

New Jersey Coastal Zone Management Consistency Statement

For the Empire Offshore Wind: Empire Wind Project (EW 1 and EW 2)

Prepared for:



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ACRONYMS

ac	acre
AIS	Automatic Identification System
APE	area of potential effect
AVEHP	Analysis of Visual Effects to Historic Properties
BOEM	Bureau of Ocean Energy Management
CAFRA	Coastal Area Facility Review Act
CBRA	cable burial risk assessment
CE	concrete extender
CFR	Code of Federal Regulations
IPaC	Information for Planning and Conservation
COP	Construction and Operations Plan
CVA	Certified Verification Agent
CZMA	Coastal Zone Management Act
EFH	Essential Fish Habitat
EM&CP	Environmental Management & Construction Plan
Empire	Empire Offshore Wind LLC
EPA	U.S. Environmental Protection Agency
ESA	Endangered Species Act of 1973
EW 1	Empire Wind 1
EW 2	Empire Wind 2
FAA	Federal Aviation Administration
FDR	Facility Design Report
FEMA	Federal Emergency Management Agency
FIR	Fabrication and Installation Report
ft	foot
GBS	gravity base structure
GW	gigawatt
ha	hectare
HDD	horizontal directional drilling
HRG	high-resolution geophysical
IALA	International Association of Marine Aids
km	kilometer
Lease Area	Renewable Energy Lease Area OCS-A 0512
LNM	Local Notice to Mariners
m	meter
mi	mile

MSD	Marine Sanitation Device
MW	megawatt
NDZ	No-Discharge Zone
NJ HPO	New Jersey State Historic Preservation Office
NJDEP	New Jersey Department of Environmental Protection
nm	nautical mile
NOAA	National Oceanic and Atmospheric Administration
NPS	U.S. National Park Service
NRHP	National Register of Historic Places
NWI	National Wetlands Inventory
NYSDEC	New York State Department of Environmental Conservation
NYSERDA	New York State Energy Research and Development Authority
O&M Base	Operations and Maintenance Base
O&M	Operations and Maintenance
OCS	Outer Continental Shelf
OSRP	Oil Spill Response Plan
PANYNJ	Port Authority of New York and New Jersey
PCBs	polychlorinated biphenyls
PDE	Project Design Envelope
POI	Point of Interconnection
RCRA	Resource Conservation and Recovery Act
ROW	right-of-way
SBMT	South Brooklyn Marine Terminal
SMIA	Significant Maritime and Industrial Area
SMS	Safety Management System
SPCC	Spill Prevention, Control, and Countermeasures
SPDES	State Pollutant Discharge Elimination System
SWPPP	Stormwater Pollution Prevention Plan
TCLP	Toxicity Characteristic Leaching Procedure
TSCA	Toxic Substances Control Act
TSS	traffic separation scheme
USACE	U.S. Army Corps of Engineers
USCG	U.S. Coast Guard
VIA	Visual Impact Assessment
WFDA	Wind Farm Development Area

A.1 INTRODUCTION

Empire Offshore Wind LLC (Empire) proposes to construct and operate the Project located in the designated Renewable Energy Lease Area OCS-A 0512 (Lease Area). The Lease Area covers approximately 79,350 acres (ac) (32,112 hectares [ha]) and is located approximately 14 statute miles (mi) (12 nautical miles [nm], 22 kilometers [km]) south of Long Island, New York and 19.5 mi (16.9 nm, 31.4 km) east of Long Branch, New Jersey. This voluntary federal consistency certification demonstrates that the proposed Project development within Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (Lease OCS-A 0512 or “Lease Area”) is fully consistent with the enforceable policies of the coastal management program (CMP or management program) of the New Jersey Coastal Management Program. Enforceable policies are defined under the Coastal Zone Management Act (CZMA) as “state policies which are legally binding through constitutional provisions, laws, regulations, land-use plans, ordinances, or judicial or administrative decisions, by which a State exerts control over private and public land and water uses and natural resources in the coastal zone” under (15 Code of Federal Regulations [CFR] § 930.11[h]). The Project will require federal permits and approvals by federal agencies and, as such, these federal actions are subject to consistency review pursuant to the CZMA.

As described in detail herein, the proposed activity complies with the New Jersey approved management program and will be conducted in a manner consistent with such a program. This consistency certification is provided pursuant to the requirements of 15 CFR § 930.57 (the CZMA federal consistency provision).

A description of how the Project, including the area to be developed for commercial operation (Wind Farm Development Area [WFDA]) and the submarine export cable routes, will be fully consistent with each applicable enforceable policy is provided in **Sections A.3**. Pursuant to 15 CFR 930.58, the Construction and Operations Plan (COP) submitted to the Bureau of Ocean Energy Management (BOEM) provides the necessary data and information required for the CZMA Consistency Certification Information review.

A.2 PROJECT DESCRIPTION

Empire proposes to develop the Lease Area in two wind farms, known as Empire Wind 1 (EW 1) and Empire Wind 2 (EW 2) (collectively referred to hereafter as the Project). Both EW 1 and EW 2 are covered in the COP. EW 1 and EW 2 will be electrically isolated and independent from each other. Each wind farm will connect via offshore substations to separate Points of Interconnection (POIs) at onshore locations by way of export cable routes and onshore substations. In this respect, the COP includes two onshore locations where the renewable electricity generated will be transmitted to the electric grid. The Project Area is shown on **Figure A-1**.

The purpose of the Project is to generate renewable electricity from an offshore wind farm located in the Lease Area to address the need identified by New York for renewable energy and will help the State of New York Public Service Commission achieve its renewable energy goals.

