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

PROPOSED CHANGES MEMO

September 28, 2010

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 all proposed changes to date for the Ocean Special Area Management Plan. **Please note that this memo proposed new changes, in addition to those detailed in the September 14th, 2010 memo to the Council.** All proposed changes listed here are suggested in response to public comments received by the September 9th, 2010 public comment deadline. We submit these to you for your review.

Please also note that several items presented in this memo are items for which we had also proposed changes in the September 14th memo. These items are as follows:

Chapter 1, item #8, page 5
Chapter 8, item #1, page 23
Chapter 8, item #12, page 30
Chapter 8, item #15, page 33
Chapter 8, item #20, page 36
Chapter 8, item #26, page 39

These items are also notated throughout the body of the memo. **Please note that for these items, this memo supercedes the September 14th memo, as it includes all final proposed changes.**

Chapter 1, Introduction:

1. **We propose the following change to section 100 to address comments received from the Conservation Law Foundation and BOEMRE. Paragraphs # 1 and 3 have been swapped such that the section is now re-ordered as follows, and the new prgh #3 has been edited as follows:**

The former paragraph 3 is now the first paragraph of the section:

"~~3~~1. Rhode 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."

The former paragraph 1 is now the third paragraph of the section:

"~~1~~3. ~~For thousands of years the~~The 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."

2. **We propose the following change to section 110, #4, in response to comments received from Don Pryor and Save the Bay regarding aquaculture and dredging:**

"4. Ocean 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 herby modified. In addition, RICRMP Sections 300.3 and 300.8 and the 1978 Energy Amendments are hereby superseded within the Ocean SAMP study area. ~~Aquaculture projects of any size shall follow Section 300.11 of the RICRMP. Dredging and dredge disposal activities remain governed by Section 300.9 of the RICRMP.~~"

3. **We propose the following changes to section 110, #5, to address comments received from the RI DEM Office of Water Resources (regarding water type designations) and Save the Bay and Eugenia Marks/Audubon Society of Rhode Island (regarding ecosystem-based management). These changes will require an associated change to section 180, Literature Cited:**

"5. As with the six existing Rhode Island SAMPs and ~~the state's water classification program~~ 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 ~~is defined~~ defines EBM as "an integrated approach to management that considers the entire ecosystem, including humans. The goal of EBM is to ~~as~~ maintain~~ing or restoring~~ an ecosystem ~~to~~ in a healthy, productive and resilient condition that provides the services ~~that~~ 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."

New footnote:

"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."

Reference added to Section 180, Literature Cited:

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.

4. **If the aforementioned change is approved, we will also need to change similar language in Chapter 11, The Policies of the Ocean SAMP, Section 1110 #4, and in the Executive Summary, as follows:**

Chapter 11, Section 1110 #4:

"4. As with the six existing Rhode Island SAMPs and ~~the state's water classification program~~ 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 ~~is defined~~ defines EBM as "an integrated approach to management that considers the entire ecosystem, including humans. The goal of EBM is to ~~as~~ maintain~~ing or restoring~~ an ecosystem ~~to~~ in a healthy, productive and resilient condition that provides the services ~~that~~

humans want and need."[3] 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."

New footnote:
"3. 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."

Executive Summary, item #4:
"4. Since 1983 the CRMC has successfully applied marine spatial planning (MSP) to achieve ecosystem-based management along Rhode Island's coastline. CRMC's six existing SAMP's, as well as the state's ~~water classification program~~water type designations, successfully apply MSP. Through the Ocean SAMP, CRMC builds on this success and applies this same MSP technique to effectively manage Rhode Island's offshore waters."

5. **We propose the addition of a new item, #7, to section 110 to address comments received from Save the Bay, Don Pryor, and other commenters:**

"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 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."

6. **We propose the following change to section 120, #2, in response to comments received from the Conservation Law Foundation, Eugenia Marks/Audubon Society of Rhode Island, and other commenters:**

"2. The 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. ~~Ocean SAMP policies require that offshore developments avoid Areas of Particular Concern. If avoidance is not possible,~~

~~projects shall be required to minimize impacts, and as necessary, mitigate any significant adverse impacts to these resources.~~ For a more detailed description of these areas and policies, see Chapter 11, The Policies of the Ocean SAMP."

7. **We propose the following change to section 130, item #5e, in response to comments received from the Conservation Law Foundation:**

"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 SAMP through adaptive management.**"**

8. **We propose the following change to section 140, Ocean SAMP Study Area, #1, in response to comments received from the RI DEM Office of Water Resources. PLEASE NOTE THAT REVISIONS FOR THIS ITEM HAD ALSO BEEN PROPOSED IN THE SEPTEMBER 14th MEMO, AND THAT THE BELOW CHANGES SUPERCEDE THOSE PROPOSED IN THAT MEMO:**

"1. The 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.

9. **We propose the following change to section 150, item #3, in response to comments received from the Conservation Law Foundation:**

"3. In 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 20202019. 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."

10. If the Council approves the aforementioned change, similar language must also be changed in the Executive Summary as follows:

"6. There is an increased demand for the potential placement of many structures and activities, including liquefied natural gas infrastructure, aquaculture, and artificial reefs, in Rhode Island's offshore waters. However, the major driver for the development of the Ocean SAMP was the determination by the Rhode Island's Office of Energy Resources (OER) in 2007 that investment in offshore wind farms would be necessary to achieve Governor Donald Carcieri's mandate that offshore wind resources provide 15 percent of the state's electrical power by 20192020. 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."

Chapter 2, Ecology of the SAMP Area:

1. **In response to comments from Ames Colt, Sec. 210, #6 we propose the following revision to better describe which bottom habitats are most prone to disturbance:**

"Since these ecological "shaping" processes are ongoing, the bottom community of the Ocean SAMP area, particularly those comprised of mud, sand, and/or silt, are ~~is~~ in a constant state of flux as habitat patches are altered or destroyed, moved or recreated along the bottom. ~~The~~ These benthic ~~community~~ communities within~~of~~ the Ocean SAMP area ~~is~~ could therefore be expected to be composed of organisms that can withstand, and perhaps even thrive in an ever changing physical benthic environment."

2. **In response to comments from Ames Colt, Sec. 220.2, #1 we propose the following revision to better describe the time frame in which hurricane activity has been at a lull in the Ocean SAMP are vs. the Atlantic Coast in general:**

"The Ocean SAMP area is not an area regularly frequented by hurricanes—there has not been a single hurricane strike (to Rhode Island) since ~~2000 despite that decade~~1996, despite the period 2000–2010 being labeled one of the most active hurricane periods on record (http://csc-s-maps-g.csc.noaa.gov/hurricanes/viewer.html)."

3. **In response to comments from Save the Bay, Sec. 250.2.1, #1 we propose the following revision to better reflect that seaducks forage in shallow waters of the Ocean SAMP area for benthic invertebrate food items:**

"Invertebrate species make up a large proportion of the biota found in the benthic ecosystem, and they play an important role as a food source for fishes, and for birds in shallow waters."

4. **We propose the following addition to Chapter 2 in response to comments from the Conservation Law Foundation. We will add an "Appendix I" to Chapter 2 that will include the section entitled "Siting Analysis-Ecological Value Map" that was previously included in Chapter 8, Renewable Energy and Other Offshore Development, section 830.3. Appendix I will also include Figure 2.40 (previously Figure 8.35 in the Renewable Energy Chapter) and a new reference in the chapter's Literature Cited, as follows:**

"Appendix I. Siting Analysis- Ecological Value Map

"1. A second tool developed to help identify areas most suitable for offshore renewable energy development is the Ecological Value Map (EVM) created by French-McCay and Grilli (2010). As part of the EVM framework, French-McCay and Grilli (2010) modeled the ecological value of the

Ocean SAMP area by inputting geospatial data describing the geophysical environment, fish and wildlife species distribution, ecosystem and habitat characteristics, as well as human uses, such as fishing activity collected by Ocean SAMP researchers. For this analysis, French-McCay and Grilli (2010) defined 'ecological value' to include both the intrinsic value of biodiversity and the socioeconomic value associated with the goods and services provided by the marine ecosystem (e.g. fishing activity). See French-McCay and Grilli (2010) for more information on the development and application of EVM.

"2. The process used by French-McCay and Grilli (2010) is illustrated in . First, separate EVMs were generated for individual species based on aggregation data collected and modeled over a 100 meter grid across the Ocean SAMP area (the same grid used by the TDI analysis described in Section 830.2).[1] The species specific EVMs were then combined to create group EVMs, resulting in EVMs for the following categories: benthic ecosystems, pelagic ecosystems, fish, birds, sea turtles, marine mammals, bats and fisheries. This grid is the same grid used by the TDI analysis described in Section 830.2. French-McCay and Grilli (2010) used alternative weighing schemes when combining species maps into group maps to reflect relative intrinsic and service values, as well as uncertainties in the underlying data. The researchers then combined all category EVMs, across all resources, to create a composite EVM for the entire Ocean SAMP area. In the end, the EVM framework provides a tool to help identify portions of the Ocean SAMP area that have greater ecological value. Understanding where these zones of greatest ecological value exist in the Ocean SAMP area may help in determining appropriate sites suitable for an offshore renewable energy development.

"3. To complement the EVM framework, French-McCay and Grilli (2010) also performed a principal component and cluster analysis on the maps of species distribution to identify homogeneous areas within the Ocean SAMP boundary and generate an Ecological Topology Map of the Ocean SAMP area. To accomplish this, French-McCay and Grilli (2010) used principal component analysis to identify what factors best explain species distribution (e.g. bathymetry, water temperature, fishing activity). The researchers then use cluster analysis to identify similar zones within the Ocean SAMP area, in terms of biodiversity and ecological structure, and generate an ecological topology map. This type of analysis may also provide a useful tool when siting offshore renewable energy facilities, as it provides information on what factors are influencing biological distributions in the Ocean SAMP area. For more information on the principal component and cluster analysis used please see French-McCay and Grilli (2010)."

[1] To quantify distributions and relative densities of specific species, French-McCay and Grilli (2010) applied the wildlife movement (migration and behavior) model (WILDMAP™). This model is based on life history information, nesting/breeding and foraging locations, and available observational data for the species evaluated. The model predictions are then ground-truthed by presence/absence, abundance, frequency and spatial observational data. For more information on the WILDMAP model used to predict usage by marine life see (ASA 2010).

