



OCEAN ZONING: THE REGULATORY JIGSAW PUZZLE Information and FAQs

The Ocean Special Area Management Plan (Ocean SAMP) is first and foremost an ocean zoning project, and promises to be on the cutting edge of ocean zoning nationwide. The Ocean SAMP is extremely complex, especially when it comes to the work of state and federal regulators, and the relationship with potential developers and other political and financial entities.

The R.I. Coastal Resources Management Council (CRMC) will be working closely with the federal Minerals Management Service (MMS) and the U.S. Army Corps of Engineers. The Ocean SAMP work is extremely applicable to the siting of an offshore wind farm, and that potential use has become a key focus of the public and stakeholders in Rhode Island, nationally and internationally.

Below are some questions that have arisen and been asked of the Ocean SAMP team to date. Hopefully they will explain the process of the project, and clear up some misconceptions that have arisen in the public and in media reports.

What exactly is the Ocean SAMP? The primary purpose of the Ocean SAMP is to serve as a coastal management and regulatory tool, based on the best available science, which promotes a balanced and comprehensive approach to the development and protection of Rhode Island's ocean-based resources. The Ocean SAMP will work towards achieving the following objectives: (1) Maintaining the ecology of the ocean resource; (2) Promoting and enhancing existing commercial and recreational fisheries activities; (3) Maintaining a healthy marine transportation network; (4) Promoting and enhancing existing recreational activities; (5) Determining appropriate and compatible roles for future activities within the study area, including offshore renewable energy infrastructure; and, (6) Building a framework for coordinated decisionmaking between state and federal management agencies. Accomplishing these goals and objectives will require engaging a well-informed, well-represented and committed public constituency to work with the Ocean SAMP project team to better understand the Ocean SAMP issues and the ecosystem, including the existing and potential uses of this area, and become involved in the creation of the Ocean SAMP policies and recommendations.



Ocean SAMP scientists aboard the URI research vessel Endeavor off Block Island

What is the timeline for the Ocean SAMP? The first year (August 1, 2008 – July 31, 2009) is dedicated to research (data collection and analysis) and outreach (stakeholder process) with the development of a preliminary zoning map. The second year (August 1, 2009 – July 31, 2010) is slated for research refinement (continued analysis), outreach (stakeholder process and community events), decisionmaking (development of CRMC policy and standards), and submission of the completed SAMP document for state and federal approval. (Any claims at this point – early 2009 – made

by any parties, including the Ocean SAMP team, to know or be able to dictate where a potential wind farm(s) will be located are simply misleading and erroneous.)

What is the relationship between Ocean SAMP and the state-preferred developers, Deepwater Wind Rhode Island LLC? From Day One, there has been a firewall in place between the Ocean SAMP team and its work on the science research and assessment side, and any political or financial concerned parties. (Except for the state Economic Development Corporation, to whom Ocean SAMP does its fiscal reporting.)

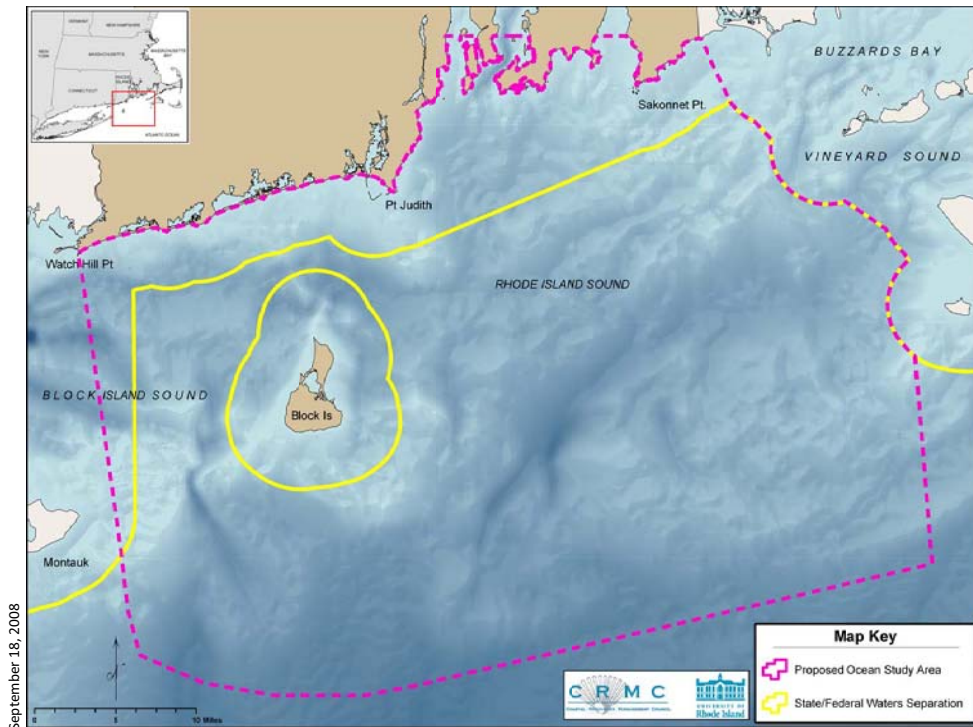
Deepwater will be working with the Ocean SAMP team more closely in the future on an offshore meteorological data tower (Met tower) which Deepwater is obliged to fund, and as the company is provided with research reports once they are vetted and released by the Ocean SAMP team. The SAMP team may also have pre-application consultation on necessary studies and study designs the developer is obligated to undertake as part of the permitting process. The Ocean SAMP team will meet with Deepwater periodically along with federal regulators to better understand their issues and concerns and proposed future use. The team is engaging in this way with all stakeholders.

