



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

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

PUBLIC NOTICE

Pursuant to the provisions of R.I. Gen. Laws Chapter 46-23, as amended, and in accordance with the procedures set forth in the R.I. Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35, the Rhode Island Coastal Resources Management Council (CRMC) hereby gives notice of its intention to afford the public an opportunity to offer written comment and to request a public hearing at which oral and written comments may be offered concerning the CRMC's intention to repeal the following regulations:

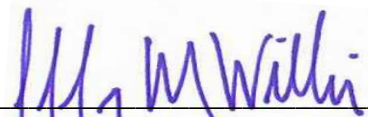
RICRMP Ocean Special Area Management Plan – Chapter 1 – Introduction **ERLID # 6889**

The CRMC has determined that small businesses should not be adversely impacted by the proposed repeal of the above regulations. The 30-day public comment period is being afforded to solicit comment on the proposed repeal of the above regulations and to allow public input from small businesses, any cities or towns, or any affected parties which may nevertheless believe that they may be adversely affected. Small businesses are requested to comment on the proposed repeal of the above regulations as to how such proposed action can be changed to minimize the impact on those small businesses affected.

All interested parties are invited to submit written comments concerning the proposed regulations by **August 16, 2018** to: Coastal Resources Management Council, Stedman Government Center, 4808 Tower Hill Road, Wakefield, RI 02879. ATTN: Grover J. Fugate, CRMC Executive Director. Email Address: cstaff1@crmc.ri.gov

The CRMC does not plan to hold a public hearing in this matter. An electronic copy of the subject regulations are available by clicking on the above link. Further information may be obtained by contacting the Coastal Resources Management Council offices at 783-3370.

Signed this 16th day of July, 2018.



Jeffrey M. Willis, Deputy Director
Coastal Resources Management Council

Rhode Island Coastal Resources Management Council

RICRMP Ocean Special Area Management Plan – Chapter 1 – Introduction

ERLID # 6889

Concise Summary of Proposed Action

The subject regulations (Chapter 1) were included as part of the Ocean Special Area Management and adopted by Council on October 19, 2010 to address renewable and offshore development activities in the offshore waters bounded by the Rhode Island Geographic Location Description and through implementation of marine spatial planning.

In 2016, the legislature passed an amendment to R.I. Gen. Laws § 42-35-5(b) that required the Secretary of State to oversee the publication of an updated uniform code of state regulations, the Rhode Island Code of Regulations (RICR). Only those portions of the Ocean SAMP that contain enforceable policies and standards can be included within the RICR. The remaining non-RICR portions of the Ocean SAMP, including the entirety of Chapter 1 – Introduction, will be included as part of the CRMC's Ocean Special Area Management Plan guidance document in accordance with R.I. Gen. Laws §§ 42-35-1(9) and 42-35-2.12. The Ocean SAMP guidance document will provide helpful information to assist with compliance with the RICR portions of the Ocean SAMP. The Ocean SAMP guidance document contains the findings, scientific data and other information relative to the Ocean SAMP and can be found by accessing the CRMC's guidance document index on the CRMC's webpage [www.crmc.ri.gov] or the Secretary of State's guidance document index.

On the basis of the above, the subject regulations (Chapter 1) are no longer necessary and should be repealed and expired.

Section 100. Introduction

1. R
hode Island's offshore waters are an ecologically unique region—the Rhode Island Sound and Block Island Sound ecosystems, which are shallow, near shore continental shelf waters, are located at the boundary of two bio-geographic provinces, the Acadian to the north (Cape Cod to the Gulf of Maine) and the Virginian to the south (Cape Cod to Cape Hatteras). The area is dynamically connected to Narragansett Bay, Buzzards Bay, Long Island Sound, and the Atlantic Ocean via the Inner Continental Shelf. While this unique positioning places this ecosystem at high risk of impacts from global climate change, this positioning also allows it to contain and host an interesting biodiversity of fish, marine mammals, birds, and sea turtles that travel throughout this region, thriving on its rich habitats, microscopic organisms, and other natural resources.

2. T
he natural beauty of these offshore waters, along with its rich historic and cultural heritage, provides aesthetic, artistic, educational, and spiritual value. This natural beauty is part of the appeal that draws people to live, work, and play in Rhode Island and adds to the quality of life within the area.

3. T
he waters off Rhode Island's coasts have long served as an important and highly valuable environmental, economic and cultural hub for the people of this region. Commercial and recreational fishing, one of the oldest and most widespread human uses of the area, has sustained Rhode Island coastal communities by providing jobs to fishermen and supporting businesses and industries, as well as food for local consumption or export throughout the United States and overseas. Recreational fisheries support businesses and families throughout Rhode Island and are a key element of the region's recreation and tourism economy. Other recreational and tourism activities such as boating, sailing, diving, wildlife viewing, or shore-based activities such as surfing or beach going, have not only provided enjoyment but also have generated significant economic benefits for the state of Rhode Island.