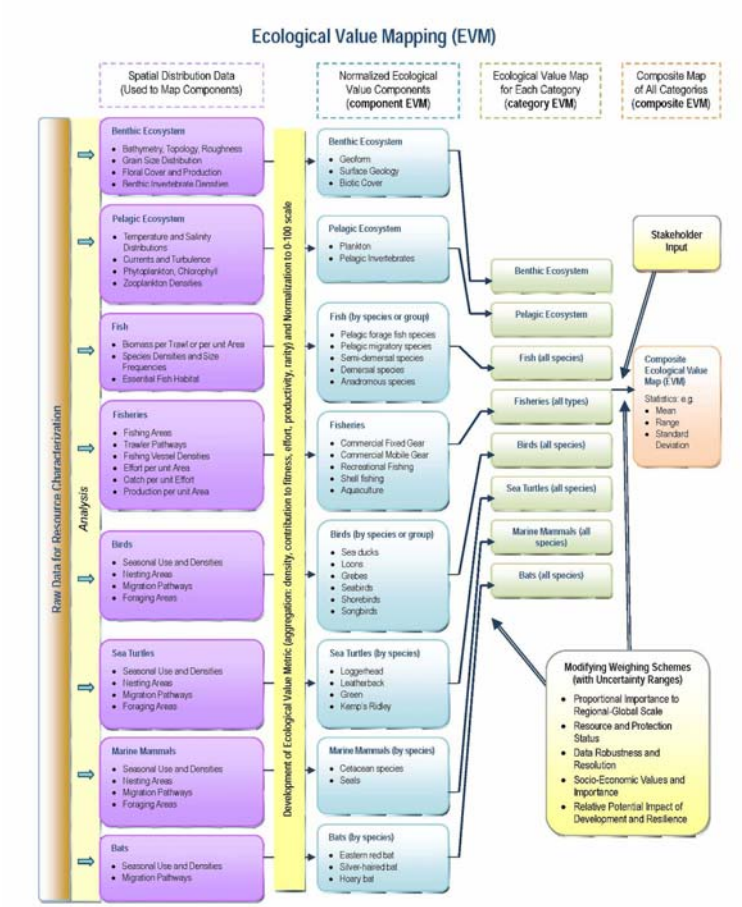


Figure 2.40. Framework for Ecological Valuation Mapping as applied to the Ocean SAMP (French-McCay and Grilli 2010).

New reference for Chapter 2 Literature Cited:

French-McCay, D. and Grilli, A. 2010. Ecological Value Map (EVM) for the Rhode Island Ocean Special Area Management Plan. Technical Report.

5. **If the Council approves the aforementioned change, this will require deleting section 830.3, Siting Analysis-Ecological Value Map, from Chapter 8, Renewable Energy and Other Offshore Development. In Chapter 8, this necessitates renumbering the subsequent sections; deleting Figure 8.35 and renumbering all subsequent figures; and removing all references to this section and this figure, as follows:**

~~"830.3. Siting Analysis- Ecological Value Map~~

~~"1. A second tool developed to help identify areas most suitable for offshore renewable energy development is the Ecological Value Map (EVM) created by French-McCay and Grilli (2010). As part of the EVM framework, French-McCay and Grilli (2010) modeled the ecological value of the~~

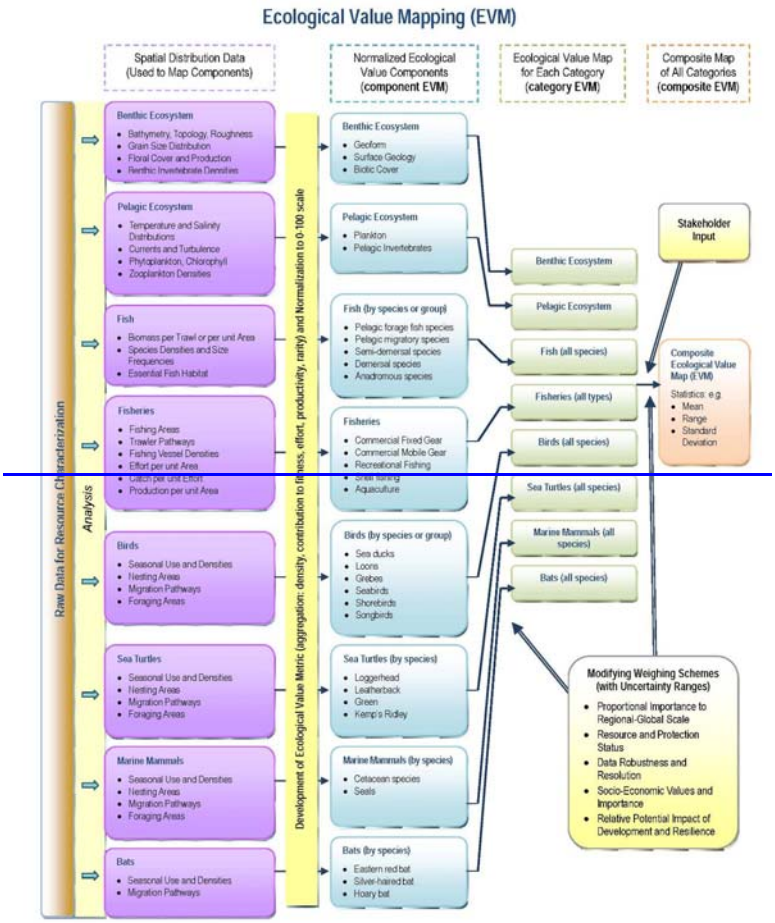
~~Ocean SAMP area by inputting geospatial data describing the geophysical environment, fish and wildlife species distribution, ecosystem and habitat characteristics, as well as human uses, such as fishing activity collected by Ocean SAMP researchers. For this analysis, French-McCay and Grilli (2010) defined 'ecological value' to include both the intrinsic value of biodiversity and the socioeconomic value associated with the goods and services provided by the marine ecosystem (e.g. fishing activity). See French-McCay and Grilli (2010) for more information on the development and application of EVM.~~

~~"2. The process used by French-McCay and Grilli (2010) is illustrated in Figure 8.35. First, separate EVMs were generated for individual species based on aggregation data collected and modeled over a 100-meter grid across the Ocean SAMP area (the same grid used by the TDI analysis described in Section 830.2).[2] The species specific EVMs were then combined to create group EVMs, resulting in EVMs for the following categories: benthic ecosystems, pelagic ecosystems, fish, birds, sea turtles, marine mammals, bats and fisheries. This grid is the same grid used by the TDI analysis described in Section 830.2. French-McCay and Grilli (2010) used alternative weighing schemes when combining species maps into group maps to reflect relative intrinsic and service values, as well as uncertainties in the underlying data. The researchers then combined all category EVMs, across all resources, to create a composite EVM for the entire Ocean SAMP area. In the end, the EVM framework provides a tool to help identify portions of the Ocean SAMP area that have greater ecological value. Understanding where these zones of greatest ecological value exist in the Ocean SAMP area may help in determining appropriate sites suitable for an offshore renewable energy development.~~

~~"3. To complement the EVM framework, French-McCay and Grilli (2010) also performed a principal component and cluster analysis on the maps of species distribution to identify homogeneous areas within the Ocean SAMP boundary and generate an Ecological Topology Map of the Ocean SAMP area. To accomplish this, French-McCay and Grilli (2010) used principal component analysis to identify what factors best explain species distribution (e.g. bathymetry, water temperature, fishing activity). The researchers then use cluster analysis to identify similar zones within the Ocean SAMP area, in terms of biodiversity and ecological structure, and generate an ecological topology map. This type of analysis may also provide a useful tool when siting offshore renewable energy facilities, as it provides information on what factors are influencing biological distributions in the Ocean SAMP area. For more information on the principal component and cluster analysis used please see French-McCay and Grilli (2010)."~~

Deleted footnote:

~~[2] To quantify distributions and relative densities of specific species, French-McCay and Grilli (2010) applied the wildlife movement (migration and behavior) model (WILDMAP™). This model is based on life history information, nesting/breeding and foraging locations, and available observational data for the species evaluated. The model predictions are then ground truthed by presence/absence, abundance, frequency and spatial observational data. For more information on the WILDMAP model used to predict usage by marine life see (ASA 2010).~~



~~**Figure 8.35.** Framework for Ecological Valuation Mapping as applied to the Ocean SAMP (French-McCay and Grilli 2010).~~

Deleted from Chapter 8 Literature Cited:

~~French-McCay, D. and Grilli, A. 2010. Ecological Value Map (EVM) for the Rhode Island Ocean Special Area Management Plan. Technical Report.~~

6. **We propose the following changes to section 270.1, General Policies, items #1, 3, and 4, in response to comments received from Eugenia Marks/Audubon Society of Rhode Island:**

"1. The Council recognizes that the preservation and restoration of ecological systems shall be the primary guiding principle upon which environmental alteration of coastal resources will be measured. ~~Impacts from future~~ Proposed activities shall be ~~avoided~~ designed to avoid impacts and, ~~if they are~~where unavoidable impacts may occur, those impacts shall be minimized and mitigated."

"3. The Council recognizes that while all fish habitat is important, spawning and nursery areas are especially critical in providing shelter for these species during the most vulnerable stages of their life cycles. The Council will ensure that proposed activities shall be designed to avoid impacts to these sensitive habitats, and ~~avoided~~ where unavoidable impacts may occur ~~and~~, ~~if they are unavoidable, are~~ those impacts shall be minimized and mitigated. In addition, the Council will give consideration to habitat used by species of concern as defined by the NMFS Office of Protected Resources."

"4.Because the Ocean SAMP is located at the convergence of two eco-regions and therefore more susceptible to change, the Council will work with partner federal and state agencies, research institutions, and environmental organizations to carefully manage this area, especially as it relates to the projected effects of global climate change on this rich ecosystem."

7. **If the Council approves the aforementioned changes, the same language will need to be updated in Chapter 11, The Policies of the Ocean SAMP, section 1150.1 items 1, 3, and 4, as follows:**

"1. The Council recognizes that the preservation and restoration of ecological systems shall be the primary guiding principle upon which environmental alteration of coastal resources will be measured. ~~Impacts from future~~ Proposed activities shall be ~~avoided~~ designed to avoid impacts and, ~~if they are~~ where unavoidable impacts may occur, those impacts shall be minimized and mitigated."

"3. The Council recognizes that while all fish habitat is important, spawning and nursery areas are especially critical in providing shelter for these species during the most vulnerable stages of their life cycles. The Council will ensure that proposed activities shall be designed to avoid impacts to these sensitive habitats, are ~~avoided~~ where unavoidable impacts may occur ~~and~~, ~~if they are unavoidable, are~~ those impacts shall be minimized and mitigated. In addition, the Council will give consideration to habitat used by species of concern as defined by the NMFS Office of Protected Resources."

