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**The Planning and Policy Context
for the Rhode Island Ocean Special Area Management Plan**

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Plans have their life in their creation, in their use, and their relationship with other plans and policies.¹ This document examines how the *Ocean Special Area Management Plan* relates to other Rhode Island plans—in other words it looks at the planning context of the *Ocean SAMP* beyond the use the Coastal Resources Management Council may make of it. The document focuses on plans that are authorized in Rhode Island law and, for reasons that are set forth below, that are part of the state guide plan system.

A key driver in the preparation of the *Ocean SAMP* has been the proposal to develop an off-shore wind farm to help meet Rhode Island’s electrical needs from renewable energy. Obtaining electricity from renewable resources is both a requirement of law and a priority of the Carcieri administration.² A project of the magnitude of the proposed wind farm, if it is subject to State permitting comes under the jurisdiction of the Energy Facility Siting Board³ as well as the Coastal Resources Management Council.⁴ A procedure for review of projects by the Energy Facility Siting Board is an investigation by the statewide planning program, specifically: “The statewide planning program within the department of administration shall conduct an

¹ Hopkins, Lewis D. and E.R. Alexander. 2009. Introduction to Symposium: Planning in Complex Multiorganizational Systems. *Journal of Planning Education and Research* 28: 470-475.

² RIGL chapter 39-26, which was enacted in 2004 and sets the statutory goal of acquiring fifteen percent of Rhode Island’s electrical demand from renewable resources by 2020, and Executive Order 06-02 of Governor Donald L. Carcieri, the accompanying press release of January 12, 2006, and the Governor’s Five Point Energy Agenda, which includes the goal that fifteen percent of “Rhode Island’s electricity demand will be supplied by environmentally progressive wind power”.

³ RIGL chapter 42-98. The definition of "Major energy facility" in section 42-98-3 includes “facilities for the generation of electricity designed or capable of operating at a gross capacity of forty (40) megawatts or more; transmission lines of sixty-nine (69) Kv or over;” and the Energy Facility Siting Board is given jurisdiction, although exclusive jurisdiction over major energy facilities by section 42-98-4, which states “No person shall site, construct, or alter a major energy facility within the state without first obtaining a license from the siting board pursuant to this chapter.”

investigation and render an advisory opinion as to the socio-economic impact of the proposed facility and its construction and consistency with the state guide plan”.⁵

The establishment of the statewide planning program proceeds from the following finding: “The general assembly finds that the people of this state have a fundamental interest in the orderly development of the state; the state has a positive interest and demonstrated need for establishment of a comprehensive strategic state planning process and the preparation, maintenance, and implementation of plans for the physical, economic, and social development of the state; the continued growth and development of the state presents problems that cannot be met by the cities and towns individually and that require effective planning by the state; and state and local plans and programs must be properly coordinated with the planning requirements and programs of the federal government.”⁶ The statute sets forth matters to be covered in and the broad functions of the state guide plan as follows: the state guide plan, “shall be comprised of functional elements or plans dealing with land use; physical development and environmental concerns; economic development; housing production; energy supply, including the development of renewable energy resources in Rhode Island, and energy access, use, and conservation; human services; and other factors necessary to accomplish the objective of this section. The state guide plan shall be a means for centralizing, integrating, and monitoring long-range goals, policies, plans, and implementation activities related thereto. State agencies concerned with specific subject areas, local governments, and the public shall participate in the state guide planning process, which shall be closely coordinated with the budgeting process.”⁷

The state guide plan currently has some 30 elements, two of which highly pertinent to the *Ocean SAMP*, the *Rhode Island Energy Plan* and the *Economic Development Policies and Plan*, are currently being updated.

The state guide plan also has life in the context of Federal environmental law. The National Environmental Policy Act requires the preparation of environmental impact statements (EIS)

⁴ RIGL chapter 46-23.

⁵ RIGL subsection 42-98-9(e).

⁶ RIGL 42-11-10 (a).