4. R
hode Island's offshore waters are part of the nation's Marine Transportation System, which is the network of all navigable waterways, vessels, operators, ports, and intermodal landside connections facilitating the marine transport of people and goods in the United States.

5. H
uman activities have been taking place for hundreds of years in Rhode Island's offshore waters and as a result have influenced area resources and conditions. This area will continue to change

due to existing and future human uses, as well as longer term trends such as global climate change. It is the R.I. Coastal Resources Management Program's responsibility to ensure that decisions made concerning this area are well thought out and based on the best available science.

Section 110. The Rhode Island Coastal Resources Management Council's Ocean Special Area Management Plan

1. T
he Rhode Island General Assembly mandates the Rhode Island Coastal Resources Management Council (CRMC) to preserve, protect, develop, and where possible, restore the coastal resources of the state for this and succeeding generations through comprehensive and coordinated long range planning and management designed to produce the maximum benefit for society from these coastal resources; and that the preservation and restoration of ecological systems shall be the primary guiding principle upon which environmental alteration of coastal resources will be measured, judged and regulated [R.I.G.L. § 46-23-1(a)(2)]. To more effectively carry out its mandate, the CRMC has established use categories for all of the state's waters out to three nautical miles from shore. The Rhode Island Coastal Resource Management Program (RICRMP) is approved as part of the national Coastal Zone Management Program under the federal Coastal Zone Management Act of 1972, 16 U.S.C. § 1451 *et. seq.*

2. T
he Ocean Special Area Management Plan (Ocean SAMP) is the regulatory, planning and adaptive management tool that CRMC is applying to uphold these regulatory responsibilities in the Ocean SAMP study area. Using the best available science and working with well informed and committed resource users, researchers, environmental and civic organizations, and local, state and federal government agencies, the Ocean SAMP provides a comprehensive understanding of this complex and rich ecosystem. The Ocean SAMP also documents how the people of this region have used and depended upon these offshore resources for subsistence, work, and play, and how the natural wildlife such as fish, birds, marine mammals and sea turtles feed, spawn, reproduce, and migrate throughout this region, thriving on the rich habitats, microscopic organisms, and other natural resources. To fulfill the Council's mandate, the Ocean SAMP lays out enforceable policies and recommendations to guide CRMC in promoting a balanced and comprehensive ecosystem based management approach to the development and protection of Rhode Island's ocean based resources within the Ocean SAMP study area as defined in section 130. The Ocean SAMP successfully fulfills its original stated objectives as summarized below in Section 150:

3. O
cean SAMP policies and recommendations build upon and refine the CRMC's existing regulations presented in the RICRMP. The policies, standards, and definitions contained in the RICRMP for Type 4 waters within the Ocean SAMP boundary, specifically from the mouth of Narragansett Bay seaward, between 500 feet offshore and the 3 nautical mile state water

boundary, are hereby modified. In addition, RICRMP Sections 300.3 and 300.8 and the 1978 Energy Amendments are hereby superseded within the Ocean SAMP study area.

4.T
he Ocean SAMP policies for Type 4 waters require that CRMC accommodate and maintain a balance among the diverse activities, both traditional and future water dependent uses, while preserving and restoring the ecological systems. CRMC recognizes that large portions of Type 4 waters include important fishing grounds and fishery habitats, and shall protect such areas from alterations and activities that threaten the vitality of Rhode Island fisheries. Aquaculture leases shall be considered if the Council is satisfied there will be no significant adverse impacts on the traditional fishery. In addition, CRMC shall work to promote the maintenance and improvement of good water quality within the Type 4 waters (RICRMP Section 200.4).

5.A
s with the six existing Rhode Island SAMPs and CRMC's water type designations, CRMC implements the marine spatial planning (MSP) process to achieve ecosystem-based management (EBM) for the entire Ocean SAMP region. For the purposes of the Ocean SAMP, the CRMC adopts the definition of EBM put forth in the "Scientific Consensus Statement on Marine Ecosystem Based Management" (McLeod et al. 2005), which defines EBM as "an integrated approach to management that considers the entire ecosystem, including humans. The goal of EBM is to maintain an ecosystem in a healthy, productive and resilient condition that provides the services humans want and need."¹ Ecosystems are places and marine spatial planning (MSP) is the process by which ecosystem-based management is organized to produce desired outcomes in marine environments. Since 1983 the CRMC has successfully applied MSP to achieve EBM along Rhode Island's coastline.