"4.Because the Ocean SAMP is located at the convergence of two eco-regions and therefore more susceptible to change, the Council will work with partner federal and state agencies, research institutions, and environmental organizations to carefully manage this area, especially as it relates to the projected effects of global climate change on this rich ecosystem."

8. **We suggest the following addition to section 270.2, Regulatory Standards, in response to comments received from the Conservation Law Foundation, The Nature Conservancy, Save the Bay, the Audubon Society of Rhode Island, Carolyn Karp, and other commenters:**

New Regulatory Standard #6 as follows:

"6. The Council shall establish 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 important marine resource and habitat areas. 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."

9. **If the Council approves the aforementioned addition, the same language will need to be integrated into Chapter 8, Renewable Energy and Other Offshore Development, and Chapter 11, The Policies of the Ocean SAMP, as follows:**

Chapter 8, section 860.2.1, Regulatory Standards, new #12:

"12. The Council shall establish 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 important marine resource and habitat areas. 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 1160.1, new #12:

"12. The Council shall establish 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 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 important marine resource and habitat areas. 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 3, Global Climate Change:

1. **We propose the following revision to section 350.1, General Policies, #3, in response to comments from Ames Colt:**

"3. The Council will convene a panel of scientists, biannually, to advise on findings of current climate science for the region and the implications for Rhode Island's coastal and offshore regions, as well as the possible management ramifications. The horizon for evaluation and planning needs to include both the short term (10 years) and longer term (50 years). The Science Advisory Panel for Climate Change will provide the Council with expertise on the most current global climate change related science, monitoring, policy, and development design standards relevant to activities within its jurisdiction of the Ocean SAMP and its associated land-based infrastructure to proactively plan for and adapt to climate change impacts such as increased storminess, temperature change, and acidification in addition to accelerated sea level rise. The findings of this Science Advisory Panel will be forwarded on to the legislatively-appointed Rhode Island Climate Change Commission for their consideration."

2. **If the Council approves the aforementioned change, the same language will need to be updated in Chapter 11, The Policies of the Ocean SAMP, section 1150.2 #3, as follows:**

"3. The Council will convene a panel of scientists, biannually, to advise on findings of current climate science for the region and the implications for Rhode Island's coastal and offshore regions, as well as the possible management ramifications. The horizon for evaluation and planning needs to include both the short term (10 years) and longer term (50 years). The Science Advisory Panel for Climate Change will provide the Council with expertise on the most current global climate change related science, monitoring, policy, and development design standards relevant to activities within its jurisdiction of the Ocean SAMP and its associated land-based infrastructure to proactively plan for and adapt to climate change impacts such as increased storminess, temperature change, and acidification in addition to accelerated sea level rise. The findings of this Science Advisory Panel will be forwarded on to the legislatively-appointed Rhode Island Climate Change Commission for their consideration."

Chapter 4, Cultural and Historic Resources:

1. **We propose the following change to section 440, Cultural and Historic Resource Policies, #7, in response to comments received from BOEMRE as well as input from the RI State Historic Preservation Office:**

"7. In addition to general Area of Particular Concern buffer/setback distances around shipwrecks or other submerged cultural resources, ~~Based upon recommendations from RIHPHC,~~ the Council reserves the right, based upon recommendations from RIHPHC, to establish protected areas around ~~shipwrecks or other~~ all submerged cultural resources ~~for which an official Determination of Eligibility~~which meet the criteria ~~-~~for listing on the National Register of Historic Places ~~has been made.~~"

2. **If the Council approves the aforementioned change, the same language will also need to be updated in Chapter 11, The Policies of the Ocean SAMP, Section 1150.3, #8, as follows:**

"8. In addition to general Area of Particular Concern buffer/setback distances around shipwrecks or other submerged cultural resources, ~~Based upon recommendations from RIHPHC,~~ the Council reserves the right, based upon recommendations from RIHPHC, to establish protected areas around ~~shipwrecks or other~~ all submerged cultural resources ~~for which an official Determination of Eligibility~~which meet the criteria ~~-~~for listing on the National Register of Historic Places ~~has been made.~~"

Chapter 5, Commercial and Recreational Fisheries:

1. **We propose the following change to Section 560.1, General Policies, item #6, in response to comments from BOEMRE:**

"6. ~~Consultations~~ 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 ~~immediately~~ 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."

2. **If the Council approves the aforementioned change, this same language is going to need to be changed accordingly in four other sections of the Ocean SAMP Document as follows:**

Chapter 6, Recreation and Tourism, Section 660.1, #6:
"6. ~~Consultations~~ 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 ~~immediately~~ 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."

Chapter 7, Marine Transportation, Section 770.1, #5:

"5. ~~Consultations~~ 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 ~~immediately~~ 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."

Chapter 8, Renewable Energy and Other Offshore Development, Section 860.1, #9:

"9. ~~Consultations~~ 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 ~~immediately~~ 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."

Chapter 11, Policies of the Ocean SAMP, Section 1150.7, #8:

"8. ~~Consultations~~ 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 ~~immediately~~ 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."

3. **We propose the following change to section 560.2, Regulatory Standards, #1, in response to comments received from the RI DEM (regarding the Marine Fisheries Council); the State of Massachusetts (regarding the composition of the Fishermen's Advisory Board); The Nature Conservancy, Conservation Law Foundation, and other commenters (re: the Habitat Advisory Board); and Save the Bay (regarding the definition of micro-siting):**

"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 intented 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. 20-30-1 *et. seq*. The FAB shall be comprised of ~~six~~ nine members, ~~one~~ six representing each of the following Rhode Island fisheries: bottom trawling; scallop dredging; gillnetting; lobstering; party and charter boat fishing; and recreational angling; and three members 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 ~~of~~ individual ~~structures~~structure); access limitations; and measures to mitigate the potential impacts of such projects on the fishery. Any Large-Scale Offshore Development, as defined in section 1160.1 of Chapter 11, The Policies of the Ocean SAMP, shall require a pre-application meeting between the 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. During the pre-application meeting for a Large-Scale Offshore Development, the FAB can also identify areas of high fishing activity or habitat edges."

4. **If the Council approves the aforementioned change, the same language will need to be updated accordingly in Chapter 8, Renewable Energy, section 860.2.1, and Chapter 11, Policies of the Ocean SAMP, section 1160.1, as follows:**

Chapter 8, Renewable Energy, section 860.2.1:
"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 intented 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. 20-30-1 *et. seq*. The FAB shall be comprised of ~~six~~ nine members, ~~one~~ six representing each of the following Rhode Island fisheries: bottom trawling; scallop dredging; gillnetting; lobstering; party and charter boat fishing; and recreational angling; and three members 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 ~~of~~ individual ~~structures~~structure); access limitations; and measures to mitigate the potential impacts of such projects on the fishery. Any Large-Scale Offshore Development, as defined in section 1160.1 of Chapter 11, The Policies of the Ocean SAMP, shall require a pre-application meeting between the 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. During the pre-application meeting for a Large-Scale Offshore Development, the FAB can also identify areas of high fishing activity or habitat edges."

Chapter 11, Policies of the Ocean SAMP, section 1160.1:
"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 intented 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. 20-30-1 *et. seq*. The FAB shall be comprised of ~~six~~ nine members, ~~one~~ six representing each of the following Rhode Island fisheries: bottom trawling; scallop dredging; gillnetting; lobstering; party and charter boat fishing; and recreational angling; and three members 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 ~~of~~ individual ~~structures~~structure); access limitations; and measures to mitigate the potential impacts of such projects on the fishery. Any Large-Scale Offshore Development, as defined in section 1160.1 of Chapter 11, The Policies of the Ocean SAMP, shall require a pre-application meeting between the 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. During the pre-application meeting for a Large-Scale Offshore Development, the FAB can also identify areas of high fishing activity or habitat edges."

5. **We propose the addition of a new general policy to section 560.1, General Policies, to address comments received from the state of Connecticut Office of Long Island Sound Programs (Connecticut's coastal zone management program):**

New #7: "7. The Council recognizes that commercial and recreational fishermen from other states, such as the neighboring states of Connecticut, New York, and Massachusetts, often fish in the Ocean SAMP area. The Council also recognizes that many fish species that are harvested in adjacent waters may rely on habitats and prey located within the Ocean SAMP area. Accordingly, the Council will work with neighboring states to ensure that Offshore Development and other uses of the Ocean SAMP area do not result in significant impacts to the fisheries resources or activities of other states."

6. **If the Council approves the aforementioned change, the same policy will need to be integrated into Chapter 11, The Policies of the Ocean SAMP, section 1150.4, as follows:**

New #6: "6. The Council recognizes that commercial and recreational fishermen from other states, such as the neighboring states of Connecticut, New York, and Massachusetts, often fish in the Ocean SAMP area. The Council also recognizes that many fish species that are harvested in adjacent waters may rely on habitats and prey located within the Ocean SAMP area. Accordingly, the Council will work with neighboring states to ensure that Offshore Development and other uses of the Ocean SAMP area do not result in significant impacts to the fisheries resources or activities of other states."

Chapter 8, Renewable Energy and Other Offshore Development:

1. **We propose the following change to section 850.1, Avoided Air Emissions, in response to comments presented by Carolyn Karp at Ocean SAMP public hearings. PLEASE NOTE THAT REVISIONS FOR THIS ITEM HAD ALSO BEEN PROPOSED IN THE SEPTEMBER 14th MEMO, AND THAT THE BELOW CHANGES SUPERCEDE THOSE PROPOSED IN THAT MEMO:**

"3. The process of siting, constructing, and decommissioning an offshore renewable energy project of any kind would entail some adverse impacts to air quality through the emission of carbon dioxide and conventional pollutants. Construction activity in the offshore environment would require the use of fossil fuel-powered equipment that will result in a certain level of air emissions from activities including pile installation, scour protection installation, cable laying, support structure and turbine installation, and other activities required for the development of a wind farm. During the pre-construction and installation stages, there would be some air emissions in the Ocean SAMP area from fossil fuel fired mobile sources such as ships, cranes, pile drivers and other equipment. Decommissioning would also result in some air emissions from the activities involved in the removal of the wind turbines, although emissions from decommissioning would be lower than those involved in construction (MMS 2009a). The size of an offshore renewable energy facility's carbon footprint will vary depending on the project, as the carbon footprint of a facility depends on project specific factors (e.g. size, location, technology, installation techniques, etc.). Any calculation of carbon footprint would include the pre-construction, construction, operation, and decommissioning phases of a project."