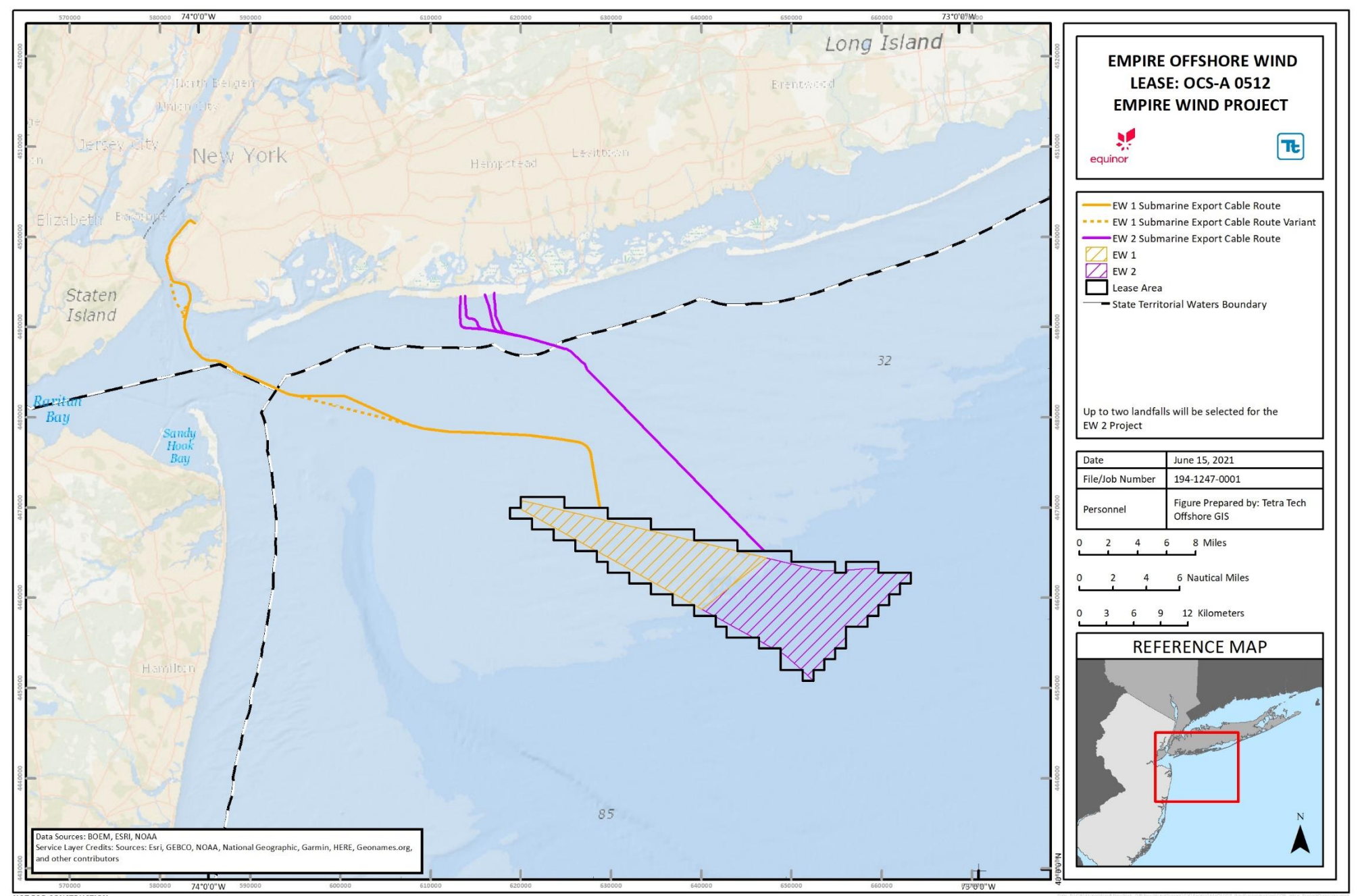


Figure A-1. Project Area

Empire has adopted a Project Design Envelope (PDE) approach to describe Project facilities and activities. A PDE is defined as “a reasonable range of project designs” associated with various components of the Project (e.g., foundation and wind turbine generator [or wind turbine] options) (BOEM 2018). The design envelope is then used to assess the potential impacts on key environmental and human use resources (e.g., marine mammals, fish, benthic habitats, commercial fisheries, navigation, etc.) focusing on the design parameter (within the defined range) that represents the greatest potential impact (i.e., the “maximum design scenario”) for each unique resource (BOEM 2017). The primary goal of applying a design envelope is to allow for meaningful assessments by the jurisdictional agencies of the proposed project elements and activities while concurrently providing Empire reasonable flexibility to make prudent development and design decisions prior to construction.

The COP covers the Lease Area, and as such, will address the proposed development of the Lease Area, both from the Project elements and the means and methods used for installing and operating the facilities, and from the potential positive and adverse effects. Therefore, the coastal zone consistency analysis includes both EW 1 and EW 2.

Offshore components of the Project will consist of up to 174 wind turbines and supporting tower structures, 2 offshore substations, up to 176 foundations and associated support and access structures (for aforementioned wind turbines and offshore substations), and up to 260 nm (481 km) of interarray cable, all of which will be located in federal waters within the Lease Area. In addition, the Project will include up to 66 nm (122 km) of submarine export cables¹ consisting of up to three routes:

- Two submarine export cable routes to New York:
 - Up to 40 nm (74 km) to the EW 1 landfall, of which 24 nm (44 km) is in federal waters and 16 nm (30 km) in state waters; and
 - Up to 26 nm (48 km) to the EW 2 landfall, of which 18 nm (33 km) is in federal waters and 8 nm (15 km) is in state waters.

The onshore components of the Project will include:

- Up to three export cable landfall areas (one at EW 1 and up to two at EW 2):
 - EW 1 Landfall; and
 - EW 2 Landfall A (Riverside Boulevard), EW 2 Landfall B (Monroe Boulevard), EW 2 Landfall C (Lido Beach West Town Park), and/or EW 2 Landfall D (Lido Beach Town Park); and
- Up to three onshore export and interconnection cable routes (one at EW 1 and up to two at EW 2):
 - EW 1 interconnection cable route of up to 0.2 mi (0.4 km); and
 - EW 2 onshore export and interconnection cable route of up to 5.7 mi (9.2 km), for a single onshore export cable and interconnection route (up to two routes proposed); and
- Two onshore substation locations:
 - EW 1 Substation in Brooklyn, New York; and

¹ As defined in the PDE, the submarine export cable routes will consist of up to three submarine export cables per phase (up to two for EW 1 and up to three for EW 2). This length represents the distance along the approximate centerline of the surveyed submarine export cable siting corridor from the edge of the Lease Area to the export cable landfall. Note that due to micrositing, the actual length of cables may increase but the cables will be located within the surveyed corridor that has been assessed in the COP.

- EW 2 Substation in Oceanside, New York².
- One staffed Operations and Maintenance (O&M) Base at the EW 1 landfall³.

The export cables are defined to include the submarine export cable segments, the onshore cables between the landfall and the new onshore substation, and the interconnection cables between the new onshore substation and the POI substation. When the consistency review requires analysis of individual segments, they will be called out separately, but otherwise, “export cables” refers to both segments.

Empire evaluated numerous locations for the onshore substations based on environmental resources, land use, zoning, distance to shore, grid availability, upgrade requirements, etc. For each of the export cable landfall locations selected, the onshore export cable traverses to the onshore substation, which converts power to the appropriate voltage, and then an onshore interconnection cable connects to the POI, where power is delivered to the grid.

During construction, Empire will receive equipment and materials to be staged and loaded onto installation vessels at one or more existing, third-party port facilities. Empire has not yet finalized the selection of facilities. Ports under consideration include, but are not limited to the following:

South Brooklyn Marine Terminal, Brooklyn, New York. Empire may lease portions of the South Brooklyn Marine Terminal (SBMT) for EW 1 and EW 2 for: laydown and staging for wind turbine blades, turbines, nacelles; foundation transition pieces; or other facility parts during construction of the offshore wind farm. During this time, Empire would receive, store, assemble, and export Project components via marine vessels and onshore cranes and other equipment.