⁷ RIGL section 42-11-10 (d), emphasis added.

when Federal actions might have adverse environmental consequences. If an EIS is required then, social, cultural, and economic effects must be addressed as well.⁸ State and local plans are recognized as important in determining these impacts.⁹

How does the *Ocean SAMP* relate to the state guide plan and to other state and local plans?

In *Land Use 2025*, the core element of the state guide plan, summarizes the uses of the state guide plan as follows:

The State Guide Plan promotes planning coordination in several ways, being used as both a resource and review mechanism for projects and implementation measures, such as:

- Proposals requesting federal funds.
- Applications for U.S. Army Corps of Engineers permits.
- Environmental Impact Statements.
- R.I. Economic Development Corporation projects.
- Projects being reviewed by the Energy Facility Siting Board.
- Applications for various loans, grants, or other federal or State financing.
- Rules and regulations promulgated by State agencies.
- Property leases and conveyances proposed before the State Properties Committee.

Besides these, one of the most important roles the State Guide Plan plays in coordinating planning is in the review of local comprehensive plans. This determines whether the State will certify a local plan so that State projects are bound to be consistent with it in the same way that local projects are consistent with the State Guide Plan.¹⁰

Since the offshore wind project receives support from the renewable energy development fund¹¹ administered by the RI Economic Development Corporation, RIGL 42-64-13.2, it can be

⁸ Council on Environmental Quality describes effects as follows: “Effects and impacts as used in these regulations are synonymous. Effects includes ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative.” 40 CFR 1508.8

⁹ See 40 CFR 1506.2 with regard to the affirmative interest of the CEQ in cooperation with planning efforts of states.

¹⁰ 2006, p. 5.1.

¹¹ RIGL section 42-64-13.2.

considered an a project of the Corporation.¹² For projects including renewable energy projects of the Corporation, the Corporation is required to make a finding that the project is in conformity with the state guide plan.¹³

Land Use 2025: State Land Use Policies and Plan is “the State of Rhode Island’s plan for conservation and development in the 21st century” and as such is “the major connective State Guide Plan element in Rhode Island’s planning and development system. The Plan articulates the State’s over-arching goals, objectives, and strategies to guide and coordinate the land use plans and regulations of municipalities and State agencies and to direct good, strategic projects at both the State and municipal level.”¹⁴

While *Land Use 2025* is concerned with terrestrial issues, including “where land meets water, the waterfront edge,”¹⁵ and this *Ocean Special Area Management Plan* is concerned with offshore marine issues, the two plans are conceptually congruent. First, each plan is essentially geospatial; second, each plan proceeds from a consideration of natural resource conditions; third, each plan is centrally concerned with current and potential future uses, and fourth, each plan is guided by how strongly things, such as historical resources, are valued. If the two plans were not conceptually congruent their use in an integrated or complementary manner would be problematic. However since they are, broadly, conceptually congruent, their potential integrated and complementary use depends on their specific content. Does, for example, *Land Use 2025* contain goals for a course of action that is at odds with the underlying principles embedded in the *Ocean SAMP*? Basic conflicts in content do not appear to be the case, rather the two seem to be

¹² RIGL 42-64-3 (20): “Project” or “port project” means (20) "Project" or "port project" means the acquisition, ownership, operation, construction, reconstruction, rehabilitation, improvement, development, sale, lease, or other disposition of, or the provision of financing for, any real or personal property (by whomever owned) or any interests in real or personal property, including without limiting the generality of the foregoing, any port facility, recreational facility, industrial facility, airport facility, pollution control facility, utility facility, solid waste disposal facility, civic facility, residential facility, water supply facility, energy facility or renewable energy facility, or any other facility, or any combination of two (2) or more of the foregoing, or any other activity undertaken by the corporation.

¹³ RIGL 42-64-10 (a)(1)(v).

¹⁴ *Land Use 2025*, p. v.