2. **We propose the following change to Section 850.4.1, Birds: Habitat Displacement or Modification, Paragraph 2, to further describe the issue of permanent habitat loss for diving ducks in response to comments from the Conservation Law Foundation, Save the Bay, The Nature Conservancy, Don Pryor, and other commenters:**

"2. Changes in species distribution have been observed at a number of offshore wind energy facilities in Europe. Studies of the Horns Rev and Nysted wind farms in Denmark generally found birds to demonstrate avoidance behavior of the wind farms, although the responses were highly species specific. Diving ducks, in particular, avoided the turbines, and few birds were observed in the area within the turbines (see Table 8.15). This displacement of birds represents effective habitat loss for a number of species, although it is important to evaluate habitat loss in terms of the total proportion of feeding habitat available (DONG Energy and Vattenfall 2006). One reported example of habitat displacement was found to occur at the Nysted Offshore Wind Energy Facility in Denmark. Long-tailed ducks (*Clangula hyemalis*) at this site showed statistically significant reductions in density within and 2 km (1.2 miles) around the wind farm post-construction. Prior to construction the same area had shown higher than average densities, suggesting that the facility had resulted in the displacement of this species from formerly favored feeding areas. However, the observed number of long-tailed ducks was

relatively low and therefore of no significance to the overall population (DONG Energy and Vattenfall 2006)."

3. **We propose the following changes to section 850.9, items #3, 5, and 6, on the potential effects of offshore renewable energy on cultural and historic resources in response to comments from the RI DEM Office of Water Resources and BOEMRE in addition to input from the Rhode Island State Historic Preservation Office to help clarify information about the "Area of Potential Effect". This change will also require an associated change to Section 880, Literature Cited:**

"3. The term "Area of Potential Effect" (APE) is defined under the federal National Historic Preservation Act (36 CFR § 800.1-800.16) as the areas within which a project may directly or indirectly alter the character or use of historic properties. For offshore development proposals, BOEMRE defines an ~~Area of Potential Effect (~~APE~~)~~ for direct impacts ~~is defined~~ to include both offshore submerged areas and onshore land-based sites where physical disturbance would be required for construction, operation, maintenance, and decommissioning. The APE for submerged areas includes footprints of proposed structures to be secured on the ocean floor and related work area or cable routes where ocean sediments and sub-bottom may be disturbed~~.~~ (MMS 2010). For onshore sites, the APE would include any soil disturbance required for cables or connections to onshore electric transmission cable systems, or visual impacts specifically related to National Historic Landmarks, and other properties listed or eligible for listing on the National Register of Historic Places, ~~or~~ including Traditional Cultural Properties (MMS 2010).

"5. For offshore development proposals, an Area of Potential Effect (APE) for indirect impacts is defined to include the area within which the final project as well as the various phases of construction will be notably visible. Visual impacts to the setting, character and other aspects of onshore land-based sites may result from the final project as well as the various phases of construction in an offshore renewable energy project. If turbines were visible from shore, this would represent a change in the viewshed and an alteration of the aesthetics of the visual setting ~~from~~ of areas where the~~y~~ structures were visible. For onshore land-based sites, the overall perception of visual impacts of offshore developments is subjective and opinions vary about whether visual impacts for a given project are positive, negative, or neutral (MMS 2007a). In advance of the construction phase, a meteorological tower will likely be installed in the project area to collect data to assess the wind resources. The visual impact of the tower will depend on its distance and thus visibility from shore. During the construction, operation and decommissioning phases, there will be increased vessel traffic in the project area, which will alter the visual characteristics of this area in that many of the construction and maintenance vessels, including a variety of ships and crane/jack-up barges, may be larger in size than other vessels traditionally in use within the project area (MMS 2009a). The FAA will likely require aircraft warning lights on the turbines for air safety purposes; these will be single red lights that flash at night on the nacelles of the peripheral turbines. Whether these lights are visible from

land, and thus have an effect on land-based viewing, will depend on whether the turbines themselves are visible from land (MMS 2009a)."

"6. Section 106 of the National Historic Preservation Act, however, requires that a given project's visual effect on historic resources be evaluated ~~from~~ for National Historic Landmarks and other~~,~~ properties listed or eligible for listing on the National Register of Historic Places, ~~or~~ including Traditional Cultural Properties (MMS 2010). If there is a potential visual effect, it must be evaluated to determine what effect, if any, it would have on significant historic resources. A project may be found to have: no effect; no adverse effect if the visual impact is limited and insignificant; or an adverse effect. Adverse effects are defined by t~~T~~he Criteria of Adverse Effect ~~defined~~ in the Section 106 procedures of the National Historic Preservation Act [36 CFR 800.5(a)(1)], which state~~s~~, *"An adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association."* Examples of adverse effects relevant to the development of offshore renewable energy are listed as including, but not limited to, the following [36 CFR 800.5(a)(2)]: *"Alteration of a property…; Change of the character of the property's use or of physical features within the property's setting that contribute to its historic significance…; Introduction of visual, atmospheric or audible elements that diminish the integrity of the property's significant historic features."* Adverse effects from visual impacts may be further evaluated in the case of National Historic Landmarks to determine if they are indirect impacts or direct impacts, which diminish the core significance of the National Historic Landmark (Advisory Council on Historic Preservation, 2010).

Reference added to section 880:
Advisory Council on Historic Preservation. April 2, 2010. Comments of the Advisory Council on Historic Preservation on the proposed authorization by the Minerals Management Service for Cape Wind Associates, LLC to construct the Cape Wind Energy project on Horseshoe Shoal in Nantucket Sound, Massachusetts. Online at http://www.achp.gov/docs/CapeWindComments.pdf

4. **We propose the following change to section 860.1, General Policies, #2, in response to comments from Save the Bay:**

"2. The Council supports the policy of increasing renewable energy production in Rhode Island. The Council also recognizes:

i. Offshore wind energy currently represents the greatest potential for utility-scale renewable energy generation in Rhode Island;
ii. Offshore renewable energy development is a means of mitigating the potential effects of global climate change;
iii. Offshore renewable energy development will diversify Rhode Island's energy portfolio;

iv. Offshore renewable energy development will aid in meeting the goals set forth in Rhode Island's Renewable Energy Standard;
v. Marine renewable energy has the potential to assist in the redevelopment of urban waterfronts and ports.

The Council's support of offshore renewable energy development shall not be construed to endorse or justify any particular developer or particular offshore renewable energy proposal.

5. **If the Council approves the aforementioned change, the same language will need to be updated in Chapter 11, Policies of the Ocean SAMP, Section 1150.7, as follows:**

"1. The Council supports the policy of increasing renewable energy production in Rhode Island. The Council also recognizes:

i. Offshore wind energy currently represents the greatest potential for utility-scale renewable energy generation in Rhode Island;
ii. Offshore renewable energy development is a means of mitigating the potential effects of global climate change;
iii. Offshore renewable energy development will diversify Rhode Island's energy portfolio;
iv. Offshore renewable energy development will aid in meeting the goals set forth in Rhode Island's Renewable Energy Standard;
v. Marine renewable energy has the potential to assist in the redevelopment of urban waterfronts and ports.

The Council's support of offshore renewable energy development shall not be construed to endorse or justify any particular developer or particular offshore renewable energy proposal.

6. **We propose the following addition to Section 860.2, Regulatory Standards, in response to comments received from BOEMRE:**

New #1: "1. The federal offshore renewable energy leasing process, and subsequent regulation of renewable energy projects located in federal waters, will remain under the jurisdiction of BOEMRE, in consultation and coordination with relevant federal agencies and affected state, local, and tribal officials, as per BOEMRE's statutory authority at 43 USC 1337(p) and the regulations found at 30 CFR 285."

7. **If the Council approves the aforementioned change, the same section will need to be updated accordingly in Chapter 11, The Policies of the Ocean SAMP, section 1160, as follows:**

New #2:"2. The federal offshore renewable energy leasing process, and subsequent regulation of renewable energy projects located in federal waters, will remain under the jurisdiction of BOEMRE, in consultation and coordination with relevant federal agencies and affected state,

local, and tribal officials, as per BOEMRE's statutory authority at 43 USC 1337(p) and the regulations found at 30 CFR 285."

8. **We propose the following changes to sections 860.2.1, #1, Overall Renewable Energy Standards, and section 860.2.3, Prohibitions and Areas Designated for Prohibition, in response to comments from Save the Bay and Don Pryor regarding the regulation of aquaculture and dredging activities:**

Section 860.2, #1:
"1. All Offshore Developments regardless of size, including energy projects, which are proposed for or located within the Ocean SAMP area, are subject to the policies and standards outlined in Section 860. For the purposes of the Ocean SAMP, Offshore Developments are defined as:

i. Large-scale projects, such as:
   a. offshore wind facilities (5 or more turbines within 2 km of each other, or 18 MW power generation);
   b. wave generation devices (2 or more devices, or 18 MW power generation);
   c. instream tidal or ocean current devices (2 or more devices, or 18 MW power generation); and
   d. offshore LNG platforms (1 or more); and
   e. Artificial reefs (1/2 acre footprint and at least 4 feet high), except for projects of a public nature whose primary purpose is habitat enhancement.

ii. Small-scale projects, defined as any projects that are smaller than the above thresholds;
   a. Underwater cables;
   b. Mining and extraction of minerals, including sand and gravel;
   c. Aquaculture projects of any size, as defined in RICRMP Section 300.11 and subject to the regulations of RICRMP Section 300.11; ~~or~~
   d. Dredging, as defined in RICRMP Section 300.9 and subject to the regulations of RICRMP Section 300.9; or
   e. Other development (as defined in the RICRMP) which is located from the mouth of Narragansett Bay seaward, in tidal waters between 500 feet offshore and the 3-nautical mile, state water boundary.

Section 860.2.3, new #4:
"4. Dredged material disposal, as defined in RICRMP Section 300.9 and subject to the regulations of RICRMP Section 300.9, is further limited in the Ocean SAMP area by the prohibition of dredged material disposal in the following Areas of Particular Concern as defined in section 860.2.2: historic shipwrecks, archaeological, or historic sites; offshore dive sites; navigation, military, and infrastructure areas; and moraines. Beneficial reuse may be allowed in Areas Designated for Preservation, whereas all other dredged material disposal is prohibited in those areas. All disposal of dredged material will be conducted in accordance with the U.S. EPA

and U.S. Army Corps of Engineers' manual, *Evaluation of Dredged Material Proposed for Ocean Disposal*."