6.T
he Ocean SAMP is a tool for implementing adaptive management. Adaptive management is a systematic process for continually improving management policies and practices by learning from the outcomes of previously employed policies and practices. Adaptive management requires careful implementation, monitoring, evaluation of results, and adjustment of objectives and practices. Adaptive management usually allows more reliable interpretation of results, and leads to more rapid learning and better management. To this end, CRMC will establish several mechanisms to ensure that the Ocean SAMP is implemented using this management approach. See Chapter 11, The Policies of the Ocean SAMP, for more details.

7.....Through the Ocean SAMP process, much research has been conducted in the Ocean SAMP area by University of Rhode Island scientists and partners, resulting in a great deal of new data

¹ The Scientific Consensus Statement on Marine Ecosystem Based Management is signed by more than 220 scientists and policy experts from academic institutions throughout the United States. For further information see McLeod et al. 2005.

and information. The results of these research projects are summarized and/or referenced, as appropriate, in the Ocean SAMP document, and are detailed in a series of technical reports included in the Ocean SAMP Appendices. Datasets associated with these studies are being compiled at the Pell Library at the University of Rhode Island Graduate School of Oceanography, and will be available for public use through the library.

Section 120. Protection and Preservation within the Ocean SAMP area

1.S
ince its establishment in 1971, the CRMC has had the authority to manage and plan for the preservation of the coastal resources of the state. For Type 4 (multipurpose) waters, the CRMC's policy is to achieve a balance among diverse activities while preserving and restoring ecological systems. Consistent with this goal, the Ocean SAMP designates Areas of Particular Concern and Areas Designated for Preservation.

2.T
he Council recognizes that there are many cultural, social, and environmental areas within the Ocean SAMP study area that merit protection. To this end, the Council designates portions of the Ocean SAMP study area as Areas of Particular Concern. These Areas of Particular Concern have been identified through the Ocean SAMP process and include: areas with unique or fragile physical features, or important natural habitats; areas of high natural productivity; areas with features of historical significance or cultural value; areas of substantial recreational value; areas important for navigation, transportation, military and other human uses; and areas of high fishing activity. For example, glacial moraines within the Ocean SAMP area have been designated as Areas of Particular Concern because they are important habitat areas for fish due to their relative structural permanence and structural complexity. For a more detailed description of these areas and policies, see Chapter 11, The Policies of the Ocean SAMP.

3.O
ther areas of the Ocean SAMP area have been found to merit greater protection from offshore development and are identified as Areas Designated for Preservation. The purpose of Areas Designated for Preservation is to preserve important habitats for their ecological value. Areas Designated for Preservation include certain sea duck foraging habitats because of the significant role these habitats play to avian species. Ocean SAMP policies prohibit various types of offshore development that have been found to be in conflict with the intent and purpose of an Area Designated for Preservation. For a more detailed description of these areas and policies, see Chapter 11, The Policies of the Ocean SAMP.

Section 130. Goals and Principles for the Ocean SAMP

1. U
sing 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 will serve as the regulatory, planning and adaptive management tool to uphold CRMC's regulatory responsibilities and promote a balanced and comprehensive ecosystem based management approach to the development and protection of Rhode Island's ocean based resources within the Ocean SAMP study area.

2. C
RMC integrates climate concerns and adaptation and mitigation responses into relevant policies and plans. It is the intent of the Ocean SAMP to contribute to the mitigation of, and adaptation to, global climate change as well as to facilitate coordination mechanisms between state and federal agencies and the people of Rhode Island. CRMC believes that with advanced planning, the harm and costs associated with these potential impacts can be reduced and may be avoided.

3. T
he following goals require engaging a well informed, well represented and committed public constituency to work with the Ocean SAMP project team to better understand the Ocean SAMP issues and the ecosystem, and provide input on Ocean SAMP policies and recommendations. Throughout the entire development of the Ocean SAMP document, the CRMC has been committed to engaging all sectors of the public through an extensive public process. For more information on this process, see Payne (2010), included in the Ocean SAMP Appendices.