In the event that the gravity-base structure (GBS) foundations are utilized for EW 1 and/or EW 2, SBMT may also be used to add a concrete extender (CE) piece to the GBS foundations prior to final vessel transport to the Lease Area. Installation of the CE pieces will occur on one GBS foundations at a time, on barges moored to the SBMT pier. The CE piece will be lifted from the barge using the SBMT crane and installed directly to the GBS foundation.

Howland Hook Marine Terminal (Howland Hook), Staten Island, New York. In the event that the GBS foundations are utilized for EW 1 and/or EW 2, Howland Hook may be selected as the staging port for the GBS foundation, and will therefore be the starting point for GBS transit.

Homeport Pier, Staten Island, New York. In the event that the GBS foundations are utilized for EW 1 and/or EW 2, Empire is considering using the waters adjacent to Homeport Pier or the pier itself to moor the GBS foundations prior to deployment and installation within the WFDA. Such temporary mooring will be required only in the event that weather delays or other logistical challenges prevent Empire from directly transporting the foundations to the assembly port or to the offshore Project site. The temporary mooring could consist of one of two concepts: moored directly to the existing Homeport Pier; and/or seated on flat-top or submerged barges that are tethered to the existing pier.

Permits necessary for the improvement of port and construction/staging facilities will be the responsibility of the owners of these facilities. Empire expects such improvements will broadly support the offshore wind

² For the purpose of the environmental assessment presented in the COP, there are two locations in consideration for the EW 2 onshore substation. Except where otherwise noted, the response is considered similar for the four potential export cable landfalls or either onshore substation location.

³ The location for this facility has not yet been finalized; however, a location at SBMT is under evaluation. The facility will monitor operations and include an office, control room, warehouse, shop, and pier space.

industry and will be governed by applicable environmental standards, which Empire will comply with in using the facilities. In August 2016, the State of New York Public Service Commission adopted the Clean Energy Standard.⁴ Under this standard, 50 percent of New York State's electricity must come from renewable sources of energy by 2030, with 2.4 gigawatts (GW) of electricity generated by offshore wind. In January 2019, Governor Cuomo proposed a plan that will require 70 percent of New York's electricity to come from renewable sources by 2030 and 100 percent renewable by 2040. As part of this plan, 9 GW of electricity must come from offshore wind by 2035. In July 2019, Governor Cuomo signed the Climate Leadership and Community Project Act, which adopts a comprehensive climate and clean energy legislation and advances his mandate of 9 GW of offshore energy by 2035. On November 8, 2018, the New York State Energy Research and Development Authority (NYSERDA) issued its first competitive solicitation for 800 megawatt (MW) or more of new offshore wind projects. On July 18, 2019, New York's Governor Cuomo announced Empire and its 816 MW EW 1 Project as a winning bidder in the State's competitive solicitation for Offshore Wind Renewable Energy Credits. On July 21, 2020, Governor Cuomo announced New York's second offshore wind procurement under which NYSERDA is seeking up to 2,500 MW of offshore wind. On January 13, 2021, Governor Cuomo announced Empire and its 1,260 MW EW 2 Project as a winning bidder in the State's competitive solicitation for Offshore Wind Renewable Energy Credits.

The Project components and locations presented in the COP have been selected based on environmental and engineering site characterization studies completed to date, existing information collection and analysis, as well as extensive engagement with regulators and stakeholders, and will be refined in the Facility Design Report (FDR) and Fabrication and Installation Report (FIR). The FDR/FIR will be reviewed by BOEM in accordance with 30 CFR §§ 585.700-702 prior to Project construction. In addition, a Certified Verification Agent (CVA), approved by BOEM, will conduct an independent assessment and verify that the Project components are fabricated and installed in accordance with both the COP and the FIR. It is anticipated that FDR/FIR submittal will be phased and will be developed on a component-by-component basis.

A.3 NEW JERSEY STATE COASTAL MANAGEMENT PROGRAM FEDERAL CONSISTENCY CERTIFICATION REVIEW

For the purposes of this New Jersey State Coastal Management Program Federal Consistency Certification Review, the following Project components have been assessed for consistency with the enforceable policies:

EW 1: Submarine export cables in federal waters. Temporary anchoring activities within New Jersey State waters associated with the installation of the submarine export cable that will be located within New York State waters.

EW 2: Submarine export cables in federal waters.

WFDA: Foundations, wind turbines, offshore substations, interarray cables.

⁴ Case 15-E-0302 & Case 16-E-0270, (NYSERDA n.d.)

A.3.1 Subchapter 9: Special Areas

Policy 7:7-9.2 Shellfish habitat

Response to Policy for EW 1 and EW 2:

The temporary anchoring of vessels in New Jersey State waters during installation could have some short-term impacts to shellfish habitats. However, it is anticipated that seafloor conditions will return to normal within a few years.

This policy does not directly apply to the submarine export cables, as they are located in federal waters, outside of the coastal area, and therefore does not include major actions that would significantly impact New Jersey coastal shellfish habitat. However, indirectly, in recognition that some shellfish habitat extends onto the continental shelf, the submarine export cables are being sited to avoid or minimize potential impacts to shellfish habitat. The analysis of impacts supports the overall determination that the Project would not result in substantial adverse impacts to shellfish habitat, and any impacts would be short-term and not affect stocks or populations.

Response to Policy for WFDA:

This policy does not directly apply because the WFDA is located in federal waters, outside of the coastal area, and therefore does not include major actions that would significantly impact New Jersey coastal shellfish habitat. However, indirectly, in recognition that some shellfish habitat extends onto the continental shelf, the WFDA is being developed with construction and operation activities and measures that avoid or minimize potential impacts to shellfish habitat. The analysis of impacts supports the overall determination that the Project would not result in substantial adverse impacts to shellfish habitat and any impacts would be short-term and not affect stocks or populations.

COP Section Reference:

Section 5.5 Benthic Resources and Finfish, Invertebrates, and Essential Fish Habitat; Section 8.8 Commercial and Recreational Fishing; Appendix U Essential Fish Habitat (EFH) Assessment; and Appendix V Fisheries Mitigation Plan

Policy 7:7-9.3 Surfclam areas

Response to Policy for EW 1 and EW 2:

The temporary anchoring of vessels in New Jersey State waters during installation could have some short-term impacts to surfclam areas. However, it is anticipated that seafloor conditions will return to normal within a few years.

This policy does not directly apply to the submarine export cables, as they are located in federal waters, outside of the coastal area, and therefore does not include major actions that would significantly impact New Jersey coastal surfclam habitat. However, indirectly, in recognition that some surfclam habitat extends onto the continental shelf, the submarine export cables are being sited to avoid or minimize potential impacts to surfclam habitat. The analysis of impacts supports the overall determination that the Project would not result in substantial adverse impacts to surfclam areas, and any impacts would be short-term and not affect stocks or populations.