9. **If the Council approves the aforementioned change, the same language will need to be updated in Chapter 11, Policies of the Ocean SAMP, Sections 1160.1 and 1160.3, as follows:**

Section 1160.1, #1:
"1. All Offshore Developments regardless of size, including energy projects, which are proposed for or located within the Ocean SAMP area, are subject to the policies and standards outlined in Sections 1150 and 1160. For the purposes of the Ocean SAMP, Offshore Developments are defined as:

i. Large-scale projects, such as:
    a. offshore wind facilities (5 or more turbines within 2 km of each other, or 18 MW power generation);
    b. wave generation devices (2 or more devices, or 18 MW power generation);
    c. instream tidal or ocean current devices (2 or more devices, or 18 MW power generation); and
    d. offshore LNG platforms (1 or more); and
    e. Artificial reefs (1/2 acre footprint and at least 4 feet high), except for projects of a public nature whose primary purpose is habitat enhancement.
ii. Small-scale projects, defined as any projects that are smaller than the above thresholds;
    a. Underwater cables;
    b. Mining and extraction of minerals, including sand and gravel;
    c. Aquaculture projects of any size, as defined in RICRMP Section 300.11 and subject to the regulations of RICRMP Section 300.11; ~~or~~
    d. Dredging, as defined in RICRMP Section 300.9 and subject to the regulations of RICRMP Section 300.9; or
    e. Other development (as defined in the RICRMP) which is located from the mouth of Narragansett Bay seaward, in tidal waters between 500 feet offshore and the 3-nautical mile, state water boundary.

Section 1160.3, new #4: "4. Dredged material disposal, as defined in RICRMP Section 300.9 and subject to the regulations of RICRMP Section 300.9, is further limited in the Ocean SAMP area by the prohibition of dredged material disposal in the following Areas of Particular Concern as defined in section 1160.2: historic shipwrecks, archaeological, or historic sites; offshore dive sites; navigation, military, and infrastructure areas; and moraines. Beneficial reuse may be allowed in Areas Designated for Preservation, whereas all other dredged material disposal is prohibited in those areas. All disposal of dredged material will be conducted in accordance with the U.S. EPA and U.S. Army Corps of Engineers' manual, *Evaluation of Dredged Material Proposed for Ocean Disposal*."

10. We propose the following change to Section 860, regulatory standard 860.2.1 #4, in response to comments from BOEMRE:

"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 Joint Agency Working Group shall be co-led by the~~the lead federal agency with primary jurisdiction over the proposed project and the CRMC ~~and the lead federal agency with primary jurisdiction over the proposed project~~. 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."

11. If the Council approves the aforementioned change, the same language will need to be updated in Chapter 11, Policies of the Ocean SAMP, Section 1160.1, #4, as follows:

"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 Joint Agency Working Group shall be co-led by the~~the lead federal agency with primary jurisdiction over the proposed project and the CRMC ~~and the lead federal agency with primary jurisdiction over the proposed project~~. The pre-construction survey requirements outlined in Section 1160.5.3 (i) may be reduced for small-scale offshore developments as specified by the Joint Agency Working Group."

12. We propose the following changes to section 860.2.2, Areas of Particular Concern, in response to comments from Save the Bay, Conservation Law Foundation, The Nature Conservancy, Don Pryor, and other commenters. PLEASE NOTE THAT REVISIONS FOR THIS ITEM HAD ALSO BEEN PROPOSED IN THE SEPTEMBER 14th MEMO, AND THAT THE BELOW CHANGES SUPERCEDE THOSE PROPOSED IN THAT MEMO:

"1. Areas of Particular Concern (APCs) ~~that~~ have been identified 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.[65] 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:

i. Areas with unique or fragile physical features, or important natural habitats;
ii. Areas of high natural productivity;
iii. Areas with features of historical significance or cultural value;
iv. Areas of substantial recreational value;
v. Areas important for navigation, transportation, military and other human uses; and
vi. Areas of high fishing activity.

"2. The Council has designated the areas listed below in section 860.2.2.3 as Areas of Particular Concern. ~~The Council shall require applicants for Offshore Developments to avoid Areas of Particular Concern within the Ocean SAMP area. Avoidance shall be the primary goal for these areas for any Large-scale project. Small-scale or Other Offshore Development may also be required to avoid these areas. Where these Areas of Particular Concern cannot be avoided, the applicant shall be required to minimize to the greatest extent possible any impact, and as necessary, mitigate any significant impact to these resources. The applicant shall be required to demonstrate why these areas cannot be avoided or why no other alternatives are available.~~ 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 ~~Proposed~~ underwater cables, ~~will be subject to~~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.

New footnote #65:

"65. Areas of Particular Concern are identified in the federal Coastal Zone Management Act and associated CFRs; see 15 CFR 923.21.

13. If the Council approves the aforementioned change, the same language will need to be updated in Chapter 11, Policies of the Ocean SAMP, section 1160.2, as follows:

"1. Areas of Particular Concern (APCs) ~~that~~ have been identified 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.[4] 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:

i. Areas with unique or fragile physical features, or important natural habitats;
ii. Areas of high natural productivity;
iii. Areas with features of historical significance or cultural value;
iv. Areas of substantial recreational value;
v. Areas important for navigation, transportation, military and other human uses; and

vi. Areas of high fishing activity.

"2. The Council has designated the areas listed below in section 1160.2.3 as Areas of Particular Concern. ~~The Council shall require applicants for Offshore Developments to avoid Areas of Particular Concern within the Ocean SAMP area. Avoidance shall be the primary goal for these areas for any Large scale project. Small scale or Other Offshore Development may also be required to avoid these areas. Where these Areas of Particular Concern cannot be avoided, the applicant shall be required to minimize to the greatest extent possible any impact, and as necessary, mitigate any significant impact to these resources. The applicant shall be required to demonstrate why these areas cannot be avoided or why no other alternatives are available. Proposed underwater cables will be subject to certain categories of Areas of Particular Concern, as determined by the Council in coordination with the Joint Agency Working Group.~~ 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 ~~Proposed~~ underwater cables, ~~will be subject to~~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.

New footnote #4:

"4. Areas of Particular Concern are identified in the federal Coastal Zone Management Act and associated CFRs; see 15 CFR 923.21.

14. We propose the following revisions to section 860.2.2, 3(iii), Areas of Particular Concern, in response to written comments from and subsequent meetings with the Conservation Law Foundation:

"iii. Glacial moraines are important habitat areas for a diversity of fish and other marine plants and animals because of their relative structural permanence and structural complexity. Glacial

moraines create a unique bottom topography that allows for habitat diversity and complexity, which allows for species diversity in these areas and creates environments that exhibit some of the highest biodiversity within the entire Ocean SAMP area. The Council also recognizes that because glacial moraines contain valuable habitats for fish and other marine life ~~habitats,~~ they are also important to commercial and recreational fishermen. Accordingly, the Council shall designate glacial moraines as identified in Figure 8.49 and Figure 8.50 as Areas of Particular Concern."

15. If the Council approves the aforementioned changes, the same language will need to be changed in Chapter 11, The Policies of the Ocean SAMP, Chapter 2, Ecology of the SAMP Region, and Chapter 5, Commercial and Recreational Fisheries, as follows:

Chapter 11, Section 1160.2, #3(iii) and #3(v):

"iii. Glacial moraines are important habitat areas for a diversity of fish and other marine plants and animals because of their relative structural permanence and structural complexity. Glacial moraines create a unique bottom topography that allows for habitat diversity and complexity, which allows for species diversity in these areas and creates environments that exhibit some of the highest biodiversity within the entire Ocean SAMP area. The Council also recognizes that because glacial moraines contain valuable habitats for fish and other marine life ~~habitats,~~ they are also important to commercial and recreational fishermen. Accordingly, the Council shall designate glacial moraines as identified in Figures 11.3 and 11.4 as Areas of Particular Concern."

Chapter 2, section 270.2 #2: **PLEASE NOTE THAT REVISIONS FOR THIS ITEM HAD ALSO BEEN PROPOSED IN THE SEPTEMBER 14th TECHNICAL MEMO, AND THAT THE BELOW CHANGES SUPERCEDE THOSE PROPOSED IN THAT MEMO:**

"2. ~~Due to there high habitat value~~Glacial moraines are important habitat areas for a diversity of fish and other marine plants and animals because of their relative structural permanence and structural complexity. Glacial moraines create a unique bottom topography that allows for habitat diversity and complexity, which allows for species diversity in these areas and creates environments that exhibit some of the highest biodiversity within the entire Ocean SAMP area. The Council also recognizes that because glacial moraines contain valuable habitats for fish and other marine life, they are also important to commercial and recreational fishermen. Accordingly, the Council shall designate glacial moraines as identified in Chapter 11, Figures 11.3 and 11.4, as Areas of Particular Concern. ~~Applicants for Offshore Development shall avoid~~For further information on Areas of Particular Concern ~~within the Ocean SAMP area. Avoidance shall be the primary goal for these areas. Any Large-scale, Small-scale, or Other Offshore Development, as required, that cannot avoid these Areas of Particular Concern shall be required to minimize to~~ see Chapter 11, The Policies of the Ocean SAMP."

Chapter 5, section 560.2 #5:

"5. ~~The Council has designated glacial moraines, as identified in Figure 11.3 and Figure 11.4 in Chapter 11, The Policies of the Ocean SAMP, as Areas of Particular Concern.~~ Glacial

moraines are important habitat areas for a diversity of fish and other marine plants and animals because of their relative structural permanence and structural complexity. Glacial moraines create a unique bottom topography that allows for habitat diversity and complexity, which allows for species diversity in these areas and creates environments that exhibit some of the highest biodiversity within the entire Ocean SAMP area. The Council also recognizes that because glacial moraines contain valuable ~~fish~~ habitats for fish and other marine life, they are also important to commercial and recreational fishermen. ~~See Chapter 11, The Policies of the Ocean SAMP, for requirements associated with~~Accordingly, the Council shall designate glacial moraines as identified in Chapter 11, Figures 11.3 and 11.4, as Areas of Particular Concern. For further information on Areas of Particular Concern~~.~~ see Chapter 11, The Policies of the Ocean SAMP."

16. We propose the following revision to section 860.2.2, 3(v), Areas of Particular Concern, in response to written comments from and subsequent meetings with the Conservation Law Foundation:

"v. Areas of high fishing activity as identified during the pre-application process by the Fishermen's Advisory Board, as defined in section 860.2.1.6, may be designated by the Council as Areas of Particular Concern."