4. T
he goals for the Ocean SAMP are to:

a. F
oster a properly functioning ecosystem that is both ecologically sound and economically beneficial. Restore and maintain the ecological capacity, integrity, and resilience of the Ocean SAMP's biophysical and socio-economic systems. Conduct research to better understand the current status of the natural resources, ecosystem conditions, and the implications of various human activities. Set standards within the SAMP document to protect and where possible restore and enhance natural resources and ensure that impacts from future activities are avoided and, if they are unavoidable, are minimized and mitigated. Establish monitoring protocols to evaluate the consequences of decisions and adapt management to the monitoring results.

b. ~~.....~~ **P**
romote and enhance existing uses. Through both scientific and anecdotal research, better understand the existing activities taking place within the Ocean SAMP study area. Work with individuals and organizations representing those uses as well as individuals from around the globe working on similar issues to identify policies and actions that can both promote and enhance existing uses while ensuring that negative and mitigated impacts from future activities are avoided and, if they are unavoidable, are minimized.

c. ~~.....~~ **E**
ncourage marine-based economic development that considers the aspirations of local communities and is consistent with and complementary to the state's overall economic development, social, and environmental needs and goals. This development should draw upon and be inspired by the beauty and quality of the environs, including the protection and enhancement of maritime activities, marine culture and a sense of place. Through the development of coastal decision-making tools, with accompanying standards and performance measures, determine appropriate and compatible roles for future activities within the study area, including offshore renewable energy infrastructure.

d. ~~.....~~ **B**
uild a framework for coordinated decision-making between state and federal management agencies. Engage federal and state agencies in all phases of the Ocean SAMP process to ensure that all appropriate regulatory requirements are integrated into the process. Ensure that neighboring states of New York, Connecticut, and Massachusetts are informed of all major actions. This coordination will allow for the sharing of technical information across all sectors, enhance management of these coastal ecosystems, and streamline the permitting process where and if appropriate.

5. ~~.....~~ **T**
he principles guiding Ocean SAMP design and development are to:

a. ~~.....~~ **D**
velop the Ocean SAMP document in a transparent manner. Transparency guides the development of all documents and procedures related to the Ocean SAMP project. Project activities and phases are designed to be easily understandable to the general public. Accurate information must be made available to the public in an appropriate and timely manner.

b. ~~.....~~ **I**
nvolve all stakeholders. Targeted efforts ensure opportunity is available for all stakeholders to have access to the Ocean SAMP planning process as early as possible. Stakeholder participation

ensures that a broad range of issues, concerns, and creative ideas, are heard and examined throughout the SAMP process.

c. **Honor existing activities.** The Ocean SAMP area is a highly used and biologically and economically valuable place, with major uses such as fishing, recreation and tourism, transportation, and military activities. These, along with the area's biology and habitat, must be understood, and highly regarded, and respected as decisions for the incorporation of future activities are determined.

d. **Base all decisions on the best available science.** All management and regulatory decisions will be based on the best available science and on ecosystem based management approaches. The Ocean SAMP will require that the necessary studies be performed before a future activity is approved to better understand the impact of this activity on the ecosystem. Such necessary studies might include gathering information on baseline resource conditions;² potential environmental and economic impacts, and potential mitigation measures.

e. **Establish monitoring and evaluation that supports adaptive management.** Incorporating monitoring and evaluation in the Ocean SAMP will contribute towards implementing a systematic process for continually improving management policies and practices in an environment exposed to constant change. The SAMP process is flexible enough to react to such changes and allow plans to be revised in due course. A strong stakeholder process, coordination among federal and state regulatory agencies, and a transparent, monitoring and evaluation mechanism ensures this activity. See Section 1130 for further discussion of implementing the Ocean SAMP through adaptive management.

² Baseline data collected and summarized as part of the Ocean SAMP are not intended to represent an idealized state or targeted abundance levels or conditions. Rather, these data are intended to provide insight into current conditions in order to inform decision making.

Section 140. Ocean SAMP Study Area

1. T
he Ocean SAMP study area boundary includes approximately 1,467 square miles (3,800 square kilometers) of portions of Block Island Sound, Rhode Island Sound and the Atlantic Ocean. The study area begins 500 feet from the coastline in state waters, from the mouth of Narragansett Bay seaward (out to three nautical miles), and all federal waters within the boundary. The study area, which is an irregularly shaped polygon, is encompassed by a box represented by the coordinates listed below. See Figure 1.1 for a more detailed map:

North: 41.497420°

South: 40.912180°

West: 71.907426°

East: 70.848987°

The study area abuts the state waters of Massachusetts, Connecticut and New York.

2. T
his area was selected as the Ocean SAMP study area because the natural and human activities that take place in these offshore waters have a reasonable foreseeable effect on the people of Rhode Island, and conversely, human activities also impact the Ocean SAMP ecosystem. A similar boundary was selected by the U.S. Army Corps of Engineers in 2003 as it implemented an Environmental Impact Statement for the selection of dredge disposal sites (*Long-Term Dredged Material Disposal Site Evaluation Project Alternative Site Screening Report*) and by the state of Rhode Island to determine potential wind energy infrastructure sites (*RIWINDS Phase I: Wind Energy Siting Study* document produced for the Rhode Island Office of Energy Resources in April 2007). Therefore, some relevant information had already been collected for this study area prior to project initiation. In addition, the distance from the Rhode Island coastline to the furthest offshore boundary—30 miles—is appropriate since AC cables, which transport electricity, are cost effective at up to 20 miles from shore.