Response to Policy for WFDA:

This policy does not directly apply because the WFDA is located in federal waters, outside of the coastal area, and therefore does not include major actions that would significantly impact New Jersey coastal surfclam habitat. However, indirectly, in recognition that some surfclam habitat extends onto the continental shelf, the WFDA is being developed with construction and operation activities and measures that avoid or minimize potential impacts to surfclam habitat. The analysis of impacts supports the overall determination that the Project would not result in substantial adverse impacts to surfclam areas and any impacts would be short-term and not affect stocks or populations.

COP Section Reference:

Section 5.5 Benthic Resources and Finfish, Invertebrates, and Essential Fish Habitat; Section 8.8 Commercial and Recreational Fishing; Appendix U Essential Fish Habitat (EFH) Assessment; and Appendix V Fisheries Mitigation Plan

Policy 7:7-9.4 Prime fishing areas*Response to Policy for EW 1 and EW 2:*

The temporary anchoring of vessels in New Jersey State waters during installation could have some short-term impacts to commercial and recreational fishing. However, Project-related activities are not anticipated to adversely impact commercial or recreational fishing, as the anchoring will be located within New York Harbor.

The submarine export cables comply with this policy to the extent applicable. The submarine export cables have been sited to avoid or minimize potential impacts to commercial and recreational fishing and maritime commerce, and the ecological functions of habitats important to New Jersey. To ensure local mariners are aware of construction activities, Empire will submit information to the USCG to issue LNM and update the Project website. Once installed below the seafloor, the submarine export cables will have negligible effects on long-standing ocean industries such as commercial and recreational fishing.

Empire has and will continue to engage in outreach with the surrounding commercial and recreational fishing communities from Massachusetts to New Jersey throughout the duration of construction and operation activities. Empire maintains a Fisheries Communication Plan, which includes the proposed approach to outreach with the fishing industry in relation to these geotechnical survey activities and to the development of the Project. The Fisheries Communication Plan for survey activities is also available to the public at www.empirewind.com. Therefore, Project activities are in compliance with this policy.

Response to Policy for WFDA:

The WFDA complies with this policy to the extent applicable. The WFDA has been designed to include construction, operation, and decommissioning activities and measures that avoid or minimize potential impacts to commercial and recreational fishing and maritime commerce, and the ecological functions of habitats important to New Jersey. Empire will submit information to the USCG to issue a LNM and update the Project website. Empire has been consulting with and gathering feedback from fishermen from Massachusetts to New Jersey regarding turbine spacing and layout. Empire has also measures to help minimize or avoid potential impacts to the fishing industry, waterbodies, and wildlife. Once installed below the seafloor, the submarine export and interarray cables will have negligible effects on long-standing ocean industries.

A risk assessment of existing and future maritime navigation has been conducted, per USCG guidance, and Layout Rules developed to promote the continued safe use of the waterway. These self-imposed “Layout Rules” will be followed in order to design a space that supports multiple uses of the defined waterways. Draft layouts

are currently under discussion with selected fishing representatives and agencies. The increased vessel traffic during construction, operation, and decommissioning will be consistent with the existing uses and should be negligible. As the WFDA and a portion of the submarine export cable routes are located adjacent to two major TSSs, vessel use is consistent with the existing use in the area. As such, the increase in vessels during construction should not significantly impact the existing traffic patterns. To ensure local mariners are aware of construction activities, Empire will submit information to the USCG to issue a LNM and update the Project website.

COP Section Reference:

Section 5.5 Benthic Resources and Finfish, Invertebrates, and Essential Fish Habitat; Section 8.7 Marine Transportation and Navigation; Section 8.8 Commercial and Recreational Fishing; Appendix U Essential Fish Habitat (EFH) Assessment; Appendix V Fisheries Mitigation Plan; and Appendix DD Navigation Safety Risk Assessment

Policy 7:7-9.5 Finfish migratory pathways

Response to Policy for EW 1 and EW 2:

The temporary anchoring of vessels in New Jersey State waters during installation is not anticipated to adversely impact finfish migratory pathways.

This policy does not directly apply because the submarine export cables are located in federal waters, outside of the coastal area, and therefore does not include major actions that would significantly impact coastal migratory pathways of finfish. However, indirectly, in recognition that some migratory pathways extend onto the continental shelf, the submarine export cables are being developed with construction and operation activities and measures that avoid or minimize potential impacts to these pathways. The analysis of impacts supports the overall determination that the Project would not result in substantial adverse impacts to finfish migratory pathways, and any impacts would be short-term and not affect stocks or populations.

Response to Policy for WFDA:

This policy does not directly apply because the WFDA is located in federal waters, outside of the coastal area and therefore does not include major actions that would significantly impact coastal migratory pathways of finfish. However, indirectly, in recognition that some migratory pathways extend onto the continental shelf, the WFDA is being developed with construction and operation activities and measures that avoid or minimize potential impacts to these pathways. The analysis of impacts supports the overall determination that the Project would not result in substantial adverse impacts to finfish migratory pathways and any impacts would be short-term and not affect stocks or populations.

COP Section Reference:

Section 5.5 Benthic Resources and Finfish, Invertebrates, and Essential Fish Habitat; Section 8.8 Commercial and Recreational Fishing; Appendix U Essential Fish Habitat (EFH) Assessment; and Appendix V Fisheries Mitigation Plan

Policy 7:7-9.6 Submerged vegetation habitat

Response to Policy for EW 1 and EW 2:

The temporary anchoring of vessels in New Jersey State waters during installation is not anticipated to adversely impact submerged vegetation habitats, as this Project-related activity is located outside of the coastal area, where submerged vegetation habitat is located.

This policy does not directly apply because the submarine export cables are located in federal waters, outside of the coastal area and therefore does not include major actions that would significantly impact submerged vegetation habitat, which is located in nearshore coastal waters.

Response to Policy for WFDA:

This policy does not directly apply because the WFDA is located in federal waters, outside of the coastal area and therefore does not include major actions that would significantly impact submerged vegetation habitat, which is located in nearshore coastal waters.

COP Section Reference:

Section 5.5 Benthic Resources and Finfish, Invertebrates, and Essential Fish Habitat; and Appendix U Essential Fish Habitat (EFH) Assessment

Policy 7:7-9.7 Navigation channels

Response to Policy for EW 1 and EW 2:

The temporary anchoring of vessels in New Jersey State waters during installation is not anticipated to adversely impact navigation channels.

The submarine export cable routes associated with EW 1 and EW 2 comply with this policy to the extent applicable. The presence of buried, partially buried or surface protected Project-related electrical cables has the potential to impact anchoring activities, either acting as a deterrent to the use of anchoring sites or presenting a potential snagging risk (e.g., anchors snagging on electrical cables and/or cable protection). Empire has, to the extent feasible, avoided active anchorage areas for the export cable corridors. This was achieved through a combination of constraint mapping, stakeholder consultation, and physical surveys.

Response to Policy for WFDA:

The WFDA complies to the extent applicable with this policy. Potential impacts to navigation channels include risks of: deviations, increased encounters, collision, allision, and displacement of anchoring ability, which were deemed either Negligible or Broadly Acceptable in the Navigation Safety Risk Assessment (Appendix DD Navigation Safety Risk Assessment).