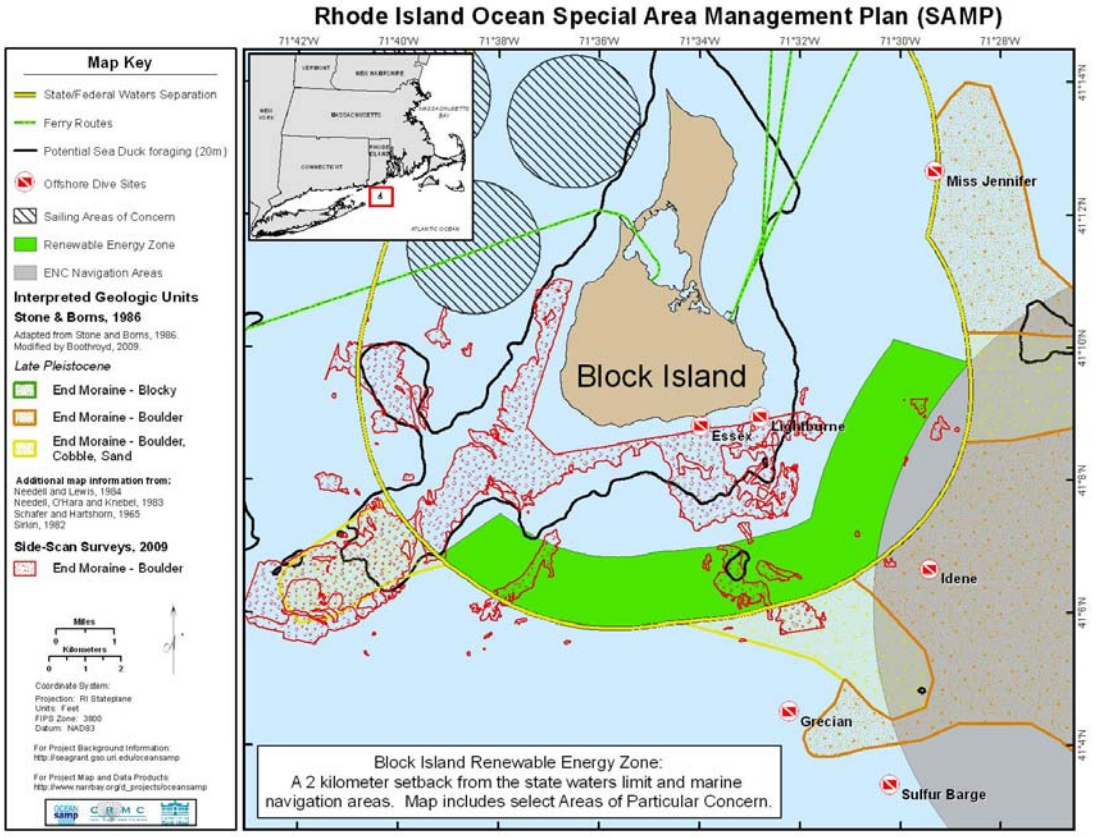
17. If the Council approves the aforementioned change, the same language will need to be updated accordingly in Chapter 11, Policies of the Ocean SAMP, section 1160.2.3(v) as follows:

"v. Areas of high fishing activity as identified during the pre-application process by the Fishermen's Advisory Board, as defined in section 1160.1.6, may be designated by the Council as Areas of Particular Concern."

18. We propose the following change to section 860.2.2, Areas of Particular Concern, in response to comments presented at Ocean SAMP public hearings by Carolyn Karp:

New item #4:
"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, including any Areas of Particular Concern that overlap the Renewable Energy Zone (see Figure 8.50)."

New Figure # 8.50:
"Figure 8.50. Areas of Particular Concern overlapping the Renewable Energy Zone."



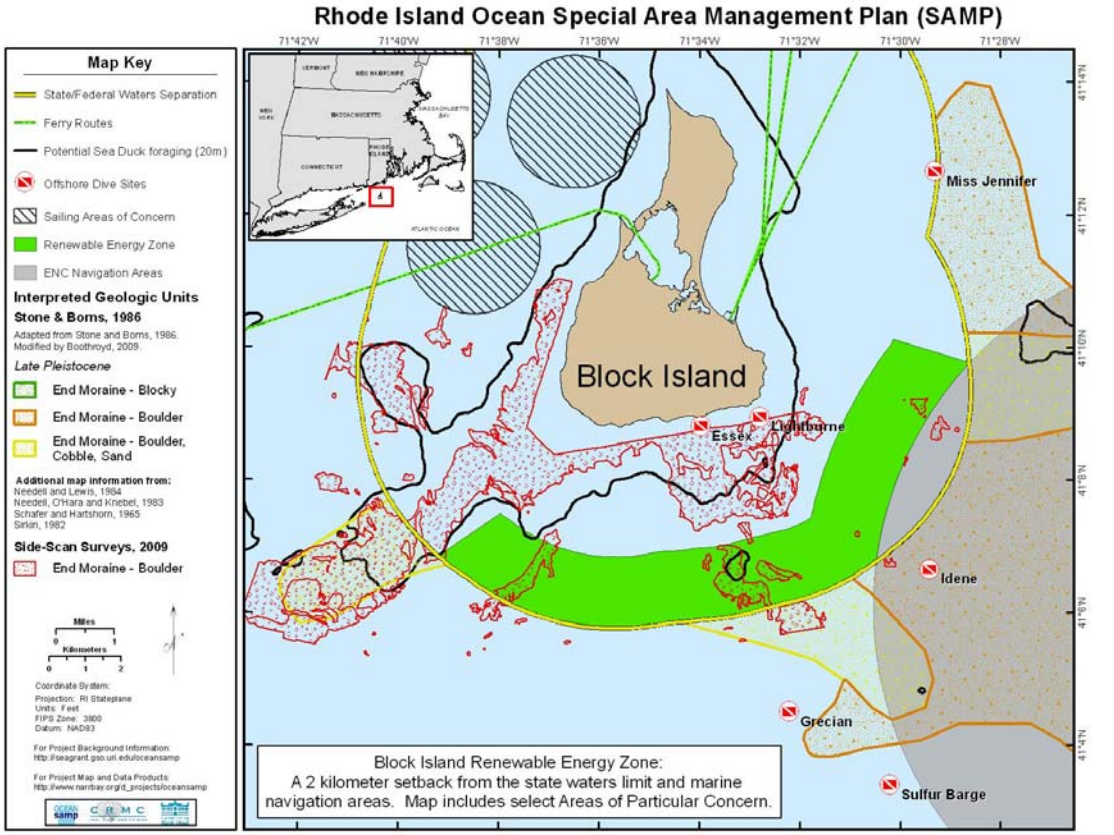
19. If the Council approves the aforementioned change, the same information will need to be updated in Chapter 11, The Policies of the Ocean SAMP, section 1160.2, as follows:

New item #4:

"4. Developers proposing projects for within the Renewable Energy Zone as described in section 1160.1.2 shall adhere to the requirements outlined in 1160.2 regarding Areas of Particular Concern, including any Areas of Particular Concern that overlap the Renewable Energy Zone (see Figure 11.7)."

New Figure # 11.7:

"Figure 11.7. Areas of Particular Concern overlapping the Renewable Energy Zone."



20. We propose the following change to Section 860.2.3, Prohibitions and Areas Designated for Preservation, in response to comments from BOEMRE, Save the Bay, Conservation Law Foundation, The Nature Conservancy, Don Pryor, and other commenters. <u>PLEASE NOTE THAT REVISIONS FOR THIS ITEM HAD ALSO BEEN PROPOSED IN THE SEPTEMBER 14th MEMO, AND THAT THE BELOW CHANGES SUPERCEDE THOSE PROPOSED IN THAT MEMO</u>:

"1. Areas Designated for Preservation are designated in the Ocean SAMP area for the purpose of preserving them for their ecological value.[5] <u>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.</u> The areas described 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:

"i. Ocean SAMP sea duck foraging habitat in water depths less than or equal to 20 meters [65.6 feet] (as shown in Figure 8.52) are designated as Areas Designated for Preservation due to their ecological value and the significant role these foraging habitats play to avian species, and existing evidence suggesting the potential for permanent habitat loss as a result of offshore wind energy development. The current research regarding sea duck foraging areas indicates that this habitat is depth limited and generally contained within the 20 meter depth contour. It is likely there are discreet areas within this region that are prime feeding areas, however at present there is no long-term data set that would allow this determination. Thus, the entire area within the 20 meter contour is being protected as an Area Designated for Preservation until further research allows the Council and other agencies to make a more refined determination. "

New footnote:

5. Areas Designated for Preservation are identified in the federal Coastal Zone Management Act and associated CFRs; see 15 CFR 923.22.

21. If the Council approves the aforementioned changes, this same language will need to be changed accordingly in Chapter 11, The Policies of the Ocean SAMP, Section 1160.3, and Chapter 2, Ecology, Section 270.2, as follows:

Chapter 11, Section 1160.3:

"1. Areas Designated for Preservation are designated in the Ocean SAMP area for the purpose of preserving them for their ecological value.[66] 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 described 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:

"i. Ocean SAMP sea duck foraging habitat in water depths less than or equal to 20 meters [65.6 feet] (as shown in Figure 11.7) are designated as Areas Designated for Preservation due to their ecological value and the significant role these foraging habitats play to avian species, and existing evidence suggesting the potential for permanent habitat loss as a result of offshore wind energy development. The current research regarding sea duck foraging areas indicates that this habitat is depth limited and generally contained within the 20 meter depth contour. It is likely there are discreet areas within this region that are prime feeding areas, however at present there is no long-term data set that would allow this determination. Thus, the entire area within the

20 meter contour is being protected as an Area Designated for Preservation until further research allows the Council and other agencies to make a more refined determination."

New footnote:
66. Areas Designated for Preservation are identified in the federal Coastal Zone Management Act and associated CFRs; see 15 CFR 923.22.

Chapter 2, Section 270.2, #1:
~~The Council designates the~~ Ocean SAMP sea duck foraging habitat ~~(Chapter 8, Figure 39)~~ in water depths less than or equal to 20 meters [65.6 feet] (as shown in Figure 11.7) are designated as Areas Designated for Preservation due to their ecological value and the significant role these foraging habitats play ~~on for these~~ to avian species~~. Current research indicates that there may be a~~, and existing evidence suggesting the potential for permanent ~~loss of foraging~~ habitat ~~for these species thus the Council shall prohibit any Large-Scale Offshore Development, mining and extraction of minerals, or other~~ loss as a result of offshore wind energy development. The current research regarding sea duck foraging areas indicates that has ~~been found to be in conflict with~~this habitat is depth limited and generally contained within the 20 meter depth contour. It is likely there are discreet areas within this region that are prime feeding areas, however at present there is no long-term data set that would allow this determination. Thus, the ~~intent and purpose of~~entire area within the 20 meter contour is being protected as an Area Designated for Preservation until further research allows the Council and other agencies to make a more refined determination.

22. We propose the following revision to section 860.2.5, Application Requirements, #1, in response to comments from the RIDEM Office of Water Resources:

"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 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."

23. If the Council approves the aforementioned change, the same language will need to be updated in Chapter 11, The Policies of the Ocean SAMP, section 1160.5 #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 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."