3. A
lthough Block Island is part of the Ocean SAMP study area, for the purpose of this document, Block Island land-based activities under the CRMC jurisdiction, Great Salt Pond, and activities 500 feet seaward of mean high water are regulated using CRMC's existing regulatory program described in the RICRMP.

4. M
ost Ocean SAMP-related research has been focused within this study area as shown in Figure

~~1.1. When appropriate, such as for marine mammals and sea turtles, marine transportation, and fisheries, the acquisition and review of data has encompassed a wider area, at times even to include the Outer Continental Shelf. This information will assist the CRMC in managing both the development and protection of these offshore resources applying an ecosystem management approach.~~

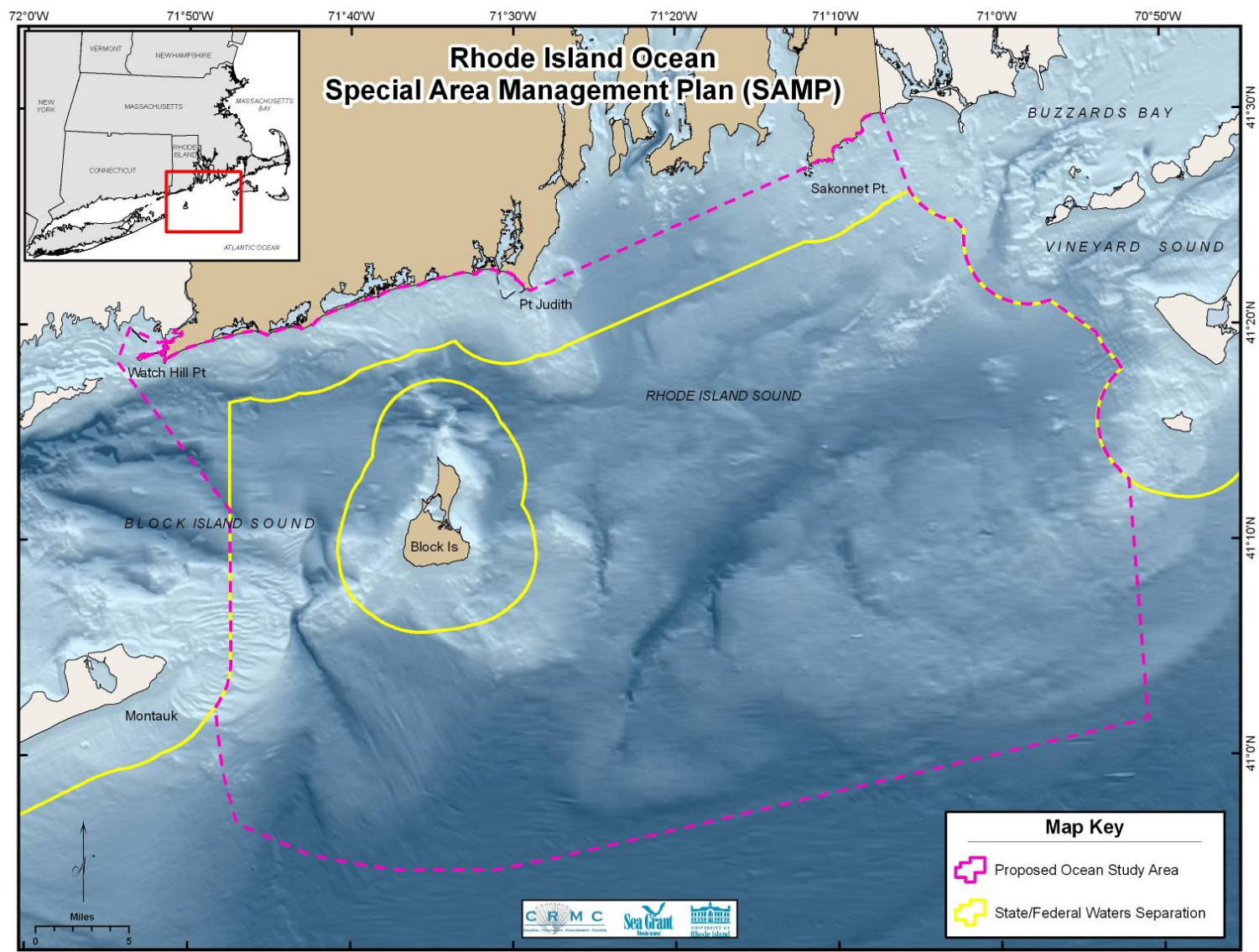


Figure 1.1. Ocean SAMP study area boundary.