Empire has worked to create Layout Rules which were developed through engagement with regulatory agencies and maritime stakeholders that will be used to shape the final proposed array layout(s), and which restrict the array patterns employed in order to address particular navigational issues, stakeholder concerns, or environmental sensitivities. Empire has opted to impose these rules on the Project in an effort to develop an outcome that promotes both safety and the shared use of the surrounding waterways, while maintaining design flexibility to apply the best available technology at the time of investment decisions and the ability to adapt to stakeholder requirements during the regulatory process. For example, Layout Rule Number 2 was adopted by Empire to minimize allision risk; the rule requires the Project arrange wind turbines in straight or curved lines in an understandable pattern, so far as is practicable. Some of the Layout Rules also apply to the cable routes. For example, to minimize the risk of mariners interacting with offshore wind energy development cables, Empire adopted Layout Rule 9: Burial of Cables; the rule requires interarray and export cables to be buried to a target burial depth of at least 4 ft (1.2 m) where feasible. Deeper burial depths will be targeted as appropriate based on the recommendations resulting from cable burial risk assessments (CBRAs) and regulatory requirements (e.g., in federally managed channels, anchorage areas and areas fished by bottom impacting gear) and to minimize the usage of cable protection measures to the extent practicable. Empire will implement measures to avoid, minimize, and mitigate potential impacts on navigation channels within the New York and

New Jersey Bight. These measures include but are not limited to implementing Layout Rules, safety zones of up to 1,640 ft (500 m) radius during construction and decommissioning, marine pollution contingency planning, operational procedures for Project vessel such as entry/exit points and designated routes, and risk assessments associated with transporting foundations to the Lease Area.

COP Section Reference:

Section 3 Project Description; Section 8.7 Marine Transportation and Navigation; and Appendix DD Navigation Safety Risk Assessment

Policy 7:7-9.8 Canals

Response to Policy for EW 1 and EW 2:

This policy does not apply, as the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to a canal.

In addition, the submarine export cables are located offshore in federal waters and are not located within or adjacent to a canal.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and is not located within or adjacent to a canal.

COP Section Reference:

Not applicable

Policy 7:7-9.9 Inlets

Response to Policy for EW 1 and EW 2:

This policy does not apply, as the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to an inlet.

In addition, the submarine export cables are located offshore in federal waters and are not located within or adjacent to an inlet.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and is not located within or adjacent to an inlet.

COP Section Reference:

Not applicable

Policy 7:7-9.10 Marina moorings

Response to Policy for EW 1 and EW 2:

This policy does not apply, as the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to a marine mooring area.

In addition, the submarine export cables are located offshore in federal waters and are not located within or adjacent to a marina mooring area.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and is not located within or adjacent to a marina mooring area.

COP Section Reference:

Section 2 Project Design Development; and Section 3 Project Description

Policy 7:7-9.11 Ports

Response to Policy for EW 1 and EW 2:

This policy does not apply, as the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to a port.

In addition, the submarine export cables are located offshore in federal waters and are not located within or adjacent to a port.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and is not located within or adjacent to a port.

COP Section Reference:

Not applicable

Policy 7:7-9.12 Submerged infrastructure routes

Response to Policy for EW 1 and EW 2:

The temporary anchoring of vessels in New Jersey State waters during installation is not anticipated to adversely impact submerged infrastructure routes, as Project-related vessels will avoid NOAA charted infrastructure when anchoring.

The submarine export cables comply with this policy to the extent applicable. In addition, the submarine export cable routes may also cross several charted out-of-service cables and cable areas identified on the NOAA charts. Specific crossing methodology will be developed and engineered as the submarine export cable routes become finalized.

Cable crossings will require a physical separation, such as crushed boulders, rock bags, or concrete mattresses installed on the cable. Cable crossing negotiations between the asset owner and Empire are underway and will determine the agreed crossing method. Therefore, impacts to existing assets are not anticipated. Empire has conducted an extensive high-resolution geophysical survey, including seabed side-scan sonar imagery, marine magnetic mapping, and sub-bottom profiling throughout the WFDA and along the submarine export cable routes to confirm the location of known assets and identify any unknown or mis-charted cables or pipelines. Furthermore, pre-installation surveys are proposed to occur along the submarine export cable routes. Additionally, Empire will require Project-related installation vessels hold briefings with supporting charts and/or geospatial data of the location of existing cables and pipelines to be avoided during anchoring and jack-up operations. Therefore, inadvertent impacts to unknown seabed assets are not anticipated.

Response to Policy for WFDA:

The WFDA complies with this policy to the extent applicable. There are no charted pipelines in the WFDA. There are currently six NOAA charted submarine cables which cross through the WFDA, with an additional three uncharted cables identified within the WFDA during geophysical survey activities. Through the plotting of known active cables and ongoing contact with cable owners, maintenance organizations, and regulators, it is understood that none of the charted cables within the WFDA are currently in-service. Additionally, the Project has engaged the U.S. Navy Office of Seafloor Cable Protection to ensure that no U.S. Department of Defense cables are located within the WFDA. Therefore, impacts to existing assets are not anticipated. Empire has conducted an extensive high-resolution geophysical survey, including seabed side-scan sonar imagery, marine magnetic mapping, and sub-bottom profiling throughout the WFDA and along the submarine export cable routes to confirm the location of known assets and identify any unknown or mis-charted cables or pipelines. Furthermore, pre-installation surveys are proposed to occur along the submarine export cable routes. Additionally, Empire will require Project-related installation vessels hold briefings with supporting charts and/or geospatial data of the location of existing cables and pipelines to be avoided during anchoring and jack-up operations. Therefore, inadvertent impacts to unknown seabed assets are not anticipated.

COP Section Reference:

Section 3 Project Description; and Section 8.10 Marine Energy and Infrastructure

Policy 7:7-9.13 Shipwrecks and artificial reef habitats*Response to Policy for EW 1 and EW 2:*

The temporary anchoring of vessels in New Jersey State waters during installation is not anticipated to adversely impact shipwrecks nor artificial reef habitats, as Project-related vessels will avoid anchoring in these areas.

The submarine export cables comply with this policy to the extent applicable. There are several locations where NJDEP and NYSDEC-maintained artificial reefs, comprised of vessels, concrete/rock debris, or pre-fabricated structures, have been established as productive sport fishing areas; all are located outside of the submarine export cable routes.

Additionally, while the desktop study of the marine archeological history of the Project Area indicated the potential existence of shipwrecks, assessment of geophysical survey data within the Project Area is ongoing. Additional evaluation of appropriate measures regarding potential submerged cultural resources will be completed, with support from and engagement with regulatory authorities.

Response to Policy for WFDA:

The WFDA complies with this policy to the extent applicable. There are several locations where NJDEP-maintained artificial reefs, comprised of vessels, concrete/rock debris, or pre-fabricated structures, have been established as productive sport fishing areas; all are located outside of the WFDA.