24. We propose the following change to section 860.2.5, Application Requirements, #2 (iii), in response to comments received from Eugenia Marks/Audubon Society of Rhode Island:

"iii. A Certified Verification Agent (CVA) is defined as an independent third-party agent that shall use good engineering judgment and practices in conducting an independent assessment of the design, fabrication and installation of the facility. The CVA shall have qualified Professional Engineers on staff."

25. If the Council approves the aforementioned change, the same language will need to be updated in Chapter 11, The Policies of the Ocean SAMP, section 1160.5 #2 (iii), as follows:

"iii. A Certified Verification Agent (CVA) is defined as an independent third-party agent that shall use good engineering judgment and practices in conducting an independent assessment of the design, fabrication and installation of the facility. The CVA shall have qualified Professional Engineers on staff."

26. We propose the following changes to section 870, Potential Areas for Offshore Renewable Energy Development in Federal Waters of the Ocean SAMP Area, which was originally proposed in the September 14th memo in response to public comments and input from the Full Council and the NOAA Office of Coastal and Ocean Resource Management, as follows. PLEASE NOTE THAT REVISIONS FOR THIS ITEM HAD ALSO BEEN PROPOSED IN THE SEPTEMBER 14th MEMO, AND THAT THE BELOW CHANGES SUPERCEDE THOSE PROPOSED IN THAT MEMO:

"Section 870. Potential Areas for Offshore Renewable Energy Development in Federal Waters of the Ocean SAMP Area.

"1. The studies and datasets formulated and developed during the Ocean SAMP process have encompassed not only Rhode Island state waters, but also waters that are under Federal jurisdiction. During the course of the Ocean SAMP process, the CRMC has identified areas in Federal waters that, at this stage of the research, appear appropriate for development of offshore renewable energy.

2. For instance, the CRMC believes the areas depicted in Figures 8.56-8.60 below show the most promise as potential areas for offshore renewable energy development and recommend these areas to the appropriate Federal agencies with jurisdiction as areas for future study and/or

future development. The areas depicted in the maps were derived using data and analysis collected based on a range of geological, oceanographic, commercial, environmental, climatic and other considerations; for further information on this site selection process, see section 830.2 above. These areas shown as having the most promise for offshore renewable energy development now constitute the "Area of Mutual Interest" between Rhode Island Massachusetts; see section 870.4 below for further discussion.

"3. The CRMC is well aware that the identification of these areas in Federal waters or CRMC's recommendations that Federal agencies consider these areas are not an enforceable policy or enforceable component of the Ocean SAMP; rather they are merely recommendations to the Federal agencies with jurisdiction for further refinement and consideration. Further, CRMC recognizes that at this time, discussions of these areas in the Ocean SAMP cannot be used as a basis for any future state decisions through the CZMA Federal Consistency provisions.

"4. In addition to the Renewable Energy Zone in Rhode Island state waters depicted in 830.4, the states of Rhode Island and Massachusetts have expressed a mutual interest in the potential for renewable energy in a portion of Federal waters along the eastern boundary of the Ocean SAMP area. This area is depicted in Figure 8.56 below and is referred to as the Area of Mutual Interest (AMI) in the Memorandum of Understanding (MOU) between the two states, signed on July 26, 2010. The map of the AMI is provided in this document to show the level of interest in this area between the two states and is not intended to be an enforceable policy or enforceable component of the Ocean SAMP. While the AMI is of interest to the states based on a range of geological, oceanographic, climatic and other considerations, the discussion of the AMI in the Ocean SAMP cannot be used by the states as the basis for any future state decisions through the CZMA federal consistency provision; state CZMA federal consistency decisions must be based on the reasonably foreseeable coastal effects of a proposed activity and a state's enforceable policies approved by NOAA as part of the state's federally approved CZMA program. The lead federal agency with jurisdiction over the permitting of offshore wind energy in the federal waters of the Ocean SAMP area is the U.S. Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE as described in detail in Section 820.4). BOEMRE, through its state/regional task forces, has encouraged states to be engaged in and make recommendations on renewable energy development on the Outer Continental Shelf in Federal waters. Therefore, the AMI and the information on which Rhode Island's and Massachusett's interest in the AMI is based, is available to BOEMRE and potential applicants when considering specific site locations within the AMI."

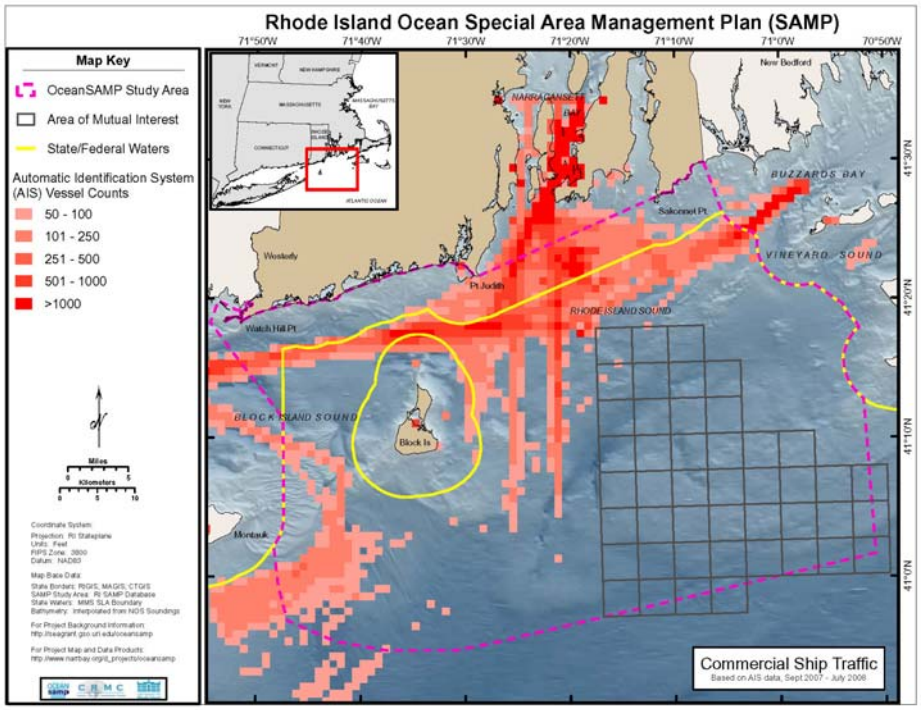


Figure 8.56. Commercial ship traffic patterns based on AIS data (50 or more records per square kilometer) with the Area of Mutual Interest.

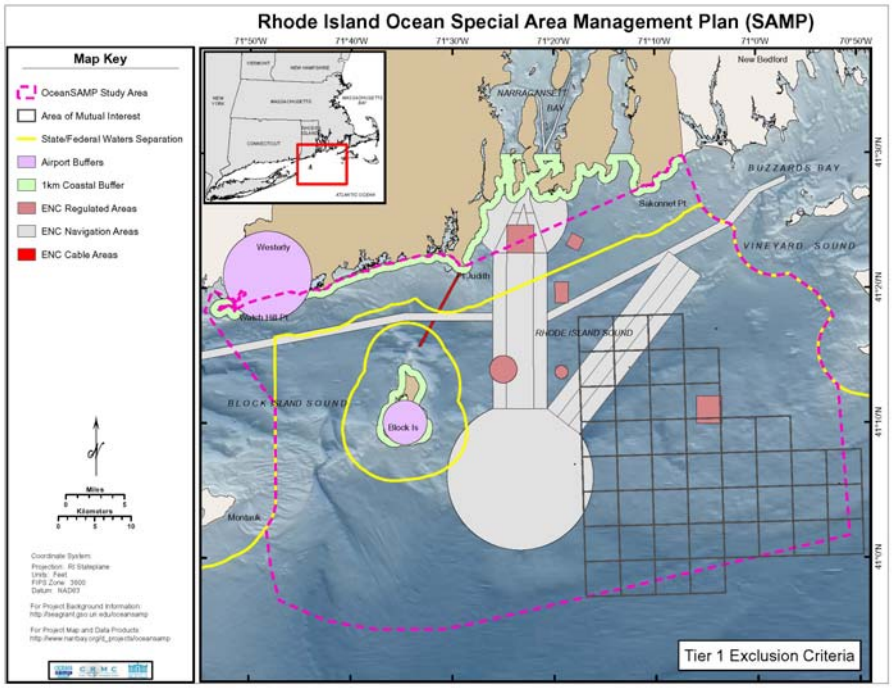


Figure 8.57. Tier 1 Exclusion Criteria with the Area of Mutual Interest. (See section 830.2 for further information on Tier 1 Exclusion Criteria.)

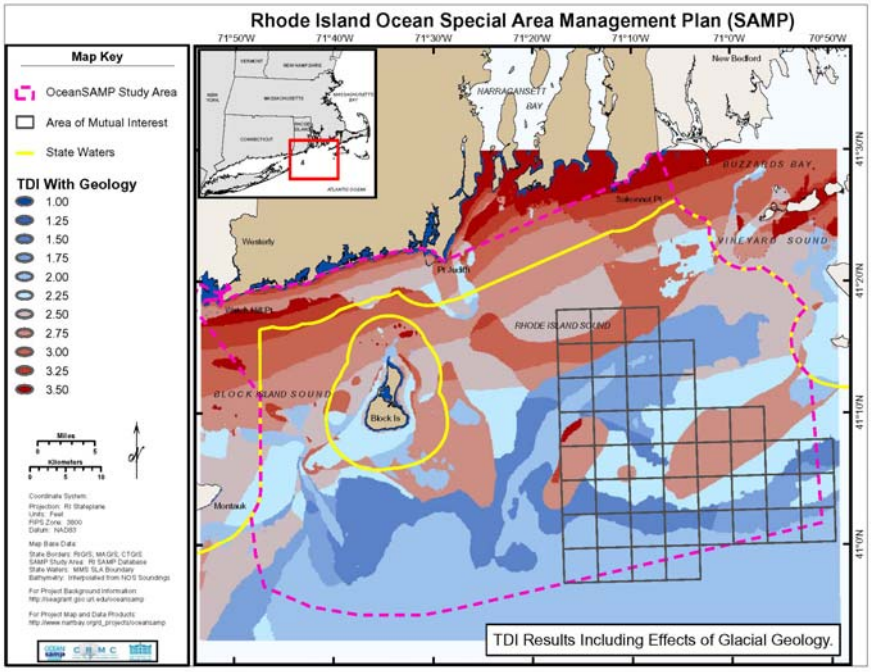


Figure 8.58. TDI results including effects of glacial geology with Area of Mutual Interest. (See section 830.2 for further information on the TDI analysis.)