Can the wind farm siting process be speeded up? As the Ocean SAMP process was conceived, to carry out its work over two years, it is already on a fast track. Any attempts to prematurely identify a possible site in state waters and move forward with construction there prior to the Ocean SAMP process being fully completed will trigger the need for what will most likely be a lengthy and very costly full-blown Environmental Impact Statement conducted by the Army Corps of Engineers and paid for by the developer, rather than a more streamlined and integrated submission for individual permits with an Environmental Assessment conducted between the CRMC and Army Corps.

Will the Ocean SAMP be the final permit process for wind farms? No. Think of your community comprehensive plan and projects that are built on land. You will have to go to the local zoning board to determine if the site you have proposed for a house is suitable—yet that is only the first step in having that house built. You still need permits for the size, shape, where on the property it will be located, and other aspects that are site-specific to what you want to build. You also need to do additional studies. The Ocean SAMP work is merely the first step for a wind farm to identify preferred sites, conduct specific studies which the developer will have to complete before any development occurs, and establish specific standards and policies for construction, operation and decommissioning. There are many other state and federal regulations that must be satisfied once the site has been formally accepted.

Why is Rhode Island in the forefront of offshore zoning and wind farm siting? As in many cases, Rhode Island's small size and condensed government structure work to its advantage. The CRMC has broad jurisdiction, along with the Department of Environmental Management, over the state's coastal and offshore waters—Rhode Island was the first state in the country to zone its coastal waters—so the process has fewer regulatory hurdles. The state also has a good track record in working with federal agencies such as MMS and the Army Corps, and this recognition of Rhode Island's ability to scientifically assess both state and federal waters and reach a shared, consistent view of their capabilities for accommodating various uses has been a distinct advantage.

What is the role of the federal Minerals Management Service? The MMS is part of the Department of the Interior. Any developer of an offshore wind energy project in federal waters must apply to them for a lease and permit for use of federal submerged lands. The Service is now the lead federal agency for permitting and regulatory oversight of any proposed wind farm in federal waters, and they are the agency charged with undertaking an environmental review process mandated by the National Environmental Policy Act. The MMS is in the process of developing national siting and permitting regulations, and in doing so, is working closely with



THE OCEAN SPECIAL AREA MANAGEMENT PLAN BOUNDARY MAP

the CRMC and the Ocean SAMP team to utilize its science and research in order to ensure consistency between federal and state regulations and help streamline the process.

What is the role of the U.S. Army Corps of Engineers? The short answer is that while MMS is the lead federal agency in federal waters, the Army Corps is the lead federal agency in state waters, and has permitting jurisdiction over any structure in state offshore waters, which the wind turbines would most definitely be considered.

What environmental regulations need to be met before a wind farm can be built? There are as many as 11 other federal laws that may need to be considered and satisfied before a wind farm can get final approval, in areas that the Ocean SAMP research is addressing. These range from the Magnuson-Stevens Fishery Conservation Act to the Endangered Species Act to the Clean Water and Clean Air Acts to the Federal Aviation Act. As was stated above in the introduction, it is a complex process.

What is the “federal consistency” provision? Federal consistency is a very valuable and powerful tool for states that helps federal and state agencies work together and not clash over regulations. Under the Coastal Zone Management Act, applicants for federal licenses or permits are required to comply and be consistent with a state’s coastal zone management plan. So in order to obtain an MMS or Army Corps permit, a developer must certify that their proposal meets the state’s regulatory criteria. CRMC holds the federal consistency authority for the state of Rhode Island and can object to any activity within the federal waters as long as it can justify conflict with the state’s coastal plan. The CRMC, MMS and Army Corps have been working in concert with the Ocean SAMP to ensure that Rhode Island’s interests are honored, while still meeting federal regulations. This will be very important as siting takes place which may be approved by the federal government in its waters, where Rhode Island could halt such a development on the consistency provision if they oppose the project. The idea of “consistency” also applies to regulatory cooperation and coordination with neighboring states.

How is the Ocean SAMP research being done? As the issues above are being addressed, think of the basic map of the offshore waters being zoned. Then imagine taking a series of transparencies that are gradually laid one over the other on top of the basic map that provide information on everything from navigation routes to ocean bottom conditions to fishing areas. As these areas are identified as being “hard constraints,” such as endangered species or navigational channels, the set of transparencies immediately eliminate certain spots from consideration, yet you begin to see areas emerging which may be potential sites for future offshore uses. It is this big picture that may reveal any possible sites for wind farms.

By whom is the Ocean SAMP research being done? Rather than rely on outside consultants for the Ocean SAMP research, the CRMC has the ability to call on some of the most highly regarded and experienced scientists and coastal managers in the country, if not the world, from the University of Rhode Island to do the Ocean SAMP work. It is also an asset to have people conducting the work whose families will directly benefit from a solid, thorough process in which they have a commitment and faith.

What if the developers do not like any preferred sites that may be identified by the Ocean SAMP? There is no guarantee that any suitable site(s) will be identified. If any area or areas are selected as being potential wind farm sites, the developer may choose from among them. Should they desire to build in an area which the Ocean SAMP has not identified as a select site based on the research, the developers are in essence back to square one. The CRMC and federal agencies would regard their proposal as a new lease request, one which goes against their recommendations, and the developers would have to prove their case through a comprehensive Environmental Impact Statement which shows there would be no harm in those areas. This approach may add significant delays to the actual construction of the project.

For more information about the project, contact Monica Allard Cox, Ocean SAMP outreach and communications leader, at (401) 874-6015, e: oceansamp@gso.uri.edu, or visit seagrant.gso.uri.edu/oceansamp. For CRMC regulatory questions, contact Laura Ricketson-Dwyer, CRMC public educator and information coordinator, at (401) 783-7886, or lrocketson@crmc.ri.gov.