Additionally, while the desktop study of the marine archeological history of the Project Area, including the WFDA, indicated the potential existence of shipwrecks, assessment of geophysical survey data within the Project Area has revealed the existence of nine targets resembling potential submerged cultural resources within the Lease Area. Additional evaluation of appropriate measures regarding potential submerged cultural resources will be completed, with support from and engagement with regulatory authorities.

COP Section Reference:

Section 6.1 Marine Archaeological Resources; Section 8.8 Commercial and Recreational Fisheries; and Appendix X Marine Archaeological Resources Assessment

Policy 7:7-9.14 Wet borrow pits*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to wet borrow pits.

In addition, the submarine export cable routes are located offshore in federal waters as well as is not within or adjacent to any wet borrow pits.

Response to Policy for WFDA:

This policy is not applicable. The WFDA is located offshore in federal waters as well as is not within or adjacent to any wet borrow pits.

COP Section Reference:

Not applicable

Policy 7:7-9.15 Intertidal and subtidal shallows*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to intertidal and subtidal shallows.

In addition, the submarine export cables are located offshore in federal waters and are not within or adjacent to intertidal and subtidal shallows in New Jersey's coastal areas.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and is not within or adjacent to intertidal and subtidal shallows in New Jersey's coastal areas.

COP Section Reference:

Not applicable

Policy 7:7-9.16 Dunes*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to dunes. In addition, the submarine export cables are located offshore in federal waters and therefore not within or adjacent to dunes within New Jersey's coastal areas.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and therefore not within or adjacent to dunes within New Jersey's coastal areas.

COP Section Reference:

Section 3 Project Description

Policy 7:7-9.17 Overwash areas*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to overwash areas.

In addition, the submarine export cables are located offshore in federal waters and therefore not within or adjacent to overwash areas.

Response to Policy for WFDA:

This policy is not applicable because there are no overwash areas in the WFDA.

COP Section Reference:

Not applicable

Policy 7:7-9.18 Coastal high hazard areas*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to coastal high hazard areas.

In addition, the submarine export cables are located in federal offshore waters and not in a coastal high hazard area.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located in federal offshore waters and not in a coastal high hazard area.

COP Section Reference:

Not applicable

Policy 7:7-9.19 Erosion hazard areas*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to an erosion hazard area.

In addition, the submarine export cables are located offshore in federal waters and will therefore not affect erosion hazard areas in New Jersey's coastal waters.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and will therefore not affect erosion hazard areas in New Jersey's coastal waters.

COP Section Reference:

Section 5.2 Wetlands and Waterbodies

Policy 7:7-9.20 Barrier island corridor*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to a barrier island corridor.

In addition, the submarine export cables are located offshore in federal waters and will therefore not affect the barrier island corridor in New Jersey's coastal waters.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and will therefore not affect the barrier island corridor in New Jersey's coastal waters.

COP Section Reference:

Not applicable

Policy 7:7-9.21 Bay islands*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to bay islands

In addition, the submarine export cables are located in federal offshore waters, where there are no bay islands.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located in federal offshore waters, where there are no bay islands.

COP Section Reference:

Not applicable

Policy 7:7-9.22 Beaches*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to beaches.

In addition, the submarine export cable are located offshore in federal waters and will therefore not affect the beaches along New Jersey's coastal waters.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and will therefore not affect the beaches along New Jersey's coastal waters.

COP Section Reference:

Section 3 Project Description

Policy 7:7-9.23 Filled water's edge*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to a filled water's edge area.

In addition, the submarine export cables are located offshore in federal waters and therefore not within, nor expected to affect, any filled water's edge areas.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and therefore not within, nor expected to affect, any filled water's edge areas.

COP Section Reference:

Not applicable

Policy 7:7-9.24 Existing lagoon edges*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to existing lagoon edges.

In addition, the submarine export cables are located offshore in federal waters, and therefore not within, nor expected to affect, existing lagoon edges.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters, and therefore not within, nor expected to affect, existing lagoon edges.

COP Section Reference:

Not applicable

Policy 7:7-9.25 Flood hazard areas*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to flood hazard areas.

In addition, the submarine export cables are located offshore in federal waters and is therefore not located in flood hazard areas.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and is therefore not located in flood hazard areas.

COP Section Reference:

Section 5.2 Wetlands and Waterbodies

Policy 7:7-9.26 Riparian zones*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within, nor expected to affect, riparian zones.

In addition, the submarine export cables are located offshore in federal waters and therefore is not located within, nor expected to affect, riparian zones.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and therefore is not located within, nor expected to affect, riparian zones.

COP Section Reference:

Section 5.1 Terrestrial Vegetation and Wildlife; and Section 5.2 Wetlands and Waterbodies

Policy 7:7-9.27 Wetlands*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within, nor expected to affect, tidal or freshwater wetlands or adjacent

In addition, the submarine export cable routes are located offshore in federal waters and therefore is not within, nor expected to affect, tidal or freshwater wetlands.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and therefore is not within, nor expected to affect, tidal or freshwater wetlands.

COP Section Reference:

Section 5.2 Wetlands and Waterbodies

Policy 7:7-9.28 Wetlands buffers*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within, nor expected to affect, wetlands buffers.

In addition, the submarine export cables are located offshore in federal waters and therefore is not within, nor expected to affect, wetlands buffers.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and therefore is not within, nor expected to affect, wetlands buffers.

COP Section Reference:

Section 5.2 Wetlands and Waterbodies

Policy 7:7-9.29 Coastal bluffs*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to coastal bluffs.

In addition, the submarine export cables are located offshore in federal waters, where there are no coastal bluffs.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters, where there are no coastal bluffs.

COP Section Reference:

Not applicable

Policy 7:7-9.30 Intermittent stream corridors*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to intermittent stream corridors.

In addition, the submarine export cables are located offshore in federal waters, and therefore, does not affect intermittent stream corridors.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and therefore, does not affect intermittent stream corridors.

COP Section Reference:

Section 5.2 Wetlands and Waterbodies

Policy 7:7-9.31 Farmland conservation areas*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to farmland conservation areas.

In addition, the submarine export cables are located offshore in federal waters and therefore, not within farmland conservation areas.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and therefore, not within farmland conservation areas.

COP Section Reference:

Not applicable

Policy 7:7-9.32 Steep slopes

Response to Policy for EW 1 and EW 2:

This policy is not applicable because the submarine export cables and temporary anchoring activities are located offshore.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters.

COP Section Reference:

Not applicable

Policy 7:7-9.33 Dry borrow pits

Response to Policy for EW 1 and EW 2,:

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to dry borrow pits.

In addition, the submarine export cables are located offshore in federal waters and therefore, not within dry borrow pits.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters.

COP Section Reference:

Not applicable

Policy 7:7-9.34 Historic and archaeological resources

Response to Policy for EW 1 and EW 2:

At this time, targets resembling potential submerged cultural resources have been identified within the Project Area; a buffer will be applied to these targets and the temporary anchoring of vessels in New Jersey State waters during installation will avoid impacting these resources.

