

**RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING**

COASTAL RESOURCES MANAGEMENT COUNCIL

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

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

Rulemaking Action: Proposed Amendment

Important Dates:

Date of Public Notice: 06/12/2019

Hearing Date: 06/25/2019

End of Public Comment: 07/12/2019

Authority for this Rulemaking:

R.I. Gen. Laws § 46-23 et seq.

Summary of Rulemaking Action:

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

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

1. Amend § 11.2(A) to clarify the purpose of the regulations and better differentiate between state permitting and federal consistency review authority.
2. Amend § 11.3(E) to add representation of seafood processing facilities onto CRMC Fishermen's Advisory Board (FAB) and increase FAB membership to twenty (20) to account for seafood processing representatives.
3. Further clarify 2011 and 2018 geographic location descriptions (GLD) as defined in § 11.3(F).
4. Move deleted text in § 11.3(H)(6) to correct placement in § 11.3(H)(5).
5. Delete anachronistic text and clarify NOAA approval of Ocean SAMP and federal consistency authority in § 11.5.
6. Add new § 11.9(C) using text moved from § 11.10.1(D). Delete § 11.10.1(D).
7. Add new § 11.9(D) for \$20,000 administrative fee for projects subject to CRMC federal consistency review only (no state permit required).
8. Amend § 11.9.1(E) to add reference to NOAA-approved GLDs.
9. Add deleted text from § 11.10.1(Q) to § 11.9.3(J).
10. Amend § 11.9.4(C) to include CRMC required (in state waters) wind farm design standards to enhance compatibility with commercial fishing operations.

11. Amend § 11.9.4(H) to increase from 6 to 7 FAB votes for RI interests to account for adding representation from the seafood processing facilities on the FAB as per proposed amendment in § 11.3(E).
12. Delete repetitive text in § 11.9.7(H); same text in § 11.9.4(F).
13. Add new § 11.9.8 for application requirements in state waters using deleted text from § 11.10.5.
14. Add new § 11.9.9 for baseline assessment requirements and standards in state waters including deleted text from § 11.10.9.
15. Add new §§ 11.9.9(E) for baseline assessment standards and (F) for post construction assessment requirements.
16. Amend § 11.10.1(C) to further clarify significant adverse impacts and coastal effects to commercial fisheries, when mitigation may be considered, and federal consistency issues.
17. Amend § 11.10.1(D) to include pre-application meetings with FAB and further clarify formal meeting with FAB to meet federal consistency necessary data and information requirements.
18. Add new § 11.10.1(D)(1) to clarify CZMA federal consistency review process as it relates to BOEM and the filing of a construction and operation plan (COP).
19. Amend § 11.10.1(E) to further clarify CZMA process and mitigation requirements.
20. Delete § 11.10.1(F) as first sentence is repetitive in § 11.10.1(C) and second sentence added to § 11.10.1(C).
21. Amend new § 11.10.1(F) to add shore-side seafood processing facilities as a fisheries user group and further clarify mitigation process and requirements in CZMA federal consistency review process.
22. Amend § 11.10.1(I) to clarify CZMA federal consistency review process as it relates to BOEM and the filing of a construction and operation plan (COP).
23. Add new § 11.10.1(O) for construction noise abatement requirements and standards to minimize adverse impacts to fishery resources.
24. Add new § 11.10.1(P) for cable burial requirements and standards to avoid significant adverse impacts to commercial fishing activities.
25. Amend § 11.10.5(A) to clarify when necessary data and information may be filed for CRMC federal consistency review.
26. Amend § 11.10.5(C) to remove anachronistic text and clarify the timing of a COP and SAP filing in the BOEM process.
27. Amend § 11.10.5(C)(1) to clarify SAP process for projects in state waters.
28. Amend § 11.10.5(C)(1)(g) to clarify that when NDI is missing the CRMC must follow federal regulations for a delay in CZMA federal consistency review process.
29. Delete §§ 11.10.5(C)(1)(h) and (j) through (q) and move to § 11.9.8(A).
30. Delete §§ 11.10.5(C)(2)(h) through (o) and move to § 11.9.8(B).
31. Delete § 11.10.5(C)(2)(o)(1) and move to § 11.9.8(B)(8).
32. Delete § 11.10.6 and move to § 11.9.8(C).
33. Delete § 11.10.7 and move to § 11.9.8(D).

34. Delete § 11.10.8 and move to § 11.9.8(E).
35. Amend § 11.10.9(A) to clarify baseline assessment requirements for projects subject to CZMA federal consistency review and move deleted text to new § 11.9.9.
36. Other minor edits and corrections as noted in track changes within the document.

Additional Information and Comments:

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

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

Public Hearing:

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

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

Regulatory Analysis Summary and Supporting Documentation:

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

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

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