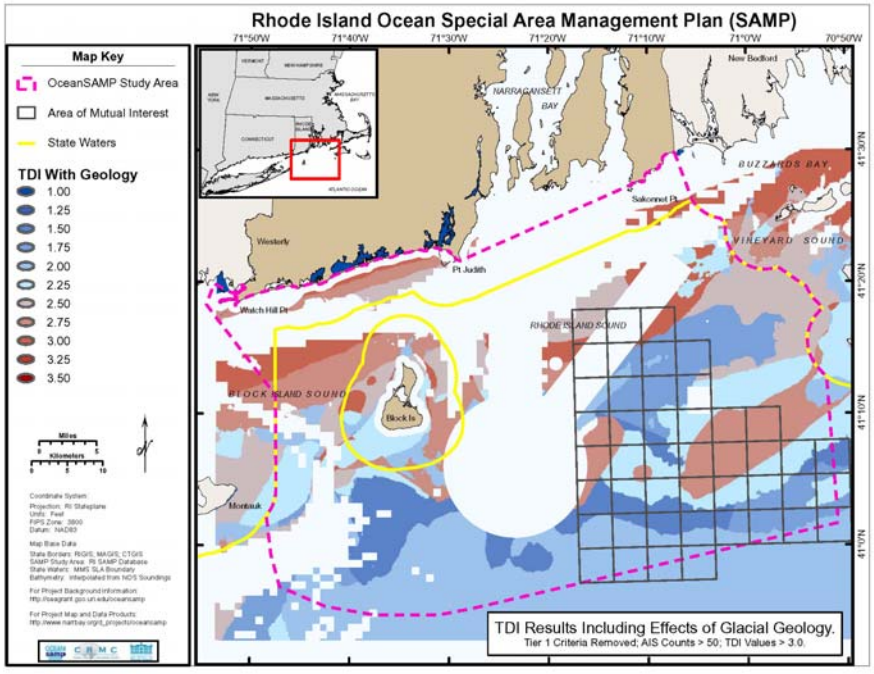


Figure 8.59 TDI results including effects of glacial geology, commercial ship traffic, and Tier 1 exclusion criteria with Area of Mutual Interest.

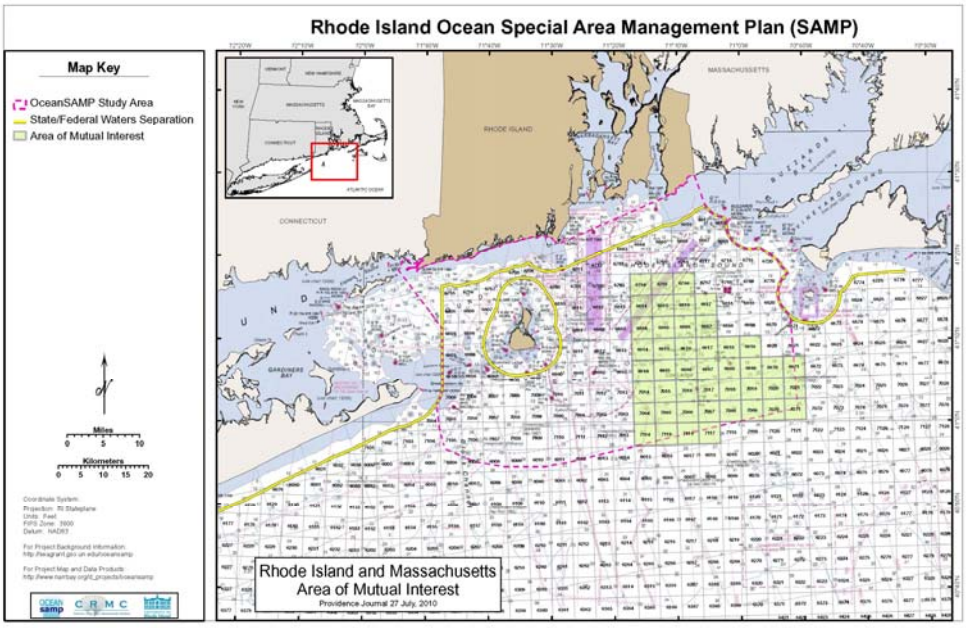


Figure 8.60. Area of Mutual Interest for Future Offshore Renewable Energy Development Identified in the Memorandum of Understanding Signed Between Rhode Island and Massachusetts on July 26, 2010.

Chapter 11, Policies of the Ocean SAMP:

1. **We propose the following change to section 1110.1, Building on CRMC's Existing Program, in response to comments from Save the Bay:**

"1. Ocean SAMP policies and recommendations build upon and refine the CRMC's existing Program and regulations presented in the Rhode Island Coastal Resources Management Plan (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 for this Ocean SAMP region. Aquaculture projects of any size shall follow Section 300.11 of the RICRMP. Dredging and dredge disposal activities remain governed by Section 300.9 of the RICRMP. The Ocean SAMP, if approved by NOAA's Office of Ocean and Coastal Resource Management, will confer federal consistency authority to the Council for a boundary extension in federal waters within the Ocean SAMP area. However, it should be noted that the Ocean SAMP boundary does not limit the zone for federal consistency, and the CRMC may still exercise its federal consistency authority over future activities which may be proposed in federal waters beyond the Ocean SAMP area.

2. **We propose the following change to section 1130, Applying Adaptive Management to Implement the Ocean SAMP, in response to comments from Save the Bay and The Nature Conservancy:**

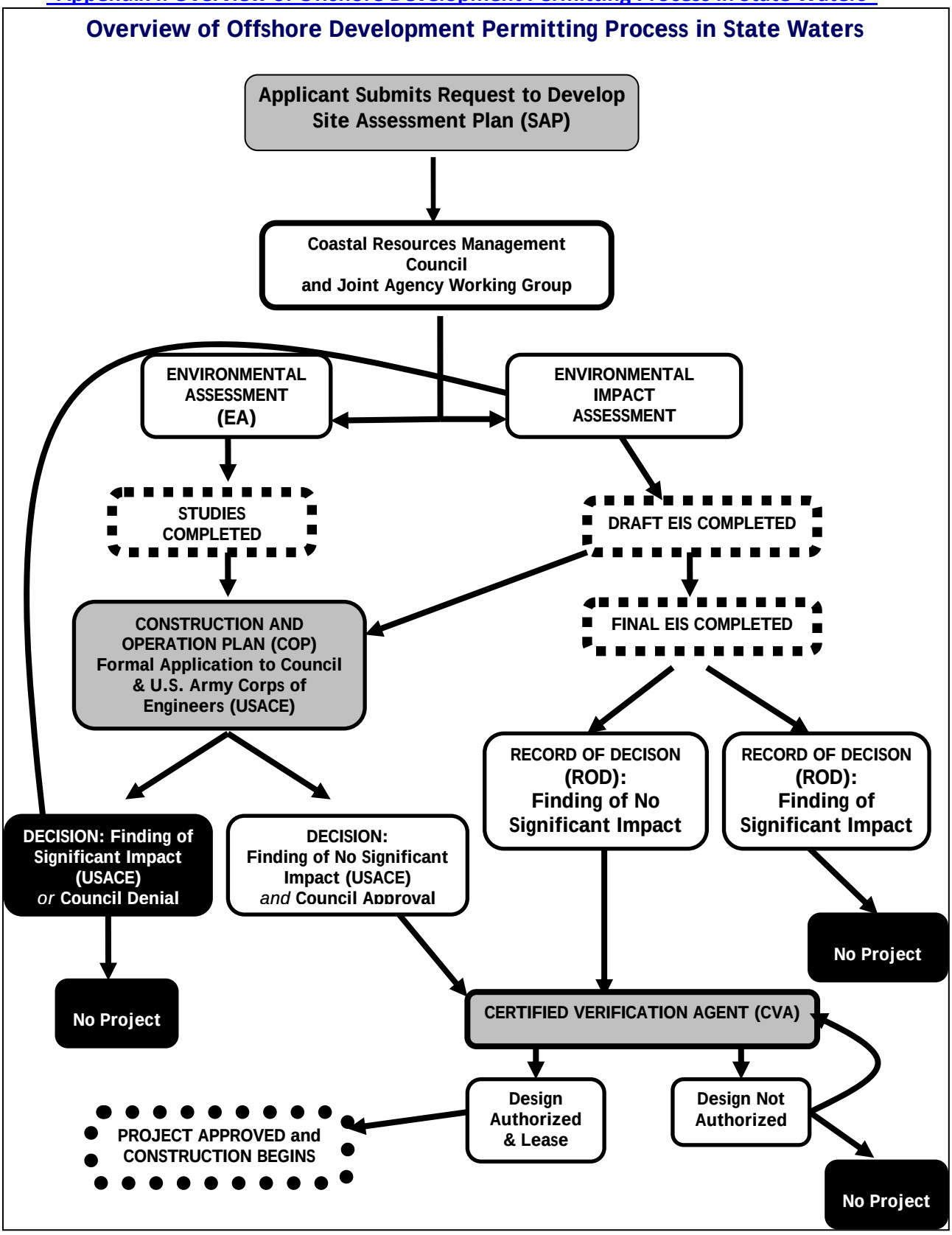
"2. CRMC will develop and implement the Ocean SAMP Science Research Agenda, in coordination with the Ocean SAMP researchers, federal, state, and local government and other parties, to improve management policies and practices. The Ocean SAMP Science Research Agenda will allow CRMC to: 1) Continue to learn about Rhode Island's offshore natural resources and human activities; 2) Better understand the potential effects of future development and other human impacts; and 3) Increase Rhode Island's understanding of the projected impacts of global climate change. To develop the Science Research Agenda, CRMC will put together an advisory group including scientists, partner federal and state agencies, environmental organizations, and users of the Ocean SAMP area. This group will help CRMC to identify data gaps, short- and long-term research priorities, potential partners, and potential funding sources.

3. **We propose the following revision to section 1140, item # 1(ii), in response to comments from Save the Bay:**

"i. The Council shall engage commercial and recreational fishermen in the Ocean SAMP decision-making process through the Fishermen's Advisory Board (FAB), as defined in section 1160.1.6. The FAB will provide the Council with advice on the potential adverse impacts of Offshore Development 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 ~~of~~ individual structure~~s~~); access limitations; and measures to mitigate the potential impacts of such projects. For more information on the FAB, see Section 1160.1.6."

4. **We propose the following addition to Chapter 11 in response to comments from Don Pryor, Save the Bay, RI DEM, and other commenters: The addition of Appendix I, containing the following flow chart that presents a simplified overview of the permitting process, as follows:**

"Appendix I. Overview of Offshore Development Permitting Process in State Waters"



Thank you for your consideration.

Sincerely,

Grover Fugate