¹⁵ *Land Use 2025*, p. 2.1.

of a piece. The vision of *Land Use 2025* is that “Rhode Island in 2025. . . will be green and blue.”¹⁶

Land Use 2025 has as matters of policy to “promote holistic systems planning at the watershed level” and to “preserve and enhance wildlife, fish, and plant species diversity and stability through habitat protection, restoration, enhancement and prevention or mitigation of adverse impacts due to human activities.”¹⁷

An important goal of *Land Use 2025* is “First class infrastructure that protects the public’s health, safety and welfare, fosters economic well-being, preserves and enhances environmental quality,” and a land use objective is to “Locate new infrastructure in appropriate areas.”¹⁸ The *Ocean SAMP* endeavors to accomplish precisely this in a broad area, the offshore environment that is not covered by *Land Use 2025*.

Other *Land Use 2025* objectives include: “2A. Permanently protect critical natural resources” and “3B. Preserve and enhance special districts and special places, supporting particular uses and resources.”¹⁹ The second of these two objectives would logically apply to the port and waterfront areas used by the commercial and recreational fishing industries.

Local comprehensive plans are required to be brought into conformity with the State Guide Plan.²⁰ *Land Use 2025* has the final objective, “5F. Achieve greater integration of State and municipal planning systems and support regional efforts.” The *Ocean SAMP* is on a Rhode Island scale a form of regional effort, and the conceptual congruity of *Land Use 2025* and this *Ocean SAMP* should facilitate appropriate use of the *Ocean SAMP* in relevant areas of municipal. A meeting on January 30, 2009, among state and municipal planners and *Ocean SAMP* team members concluded that this fit was present and making the *Ocean SAMP* binding on municipal plans through its adoption as an element of the State Guide Plan was unnecessary:

¹⁶ Op cit.

¹⁷ Ibid., p. 2-9, 2-10; see also pp. 5-6, 5.7.

¹⁸ Ibid., pp 2-8, 2-9; see also pp. 5-14, 5-16.

¹⁹ Ibid., pp. 5-8, 5-10.

²⁰ RIGL 45-22.2-9.

if there were no conflicts between the *Ocean SAMP* and local comprehensive plans, requiring local governments to review their comprehensive plans would be a paper exercise without any significant value.

As has been noted, the State Guide Plan has some thirty elements, of which *Land Use 2025* is but one, albeit it is “the major connective State Guide Plan element....” Other State Guide Plan elements merit consideration as well because they might contain provisions with a direct bearing on matters under consideration in the *Ocean SAMP*.

The *Rhode Island Energy Plan 2002*²¹, which predates the State’s renewable energy standard²² and current efforts to develop renewable energy, contains nothing that conflicts with the pursuit of off-shore wind energy development in the Ocean SAMP area. It contains the goals of “Goal 3. Setting and achieving objectives that preserve or enhance environmental quality while ensuring adequate energy supplies,” “Goal 4. The attainment of a fuel mix that is reasonably reliable and that satisfies economic need,” and “Goal 8. The development of permanently sustainable energy resources that are environmentally and economically feasible.”²³ Presciently, the Plan includes as a justification for the goal of preserving and enhancing environmental quality, “reducing greenhouse gas emissions and their contribution to climate change by promoting energy efficiency, energy conservation, and alternative energy use.”²⁴ An Objective under Goal 8 is “To take advantage of indigenous resources and to decrease our dependence on fossil fuels.”²⁵ With regard to wind energy specifically, the *Plan* while acknowledging that wind energy may become one of the “cheapest sources of power within the decade” finds that “wind resources in the state are not exceptional....”²⁶ The *Plan* was, however, taking into account only on-shore wind resources, not the off-shore wind resources of the *Ocean*

²¹ State Guide Plan Element 781, August 8, 2002.

²² RIGL chapter 39-26.

²³ *Rhode Island Energy Plan 2002*, pp. 1.1, 1.2, 1.3.

²⁴ *Ibid.*, p. 1.1.

²⁵ *Ibid.*, p. 3.27.

