shall adopt a format of regulatory review similar to the regulations 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 CFR §§285 et seq.”

“10. 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. 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 generally include the lead federal agency with primary jurisdiction over the proposed project and the CRMC. The pre-construction survey requirements outlined in Section 860.2.5.1(i) may be reduced for small-scale offshore developments as specified by the Joint Agency Working Group.”

**13. Revise sections 860.2.2 Areas of Particular Concern, 860.2.3 Areas Designated for Preservation and 860.2.4 Other Areas, and associated figure labels (both in chapter and in table of contents) as follows to clarify that these standards only apply to those sites/areas within state waters:**

**Revisions to Section 860.2.2 (Regulatory Standards):**

“1. Areas of Particular Concern (APCs) have been identified [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 identified 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:”

“2. The Council has designated the areas listed below in section 860.2.2.3 [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 section 860.2.2.3 depicting Areas of Particular Concern may be superseded by more detailed, site-specific maps created with finer resolution data.”

“3. Areas of Particular Concern that have been identified in the Ocean SAMP area [in state waters](#) are described as follows.”

“4. Developers proposing projects for within the Renewable Energy Zone as described in section 860.2.2 shall adhere to the requirements outlined in 860.2.2.2 regarding Areas of Particular Concern [in state waters](#), including any Areas of Particular Concern that overlap the Renewable Energy Zone (see Figure 8.50).”

Figure labels:

Figure 8.46 Offshore Dive Sites designated as Areas of Particular Concern [in state waters](#).

Figure 8.47 Glacial Moraines designated as Areas of Particular Concern [in state waters](#).

Figure 8.48. Detailed view: Glacial Moraines surrounding Block Island designated as Areas of Particular Concern [in state waters](#).

Figure 8.49. Navigation, military, and infrastructure areas designated as Areas of Particular Concern [in state waters](#).

Figure 8.50. Recreational Boating Areas Designated as Areas of Particular Concern [in state waters](#).

Figure 8.51. Areas of Particular Concern overlapping the Renewable Energy Zone [in state waters](#).

#### **Revisions to Section 860.2.3 (Regulatory Standards, which are Enforceable Policies):**

“1. 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 section 860.2.2) because of scientific evidence indicating that Large-Scale Offshore Development in these areas may result in significant habitat loss. The areas listed in Section 860.2.3.1 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:”

Figure 8.52. Sea Duck Foraging Habitat Designated as Areas Designated for Preservation [in state waters](#).

#### **Revisions to Section 860.2.4 (Regulatory Standards, which are Enforceable Policies):**

“1. 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 in Figure 8.53.”

Figure 8.53. Areas of High Intensity Commercial Ship Traffic [in state waters](#).

**14. If the Council approves the aforementioned changes, the same changes are going to need to be made in Chapter 11 sections 1160.2, 1160.3 and 1160.4 (Regulatory Standards, which are Enforceable Policies) as follows:**

“1. Areas of Particular Concern (APCs) have been identified [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 identified 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:”

“2. The Council has designated the areas listed below in section 1160.2.3 [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 section 1160.2.3 depicting Areas of Particular Concern may be superseded by more detailed, site-specific maps created with finer resolution data.”

“3. Areas of Particular Concern that have been identified in the Ocean SAMP area [in state waters](#) are described as follows.”

4. Developers proposing projects for within the Renewable Energy Zone as described in section 1160.1.2 shall adhere to the requirements outlined in 1160.1.2 regarding Areas of Particular Concern [in state waters](#), including any Areas of Particular Concern that overlap the Renewable Energy Zone (see Figure 8.50).

Figure labels:

Figure 11.2 Offshore Dive Sites designated as Areas of Particular Concern [in state waters](#).

Figure 11.3 Glacial Moraines designated as Areas of Particular Concern [in state waters](#).

Figure 11.4. Detailed view: Glacial Moraines surrounding Block Island designated as Areas of Particular Concern [in state waters](#).

Figure 11.5. Navigation, military, and infrastructure areas designated as Areas of Particular Concern [in state waters](#).

Figure 11.6. Recreational Boating Areas Designated as Areas of Particular Concern [in state waters](#).

Figure 11.7. Areas of Particular Concern overlapping the Renewable Energy Zone [in state waters](#).

**Revisions to Section 860.2.3 (Regulatory Standards, which are Enforceable Policies):**

“1. 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 section 1160.2) because of scientific evidence indicating that Large-Scale Offshore Development in these areas may result in significant habitat loss. The areas listed in Section 1160.3 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:”

Figure 11.8. Sea Duck Foraging Habitat Designated as Areas Designated for Preservation [in state waters](#).

**Revisions to Section 860.2.4 (Regulatory Standards, which are Enforceable Policies):**

“1. 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 in Figure 11.9.”

Figure 11.9. Areas of High Intensity Commercial Ship Traffic [in state waters](#).

**15. Revise the description of necessary data and information per the CZMA in section 860.2.5 (Regulatory Standards, which are Enforceable Policies), #1, as follows:**

“1. 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-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. For the purposes of this document, the phrase ‘necessary data and information’ shall refer to the necessary data and information required for federal consistency determinations under the Coastal Zone Management Act (CZMA) (see 15 CFR §930.58). Any necessary data and information shall be provided before the 6-month CZMA review period begins for a proposed project. It should be noted that other federal and state agencies may require other types of data or information as part of their review processes.”