Section 150.Origins of the Ocean SAMP

1.I
n 2005, the CRMC recognized that the uses of marine resources in Rhode Island were intensifying; that optimizing the potential of this intensification would require intentional action driven by design rather than accident; and that needed intentional actions are collaborative in nature. The Rhode Island General Assembly mandated the CRMC to develop a new plan, the Marine Resources Development Plan (MRDP), to meet these new demands while protecting the natural ecosystem. The plan is aimed at improving the health and functionality of Rhode Island's marine ecosystem, providing for appropriate marine-related economic development; and promoting the use and enjoyment of Rhode Island's marine resources. Central to the MRDP is the premise that better results are achieved when expectations are clear and when parties work together. The MRDP is structured around existing CRMC authority and builds on the CRMC's leadership in water use zoning and special area management planning. SAMPs, which are guided by the MRDP, are ecosystem-based management strategies that are consistent with the Council's legislative mandate to preserve and restore ecological systems. The CRMC coordinates with local municipalities, as well as government agencies and community organizations, to prepare the SAMPs and implement the management strategies.

2.I
n 2006, through the Northeast Regional Ocean Council (NROC), the CRMC played a leadership role in the effort to engage the four southern states—New York, Connecticut, Rhode Island, and Massachusetts—in the initial phase of creating a multi-state SAMP. The Southern New England/New York Ocean Council working group was thus formed to prioritize issues (natural hazards, healthy ecosystems, marine transportation, and energy) requiring coordination among the four states and research mechanisms to enhance shared resources. Although a multi-state SAMP was never developed, this working group became officially recognized as the southern representation for the gubernatorial-appointed NROC.

3.I
n 2004, the Rhode Island General Assembly passed the Renewable Energy Standard (R.I.G.L. 39-26-1 *et seq.*) which mandates that the state meet 16 percent of its electrical power needs with renewable energy by 2019. In 2007, Rhode Island's Office of Energy Resources (OER) determined that investment in offshore wind farms would be necessary for achieving Governor Donald Carcieri's additional mandate that offshore wind resources provide 15 percent of the state's electrical power by 2020. In response, the CRMC proposed the creation of a SAMP as a mechanism to develop a comprehensive management and regulatory tool that would proactively engage the public and provide policies and recommendations for appropriate siting of offshore renewable energy. In the CRMC's 2008 proposal to the Rhode Island Economic Development Corporation for the Ocean SAMP, the stated objectives of this project included: 1) Streamline cumbersome federal and state permitting processes and establish a more cost-effective permitting environment for investors; 2) Promote a balanced approach to considering the development and protection of ocean-based resources; 3) Complete the necessary studies to yield the most

accurate and current ocean-based scientific data and technologies to build knowledge critical for supporting the permitting process; and 4) Foster a well-informed and committed public constituency.

4.T
hrough the Ocean SAMP, the CRMC has met its stated objectives as outlined in the CRMC's 2008 proposal to the Rhode Island Economic Development Corporation. The Ocean SAMP has done so by: developing an offshore development regulatory framework; developing policies that both protect natural resources and manage existing and potential future uses; supporting new scientific research of the study area; and facilitating a rigorous stakeholder process.

Section 160. The CRMC's State and Federal Responsibilities

1.T
he CRMC is mandated to uphold all applicable sections of the federal Coastal Zone Management Act of 1972 (CZMA). The CZMA requires that the CRMC provide for the protection of natural resources within the coastal zone, including wetlands, floodplains, estuaries, beaches, dunes, barrier islands, and fish and wildlife and their habitat, and must manage coastal development to improve, safeguard, and restore the quality of coastal waters, and protect existing uses of those waters. The CRMC must develop management plans that give full consideration to ecological, cultural, historic, and aesthetic values, as well as needs for compatible economic development. SAMP's are identified in the CZMA as effective tools to meet this mandate (16 U.S.C. § 1456b).

a.

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

3.T
he CZMA finds that in order for the CRMC to uphold this mandate, it must actively participate in all federal programs affecting such resources and, wherever appropriate, develop state ocean resource plans as part of its federally approved coastal zone management program (16 U.S.C. § 1451).