²⁶ *Ibid.*, p. 3.30.

SAMP area. While reasonable for its time, the *Plan* is dated in many respects, and at the time of the *Ocean SAMP*'s being prepared, it is being rewritten. The outline and initial versions of the revised *Energy Plan* include appropriate references to the *Ocean SAMP*.

The adopted *Economic Development Policies and Plan*²⁷ is similarly dated and currently being rewritten. Nevertheless, it too contains provisions that have a constructive bearing on topics covered by the *Ocean SAMP*. The *Economic Development Policies and Plan* holds that “Sustainable development is a process whose goal is to mitigate or eliminate the environmental problems facing society while simultaneously creating economic opportunities; it is a process to enhance the quality of life and save the environment. It recognizes that economic development and environmental quality are not mutually exclusive.”²⁸ The *Plan* recognizes the value of renewable energy:

To ensure that future generations are not left a legacy of vanished or depleted resources, *The Rhode Island Energy Plan* (Element 781 of the State Guide Plan) recommends the development of permanently sustainable energy resources that are environmentally benign and economically feasible. Even from a purely economic standpoint, this policy is key. Failure to exploit even modest opportunities for indigenous and renewable sources of energy that fit these criteria increases reliance on costly alternatives that could be avoided, postponed, or replaced – such as the construction of a new power plant, or continued dependence on fossil fuels produced outside the region that are subject to pricing policies beyond our control....

Wider use of renewable energy can improve the business climate. It can help satisfy environmental objectives while addressing what has always been a disincentive to business location in New England – high energy costs owing to our position, literally, at the end of the pipeline. The phase-in of renewables can be complemented by a re- dedication to energy conservation, in recognition and appreciation of the fact that energy is too valuable a resource to waste or squander.²⁹

²⁷ *Economic Development Policies and Plan*, Report Number 99, State Guide Plan Element 211, April 2000.

²⁸ *Ibid.*, p. 2.32.

²⁹ *Ibid.*, p. 2.33-2.34.

The Plan also addresses as economically important other activities that take place in the *Ocean SAMP* area, including commercial shipping³⁰, commercial and recreational fishing³¹, recreation³², and defense--the Navy³³. And it has as facilities objectives to:

12. Encourage development of sport and commercial fisheries both inshore and offshore up to levels of maximum sustainable yield by supporting the provision of appropriate infrastructure, research and training facilities, aquaculture, management activities, and enforcement of water quality standards. Reserve suitable port access areas for commercial fishing vessels.

13. Encourage new industrial development in the coastal zone that places a priority on the maximum efficient and appropriate utilization of existing marine infrastructure, such as the Port of Providence and Quonset Davisville.

15. Promote tourism as a major industry, and encourage and support the use of the wide range of facilities that make up the industry's infrastructure.³⁴

In December 2002, the statewide planning program issued the *Rhode Island Comprehensive Economic Development Strategy 5 Year Update*, which builds upon the objectives and policies of the 2000 *Economic Development Policies and Plan*.³⁵ The *5 Year Update* too recognizes the importance of sustainable development as a “process whose goal is to mitigate or eliminate environmental problems facing society while simultaneously creating economic opportunities.”³⁶ The *5 Year Update* considers marine sectors, including shipping, the Navy, marine fisheries, and marine trades such as boat building and repairs and marinas. A major challenge identified in the *5 Year Update* is the long-term loss of manufacturing jobs, which peaked at 136,200 jobs in

³⁰ Ibid., p. 236.

³¹ Ibid., p. 237.

³² Ibid., p. 2.38.

³³ Ibid., pp. 2.22-2.24, 2.36.

³⁴ Ibid., p. 3.4

³⁵ Statewide planning Program, 2002. *Rhode Island Comprehensive Economic Development Strategy 5 Year Update*, p. v.

³⁶ Ibid., p. 19.