**16. If the Council approves the aforementioned change, the same change must be made in Chapter 11, section 1160.5 (Regulatory Standards, which are Enforceable Policies) #1, as follows:**

“1. 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-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. For the purposes of this document, the phrase ‘necessary data and information’ shall refer to the necessary data and information required for federal consistency determinations under the Coastal Zone Management Act (CZMA) (see 15 CFR §930.58). Any necessary data and information shall be provided before the 6-month CZMA review period begins for a proposed project. It should be noted that other federal and state agencies may require other types of data or information as part of their review processes.”

**17. Revise section 860.2.8 (Regulatory Standards, which are Enforceable Policies) #9, Standards for Construction Activities, to address a potential “incorporation by reference” issue; per OCRM comments, an enforceable policy cannot incorporate by reference another enforceable policy:**

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

**18. If the Council approves the aforementioned change, the same change must be made in Chapter 11 section 1160.8 (Regulatory Standards, which are Enforceable Policies) #9 as follows:**

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

**19. Move section 860.3, Recommended Targets, into section 860.1, new #12 (i-iii) to clarify that it is not a regulatory standard (“enforceable policy” for CZMA purposes) but a general policy, as follows:**

**Delete section 860.3:**

~~860.3 Recommended Targets:~~

- ~~1. The following are industry goals that 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.~~
- ~~2. 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  $\mu$ Pa<sub>2</sub> in any 1/3 octave band at a range of 100 meters at full power production.~~
- ~~3. The applicant and manufacturer should endeavor to minimize the radiated airborne noise from the wind turbines.~~
- ~~4. A monitoring system including acoustical, optical and other sensors should be established near these facilities to quantify the effects.~~

**Insert new #12 (i-iii) in section 860.1, General Policies:**

“12. The following are industry goals that 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:

- i. 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  $\mu$ Pa<sub>2</sub> in any 1/3 octave band at a range of 100 meters at full power production.
- ii. The applicant and manufacturer should endeavor to minimize the radiated airborne noise from the wind turbines.
- iii. A monitoring system including acoustical, optical and other sensors should be established near these facilities to quantify the effects.”

20. If the Council approves the aforementioned change, the same change will need to be made in Chapter 11 as follows:

**Delete section 1160.10:**

**~~1160.10 Recommended Targets~~**

- ~~1. The following are industry goals that 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:~~
- ~~2. 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  $\mu$ Pa<sub>2</sub> in any 1/3 octave band at a range of 100 meters at full power production.~~
- ~~3. The applicant and manufacturer should endeavor to minimize the radiated airborne noise from the wind turbines.~~
- ~~4. A monitoring system including acoustical, optical and other sensors should be established near these facilities to quantify the effects.~~

**Insert new item #11 (i-iii) in section 1150.7, General Policies:**

“11. The following are industry goals that 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:

- i. 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  $\mu$ Pa<sub>2</sub> in any 1/3 octave band at a range of 100 meters at full power production.
- ii. The applicant and manufacturer should endeavor to minimize the radiated airborne noise from the wind turbines.
- iii. A monitoring system including acoustical, optical and other sensors should be established near these facilities to quantify the effects.”

## **Chapter 11, Policies of the Ocean SAMP**

### **21. Revise Chapter 11, section 1100 (general findings/discussion), item #4 to clarify distinction between general policies and regulatory standards:**

“4. 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. Section 1150 presents all Ocean SAMP general policies, while Section 1160 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 Section 1150 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 (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 (1150) and Regulatory Standards (1160) listed in Chapter 11, The Policies of the Ocean SAMP. The “Regulatory Standards” in Section 1160 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 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.**

### **22. Add to Chapter 11, Section 1100 (Introduction), new #5 and 6 as follows:**

“5. 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 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 and APCs in a NOAA-approved Ocean SAMP will apply to activities in federal waters through the CZMA federal consistency provision.”

“6. The Ocean SAMP includes studies of federal waters and identifies uses, resources and areas of federal waters, but these are technically not part of the Ocean SAMP; they are included as incidental studies and areas of interest. 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 and the state, federal agencies and applicants may choose to use this information 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."

**23. Revise Chapter 11, section 1150 (General Policies) #1 to clarify distinction between General Policies and Regulatory Standards:**

"1. 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 ~~Federal Coastal Zone Management Act~~ CZMA to achieve the Ocean SAMP goals and principles described in the Introduction Chapter. The "General Policies" in Section 1150 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 (1150) and Regulatory Standards (1160) listed in Chapter 11, The Policies of the Ocean SAMP. The "Regulatory Standards" in Section 1160 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 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. Policies presented for cultural and historic resources, fisheries, recreation and tourism, and marine transportation promote and enhance existing uses and honor existing activities (Goal ii, Principle iii). 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 (Goal i, Principle iv). 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 (Goal iii). 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 (Goal iv), developing in a transparent manner (Principle i), and promoting adaptive management (Principle i). Ocean SAMP policies are all important to ensuring 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."

**24. Revise Chapter 11 section 1160 (Regulatory Standards, which are Enforceable Policies) #1 to clarify the distinction between general policies and regulatory standards as applied through federal consistency:**

“1. 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. Section 1160.1, 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 Section 1160 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 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.”

**Ocean SAMP Appendices**

25. We propose the following new language be added to the beginning of the Ocean SAMP appendix of technical reports as a preamble to this document. We propose this out of an abundance of caution, to clarify that the technical reports are not regulations that would need to be subject to public review per the Administrative Procedures Act:

**“PREAMBLE.**

The technical reports included in the Ocean SAMP appendix are based on ongoing research conducted by URI researchers, and will be updated on an ongoing basis as new data and results become available. For the most up-to-date versions of these technical reports, please refer to the RI Coastal Resources Management Council website at [http://www.crmc.ri.gov/samp\\_ocean.html](http://www.crmc.ri.gov/samp_ocean.html).”