4. T
he CRMC is the state authority for federal consistency under the CZMA (16 U.S.C. § 1456). Federal consistency requires federal agencies to alter projects to be consistent with state coastal management program policies. In addition, the statute requires non-federal applicants for federal authorizations and funding to be consistent with enforceable policies of state coastal management programs. A federal agency also has a statutory responsibility to provide neighboring or impacted states with the opportunity to review federal agency activities with coastal effects occurring wholly within the boundary of another state if that state has been approved for interstate consistency. For further information on federal consistency, see 15 CFR 930 *et seq.*

5. M
ore recently, federal regulations per the CZMA have placed substantial energy-related planning responsibilities on states, such as requiring states to: 1) Identify energy facilities that are likely to locate in or which may affect the coastal region; 2) Develop a procedure for assessing the suitability of sites for such facilities; 3) Develop policies and techniques for managing energy facilities and their impacts; 4) Develop cooperative and coordinating arrangements between the CRMC and other agencies involved in energy facility planning and siting; and 5) Identify legal techniques to be used in managing energy facility siting and related impacts (16 U.S.C. § 1454 and 15 CFR § 923.13).

160.1. The Existing Regulatory Framework for Offshore Development

1. T
he following is a summary of the existing regulatory framework for offshore development. For a more detailed description of applicable regulations, see Chapter 10: Existing Statutes, Regulations, and Policies.

2. T
he CRMC currently has jurisdiction for offshore projects within Rhode Island state waters which would fall under the applicable provisions of the RICRMP and Management Procedures. In addition to a Council permit, a successful applicant will also need to obtain a lease of the state's submerged lands. The leasing process is subsequent to the Council permit process, and to be eligible, an applicant will have to not only have the Council permit but will need the applicable federal, state and local permits as well as being identified as a preferred vendor by the R. I. Department of Administration.

3. F
or offshore wind infrastructure, the Federal jurisdiction is very complex but essentially falls onto two federal departments depending on location. In state waters, the primary permitting entity is

the U.S. Army Corps of Engineers. In federal waters the primary permitting agency is the Bureau of Ocean Energy Management, Regulation, and Enforcement of the Department of Interior (BOEMRE), previously known as the U.S. Minerals Management Service (MMS). The recently released Bureau of Ocean Energy Management, Regulation, and Enforcement regulation recognizes the Ocean SAMP process with the following reference: "Two States—New Jersey and Rhode Island—are well along in planning efforts that will help to determine appropriate areas of the Outer Continental Shelf for development, and MMS has been an active partner with those States. Such efforts—supported by MMS environmental study and technical research initiatives, as well as the Coordinated OCS Mapping Initiative mandated by Energy Policy Act of 2005—will contribute significantly as MMS implements this final rule" (MMS 2009, 19643).

4. T
he Bureau of Ocean Energy Management, Regulation, and Enforcement also has the authority to issue leases for other forms of offshore renewable energy development such as hydrokinetic projects. Hydrokinetic projects, such as wave or tidal energy, require approval from the Federal Energy Regulatory Commission (FERC), which has exclusive jurisdiction to issue licenses for hydrokinetic projects under Part I of the Federal Power Act (16 USC § 791 *et seq.*) and issue exemptions from licensing under Section 405 and 408 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. § 2601 *et seq.*) for the construction and operation of hydrokinetic projects on the Outer Continental Shelf. However, no FERC license or exemption for a hydrokinetic project on the OCS shall be issued before the Bureau of Ocean Energy Management, Regulation, and Enforcement issues a lease, easement, or right-of-way. For more information see Chapter 10, Existing Statutes, Regulations, and Policies and Chapter 8, Renewable Energy and Other Offshore Development.

5. R
hode Island was recognized a second time in the regulation with the following reference: "We received several comments recommending that we provide for accepting the results of competitive processes conducted by states and utilities to select developers of offshore wind generation projects. Notably, during the time that MMS has been promulgating this rule, the states of Delaware, New Jersey, and Rhode Island have conducted competitive processes and have selected companies to develop wind resources on the OCS. We believe that the pre-existing state processes are relevant to the competitive processes that MMS is required to conduct following approval of this rule. We intend to do so by using a competitive process that considers, among other things, whether a prospective lessee has a power purchase agreement or is the certified winner of a competitive process conducted by an adjacent state. We also may consider a similar approach to recognize the winners of competitions held by states in the future. There is additional discussion of this issue in our explanation of multiple factor bidding provided in the next section" (MMS 2009, 19663).

6. E
ach federal process (i.e. U.S. Army Corps of Engineers and Bureau of Ocean Energy Management, Regulation, and Enforcement), depending on the resources encountered by a

project in Rhode Island's offshore waters, brings to bear a series of other federal regulations and processes.