The submarine export cables comply with this policy to the extent applicable. A buffer will be applied to these identified targets and the submarine export cables will be routed to avoid potentially impacting these resources unless further investigation and/or consultation with the appropriate authorities deems unnecessary. Therefore, no impacts to submerged cultural resources are anticipated. Additional evaluation of appropriate measures regarding potential submerged cultural resources will be completed, with support from and engagement with regulatory authorities.

Response to Policy for WFDA:

The WFDA complies with this policy to the extent applicable. At this time, targets resembling potential submerged cultural resources have been identified within the submarine export cable route; a buffer will be

applied to these targets and the submarine export cables will be routed to avoid potentially impacting these resources. Therefore, no impacts to submerged cultural resources are anticipated. Additional evaluation of appropriate measures regarding potential submerged cultural resources will be completed, with support from and engagement with regulatory authorities.

Additionally, short-term visual effects to historic properties may occur during construction and decommissioning of the offshore Project components due to Project-related vessels within and transitioning to/from the WFDA and along the submarine cable route. Vessel traffic is common along the Atlantic Coast. It is anticipated that the vessels required to transport Project components from shore to the WFDA will not substantially increase traffic along the eastern coast of New Jersey. The majority of the vessels that will be used for Project construction will be similar in size and form to existing commercial vessels; therefore, weak contrast will be introduced for viewers within the Offshore AVEHP APE who will see vessels in the foreground to middle ground distance zone (zero to 5 mi [8 km]) traveling from ports on the mainland to the WFDA and the use of navigation lights associated with large vessels during nighttime construction activities.

Long-term visual effects resulting from the presence of new fixed structures offshore (e.g., wind turbines and offshore substations) could potentially affect the viewshed of NRHP-listed or -eligible resources. To minimize effects these identified historic resources, Empire has taken steps to reduce the visibility of the Project to the extent practicable. All wind turbines and the offshore substations will be a white or light grey color in order to minimize their contrast with the sky in most atmospheric conditions and the wind turbine design and appearance will be in line with mitigation measures recommended by BOEM. Furthermore, navigational lighting that minimizes the visibility of the wind turbines and offshore substations, without compromising safety, will also be employed. This strategy includes limiting the amount of lighting and time duration to the minimum allowable by the FAA and USCG, such as the implementation of an Aircraft Detection Lighting System.

COP Section Reference:

Section 6.1 Marine Archaeological Resources; Section 6.2 Terrestrial Archeological Resources; Section 6.3 Historic Properties and Architectural Properties; Section 7 Visual Resources; Appendix X Marine Archaeological Resources Assessment; Appendix Y Terrestrial Archaeological Resources Assessment; Appendix Z Analysis of Visual Effects to Historic Properties; and Appendix AA Visual Impact Assessment

Policy 7:7-9.35 Specimen trees

Response to Policy for EW 1 and EW 2:

This policy is not applicable because the temporary anchoring of vessels is located in New Jersey State waters.

In addition, the submarine export cables are located offshore in federal waters.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters.

COP Section Reference:

Not applicable

Policy 7:7-9.36 Endangered or threatened wildlife or plant species habitats*Response to Policy for EW 1 and EW 2:*

The temporary anchoring of vessels in New Jersey State waters during installation could have some short-term impacts to endangered or threatened wildlife or plant species and habitats. However, Empire will implement the appropriate avoidance, minimization, and mitigation measures to mitigate potential impacts to endangered or threatened wildlife or plant species and habitats from Project activities. Therefore, no permanent disturbance to threatened and endangered species or displacement from suitable habitat is anticipated.

The submarine export cables comply with the policy to the extent applicable. Empire intends to continue discussions and engagement with regulatory agencies and other stakeholders throughout the life of the Project to develop an adaptive mitigation approach that allows for flexibility while providing the best and most protective mitigation measures. Additionally, Empire will implement the appropriate avoidance, minimization, and mitigation measures to mitigate potential impacts to endangered or threatened wildlife or plant species and habitats from Project activities. Therefore, no permanent disturbance to threatened and endangered species or displacement from suitable habitat is anticipated in the Project Area.

Response to Policy for WFDA:

The WFDA complies with the policy to the extent applicable. Empire intends to continue discussions and engagement with regulatory agencies and other stakeholders throughout the life of the Project to develop an adaptive mitigation approach that allows for flexibility while providing the best and most protective mitigation measures. Additionally, Empire will implement the appropriate avoidance, minimization, and mitigation measures to mitigate potential impacts to endangered or threatened wildlife or plant species and habitats from Project activities. Therefore, no permanent disturbance to threatened and endangered species or displacement from suitable habitat is anticipated in the Project Area.

COP Section Reference:

Section 5 Biological Resources and Habitat; Appendix N IPaC Report, New York State Department of Environmental Conservation and New Jersey Department of Environmental Protection Natural Heritage Response Letters; Appendix P Ornithological and Marine Fauna Aerial Survey; Appendix Q Avian Impact Assessment for the Proposed Empire Wind Project in the New York Bight; Appendix R 2018 Bat Survey Report; Appendix S Bat Impact Assessment for the Proposed Empire Wind Project in the New York Bight; Appendix T Benthic Resource Characterization Reports; and Appendix U Essential Fish Habitat (EFH) Assessment

Policy 7:7-9.37 Critical wildlife habitat*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to critical wildlife habitat.

In addition, the submarine export cables are located in federal waters outside of any New Jersey-designated critical wildlife habitat.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located in federal waters outside of any New Jersey-designated critical wildlife habitat.

COP Section Reference:

Section 5.1 Terrestrial Vegetation and Wildlife; and Appendix N IPaC Report, New York State Department of Environmental Conservation and New Jersey Department of Environmental Protection Natural Heritage Response Letters

Policy 7:7-9.38 Public open space*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to public open spaces.

In addition, the submarine export cables are located in federal waters outside of public open space.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located in federal waters outside of public open space.

COP Section Reference:

Section 8.2 Land Use and Zoning

Policy 7:7-9.39 Special hazard areas*Response to Policy for EW 1 and EW 2:*

The Project complies with this policy to the extent applicable. The overall risks to public health and safety will be managed under a Project-specific SMS developed in accordance with 30 CFR §§ 585.810, 585.11, 585.627 (d), 614(b) and 651. The goal of the SMS is to identify Project-related activities that have the potential to affect human health or the environment and to provide the means in which to address them. The Project SMS will be a living document that manages activities in respect to hazard identification, risk management and control procedures, and protection of personnel, contractors, and the public.

Response to Policy for WFDA:

The WFDA complies with this policy to the extent applicable. The overall risks to public health and safety will be managed under a Project-specific SMS developed in accordance with 30 CFR §§ 585.810, 585.11, 585.627 (d), 614(b) and 651. The goal of the SMS is to identify Project-related activities that have the potential to affect human health or the environment and to provide the means in which to address them. The Project SMS will be a living document that manages activities in respect to hazard identification, risk management and control procedures, and protection of personnel, contractors, and the public. Additional measures will be implemented during construction and operation activities including, but not limited to, marking of wind turbines and offshore substations in accordance with IALA O-139, USCG requirements, and the BOEM Lighting/Marking Guidance; development of an SPCC Plan, development of an emergency evacuation plan, implementation of safety zones, use of spill response kits, secondary containers, and water-tight containers, and use of appropriate, agency-approved marking and lighting around onshore substations.