1978. The *5 Year Update* recommends a diversification of the state's industrial base,³⁷ which is something the development of offshore wind energy facilities could contribute to, especially in concert a facilities objective "to encourage sustainable industrial and commercial development that advance the long-term economic and environmental well-being of the state..."³⁸ In sum, while the *5 Year Update* is concerned with economic development on land, it contains broad principles that can be applied to development in the *Ocean SAMP* area.

While the *Economic Development Policies and Plan* treatment of recreation and tourism is brief, the Guide Plan element for recreation, *Ocean State Outdoors*³⁹, is extensive and up-to-date. It was amended in 2009 and gives attention to issues and matters related to the *Ocean SAMP*. First, it calls for maintaining "natural diversity by preserving habitat"⁴⁰; second, it urges the preservation of "significant historic, architectural and archeological sites"⁴¹, and third, it recognizes the significance of climate change.⁴² Among its policies is the preservation and expansion of recreational boating.⁴³

The *State Historical Preservation Plan*⁴⁴ states the following principle: "For archaeological sites Rhode Island's preferred treatment is avoidance; data recovery is sometimes used as a last resort when avoidance is not possible. In general, however, the cost of data recovery and the irreversible damage to historical resources that recovery necessarily entails suggest that avoidance should be preferred. Further, in some property types such as burial places ethical and legal considerations require avoidance."⁴⁵ The *Historical Preservation Plan* contains the strategy

³⁷ Ibid., p. 80.

³⁸ Ibid., p. 85.

³⁹ *State Historical Preservation Plan*, State Guide Plan Element 152, adopted 2003. Amended 2009.

⁴⁰ Ibid., p. ES.4

⁴¹ Ibid., p. ES.5.

⁴² Ibid., pp. 2.5-2.6.

⁴³ Ibid., p. 4.29.

⁴⁴ State Guide Plan Element 140, revised June 1996.

⁴⁵ Ibid., p. 140.2.

to “Work toward the development of a context for understanding archaeological resources, which are underwater.”⁴⁶ The *Ocean SAMP* is contributing to this.

The *Rivers Policy and Classification Plan*⁴⁷ is a “guide for action to protect the quality and use of Rhode Island’s watersheds.” The *Policy and Classification Plan* is notable because it looks at rivers and watershed in three ways: first, their ecological and natural value, second, their current and potential uses⁴⁸, including economic uses, and third, the values communities place on the rivers and watersheds.⁴⁹ While the Rivers Council’s responsibilities are for watershed planning for fresh water bodies, and thus do not overlap with the *Ocean SAMP*, the planning approaches underlying the *Rivers Policy and Classification Plan* and the *Ocean SAMP* are in concert.

The Bays, Rivers and Watersheds Coordination Team⁵⁰ endeavors to provide integrated plan for fresh and marine waters. Its membership includes representatives from the Coastal Resources Management Council, the Rhode Island Rivers Council, the Department of Environmental Management, the Water Resources Board, the Narragansett Bay Commission, the RI Economic Development Corporation, and the Division of Planning in the Department of Administration. The Coordination Team is charged with developing and overseeing the implementation of a system-level plan which “establish overall goals and priorities for the management, preservation, and restoration of the state's bays, rivers, and watersheds, and the promotion of sustainable economic development of the water cluster.” The Coordination Team

⁴⁶ Ibid., p. 140.6.

⁴⁷ Rivers Policy and Classification Plan, State Guide Plan Element 162, adopted 1998, amended 2004.

⁴⁸ RIGL section 46-28-7 (4): “The classifications shall identify characteristics of water bodies beyond their quality to reflect their current or potential uses for drinking water sources, agricultural irrigation, industrial processes, including cooling water sources, water-based recreation, aquatic habitat, aesthetic enhancement, and others. The classification plan shall be consistent with current water quality classifications adopted by the department of environmental management.”

⁴⁹ RIGL section 46-8-7, the RI Rivers Council has the power and the duty “(7) To formally recognize and to provide grants to local watershed councils;” and “(8) To foster public involvement in river planning and decision-making processes....”