160.2. Engaging Stakeholders

1. O
cean SAMP development and implementation depends on collaboration among and engagement by all stakeholders. Stakeholders are defined as government, citizens, civic and environmental organizations, resource users, and the private sector. The Ocean SAMP established a framework that engaged all major stakeholders. Major aspects of this stakeholder involvement include the following:

a. O
cean SAMP Stakeholder Group: From the outset, the Ocean SAMP stakeholder group has been an integral part of both determining the scope and contents of the document as well as refining the described policies. New research and findings were shared and developed in coordination with the stakeholders as a mechanism to ground truth and enhance findings. The Ocean SAMP goals and principles upon which the Ocean SAMP was produced were refined and approved by the stakeholders. Through a web site, list serve, and monthly meetings, the Ocean SAMP stakeholder process provided the public with an opportunity to stay up to date on current research, learn about Rhode Island's offshore waters, ask questions and express concerns, as well as engage in the process of determining chapter scope and content (Payne 2010).

b. T
echnical Advisory Committees: CRMC established a Technical Advisory Committee (TAC) for each Ocean SAMP chapter. The TAC was made up of scientists, government agency representatives, and resource users with expertise in the chapter topic. The purpose of the TAC was to provide expert advice on the contents and scope for each chapter. TAC members assisted CRMC in refining and enhancing the chapters.

c. S
cience Advisory Task Force: The Ocean SAMP Science Advisory Task Force included scientists representing different areas of scientific expertise. The purpose of the Science Advisory Task Force was to provide expertise and input specific to the science and research-based aspects of the Ocean SAMP effort. The Task Force met periodically to discuss the science and the research as well as provide advice.

d. F
ederal and State Agency Coordination: CRMC engaged federal and state agency

representatives to help determine and respond to the scope of the Ocean SAMP document. This constant engagement ensured that the Ocean SAMP will help to fulfill many of the regulatory requirements for each of these agencies as well as identified appropriate coordination mechanisms among these agencies that assist in future decision making.

2. CRMC is committed to continuing the transparent decision making process established during the development of the Ocean SAMP process. See Chapter 11, The Policies of the Ocean SAMP, for more information.

Section 170. The Contents of the Ocean SAMP Document

1. The chapters that follow provide detailed findings of fact that describe the physical, biological and social aspects of the Ocean SAMP study area. This information comes from the best available science. When existing data did not exist—for example to better understand the physical oceanography, human uses of the study area by commercial mariners, recreational boaters and commercial and recreational fishermen—the CRMC, in coordination with the University of Rhode Island, implemented research to collect this necessary information.

2. Ocean SAMP policies and regulatory standards presented in this document represent actions the CRMC will take to uphold its regulatory responsibilities mandated to them by the Rhode Island General Assembly and the federal Coastal Zone Management Act to achieve the Ocean SAMP goals and principles described above. Policies presented for cultural and historic resources, fisheries, recreation and tourism, and marine transportation promote and enhance existing uses and honor existing activities (Goal b, Principle c). 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 a, Principle d). 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.

3. The Ocean SAMP also provides thoughtful direction to encourage marine based economic development that considers the aspirations of local communities and is consistent with and complementary to the state's overall economic development, social, and environmental needs and goals (Goal c). 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 d), developing the Ocean SAMP document in a transparent manner (Principle a), and promoting adaptive management (Principle e). All Ocean SAMP policies are

important to ensure that the Ocean SAMP region is managed in a manner that both meets the needs of the people of Rhode Island, while protecting and restoring our natural environment for future generations.

~~Section 180. Literature Cited~~

~~ATM. 2007. RI Winds Summary Report, Applied Technology and Management for RI Office of Energy Resources, Providence, RI. Available online at:~~

~~http://www.energy.ri.gov/documents/renewable/RIWINDS_RANKING.pdf. Last accessed March 15, 2010.~~

~~Battelle. 2003. Final Report, Task 10.4 Alternative Site Screening Report. June 2003.~~

~~McLeod, K. L., J. Lubchenco, S. R. Palumbi, and A. A. Rosenberg. 2005. Scientific Consensus Statement on Marine Ecosystem-Based Management. Signed by 221 academic scientists and policy experts with relevant expertise and published by the Communication Partnership for Science and the Sea at <http://compassonline.org/?q=EBM>.~~

~~MMS. 2009. "Renewable Energy and Alternate Uses of Existing Facilities on the Outer Continental Shelf; Final Rule." *Federal Register*, April 29, 2009, 74(81): 19638-19871.~~

~~Payne, K. 2010. Stakeholder Process. Report of the Ocean Special Area Management Plan. June 30, 2010.~~