⁵⁰ RIGL chapter 46-31.

may recommend “adoption of all or portions of said plan by the state planning council as elements of the state guide plan.”⁵¹

A systems integration plan⁵² was adopted by the Coordination Team in July 2008. The *Systems Integration Plan* proceeds from a vision that:

In the future, Rhode Island’s waters and coasts are fishable, swimmable, prosperous, and resilient, and state and local environmental and economic development policies are well-managed, integrated, and cost-effective.

Numerous socio-economic uses and values are thriving, including commercial and recreational fishing, recreational boating, renewable energy generation, ocean and bay monitoring, water-dependent transport and industry, maritime technologies, recreation and tourism.

State and regional governance of Rhode Island’s waters and watersheds fully incorporates systems perspectives, particularly the principles of ecosystem-based management, and is based upon world-class programs in monitoring, research, education and outreach, and strategic planning and evaluation.⁵³

The *Systems Integration Plan* squarely recognizes climate change as a major challenge facing marine systems⁵⁴ and points to development of “ocean renewable energy resources in a balanced manner that accommodates and promotes existing uses of Rhode Island’s marine waters and submerged lands such as fisheries and recreation.”⁵⁵

The *Systems Integration Plan* looks at four existing “water-reliant” industries: recreation and tourism; boatbuilding, shipbuilding and boating-related businesses; water-based transportation, and commercial fisheries and aquaculture.⁵⁶ Regarding commercial fisheries the *Systems Integration Plan* observes, “Commercial fishing has been a mainstay of Rhode Island’s economy since the state’s inception and continues to play an important role in Rhode Island’s

⁵¹ RIGL section 46-31-5.

⁵² The Rhode Island Bays, Rivers, and Watersheds Bays, Rivers, and Watersheds Coordination Team, July 2008. *Bays, Rivers, and Watersheds Systems-Level Plan: 2009-2013*.

⁵³ *Ibid.*, p. iii.

⁵⁴ *Ibid.*, pp. 4-7.

⁵⁵ *Ibid.*, p. 3.

⁵⁶ *Ibid.*, pp. 38-50.

economy”⁵⁷ and “The development of the commercial fishing industry [in Rhode Island] and the constraints of distribution capabilities early in the development of the industry led to close association of the downstream processing activities with fishing ports. This clustering of production and processing activities created significant economic value and wealth for local fishing communities. The remnants of this clustering continue to exist in part due to the capital intensity of the industry.”⁵⁸

Significantly, the Coordination team is concerned with economic and ecological issues and embraces the principles of eco-system based management. Thus there is a conceptual congruence between the *Systems-Level Plan* and the *Ocean SAMP*.

Conclusion

Rhode Island has a highly developed system of planning, with the state guide plan as the primary means of inter-plan coordination and harmonization. While the currently adopted elements of the state guide plan do not plan for the area covered by the *Ocean SAMP*, there is conceptual congruence between the relevant state guide plan elements and the *Ocean SAMP*; thus basic conflicts between the state guide plan and the *Ocean SAMP* would seem unlikely. More probably the two could be understood as mutually reinforcing. Indeed the *Ocean SAMP* can be appreciated as major extension of state planning principles into an area not previously covered by state plans.

What is also significant is that state guide plan elements do address activities, such as shipping, commercial and recreational fishing, recreational boating, and defense—the Navy, that take place in the *Ocean SAMP* area. This both shows that Rhode Island has long-established and well-recognized interests in the *Ocean SAMP* area and gives additional justification for the preparation and adoption of the *Ocean SAMP*.

It is also noteworthy that Rhode Island over the last decade has been moving demonstratively toward eco-system based planning and management. The *Ocean SAMP* is the

⁵⁷ Ibid., p. 102.

⁵⁸ Ibid., p. 104.

fullest expression to-date of this trend. This commitment of Rhode Island to planning holistically is critically important to addressing climate change and its effects.