COP Section Reference:

Section 3.5.3 Offshore Marking and Lighting; Section 4.2 Water Quality; Section 4.3 Air Quality; Section 8.5 Land Transportation; Section 8.6 Aviation; Section 8.7 Marine Transportation and Navigation; Section 8.10 Marine Energy and Infrastructure; Section 8.12 Public Health and Safety; Appendix F Oil Spill Response Plan;

Appendix G Safety Management System; Appendix DD Navigation Safety Risk Assessment; and Appendix FF Offshore Electric and Magnetic Field Assessment

Policy 7:7-9.40 Excluded Federal lands

Response to Policy for EW 1, EW 2, and WFDA:

This policy is not applicable because the Project is not located within excluded federal lands.

COP Section Reference:

Not applicable

Policy 7:7-9.41 Special urban areas

Response to Policy for EW 1, EW 2:

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to special urban areas.

In addition, the submarine export cables routes are located offshore and not within special urban areas.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore and not within special urban areas.

COP Section Reference:

Not applicable

Policy 7:7-9.42 Pinelands National Reserve and Pinelands Protection Area

Response to Policy for EW 1 and EW 2:

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to the Pinelands National Reserve.

In addition, the submarine export cables are located in federal waters outside of the Pinelands National Reserve.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located in federal waters outside of the Pinelands National Reserve.

COP Section Reference:

Not applicable

Policy 7:7-9.43 Meadowlands District

Response to Policy for EW 1 and EW 2:

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to the Meadowlands District.

In addition, the submarine export cables are located in federal waters outside of the Meadowlands District.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located in federal waters outside of the Meadowlands District.

COP Section Reference:

Not applicable

Policy 7:7-9.44 Wild and scenic river corridors*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to wild and scenic river corridors.

In addition, the submarine export cables are located in federal waters and do not cross any wild and scenic river corridors.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located in federal waters and do not cross any wild and scenic river corridors.

COP Section Reference:

Not applicable

Policy 7:7-9.45 Geodetic control reference marks*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation are not anticipated to disturb any geodetic control reference marks.

In addition, the submarine export cables are located offshore in federal waters and therefore would not disturb any geodetic control reference marks.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and therefore will not disturb any geodetic control reference marks.

COP Section Reference:

Not applicable

Policy 7:7-9.46 Hudson River waterfront area*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to the Hudson River waterfront area.

In addition, the submarine export cables are located offshore in federal waters and therefore will not disturb the Hudson River waterfront area. Recognizing that the EW 1 submarine export cable traverses through New York Harbor and is proposed to make landfall in Gowanus, Brooklyn, and New York, the submarine export cables will still be consistent with the rationale and purpose of this policy because the location of infrastructure will not impact any undisturbed areas along the coastline.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and therefore will not impact the Hudson River waterfront area.

COP Section Reference:

Not applicable

Policy 7:7-9.47 Atlantic City

Response to Policy for EW 1 and EW 2,:

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to Atlantic City.

In addition, the submarine export cables are located in federal waters outside of Atlantic City.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located in federal waters outside of Atlantic City.

COP Section Reference:

Not applicable

Policy 7:7-9.48 Lands and waters subject to public trust rights

Response to Policy for EW 1 and EW 2:

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to lands and waters subject to public trust rights.

In addition, the submarine export cables are located offshore in federal waters and therefore not within lands and waters subject to public trust rights.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and therefore not within lands and waters subject to public trust rights.

COP Section Reference:

Section 3 Project Description

7:7-9.49 Dredged material management areas

Response to Policy for EW 1 and EW 2:

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to

In addition, the submarine export cables are located offshore in federal waters and are not within dredged material management areas.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and is not within dredged material management areas.

COP Section Reference:

Section 3 Project Description; and Section 8.10 Marine Energy and Infrastructure

A.3.2 Subchapter 10: Standards for Beach and Dune Activities***Policy 7:7-10.2 Standards applicable to routine beach maintenance****Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation will not interfere with routine beach maintenance activities.

In addition, the submarine export cables are located offshore in federal waters and will not interfere with routine beach maintenance activities.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and will not interfere with routine beach maintenance activities.

COP Section Reference:

Not applicable

Policy 7:7-10.3 Standards applicable to emergency post-storm beach restoration*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation will not interfere with emergency post-storm beach restoration activities.

In addition, the submarine export cables are located offshore in federal waters and will not interfere with emergency post-storm beach restoration activities.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and will not interfere with emergency post-storm beach restoration activities.

COP Section Reference:

Not applicable

Policy 7:7-10.4 Standards applicable to dune creation and maintenance*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because dune creation and maintenance activities are not proposed during construction and operation of the Project. Furthermore, the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to areas suitable for dune creation and maintenance.

In addition, the submarine export cables are located in federal waters and not within areas suitable for dune creation and maintenance.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located in federal waters and not within areas suitable for dune creation and maintenance.

COP Section Reference:

Not applicable

Policy 7:7-10.5 Standards applicable to the construction of boardwalks

Response to Policy for EW 1 and EW 2:

This policy is not applicable because construction of boardwalks is not proposed during construction and operation of the Project. Furthermore, the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to areas suitable for construction of boardwalks.

In addition, the submarine export cables and anchoring activities related to the construction of EW 1 are located in federal waters and not within areas suitable for construction of boardwalks.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located in federal waters and not within areas suitable for construction of boardwalks.

COP Section Reference:

Not applicable

**A.3.3 Subchapter 11: Standards for Conducting and Reporting the Results of an
Endangered or Threatened Wildlife or Plant Species Habitat Impact Assessment
and/or Endangered or Threatened Wildlife Species Habitat Evaluation**

Policy 7:7-11.2 Standards for conducting endangered or threatened wildlife or plant species habitat impact assessment

Response to Policy for EW 1 and EW 2:

The temporary anchoring of vessels in New Jersey State waters during installation is not anticipated to impact endangered or threatened marine species habitat.

In addition, the submarine export cables comply with this policy to the extent applicable. Assessments of potential impacts to endangered or threatened marine species conducted for the Project are summarized in response to Policy 7:7-9.36. Coordination with applicable resource agencies is ongoing to ensure the Project will not negatively affect population(s) or habitat of endangered or threatened marine species, in compliance with this policy.

Response to Policy for WFDA:

The WFDA complies with this policy to the extent applicable. Assessments of potential impacts to endangered or threatened wildlife and plant species habitats conducted for the Project are summarized in response to Policy

7:7-9.36. Coordination with applicable resource agencies is ongoing to ensure the Project will not negatively affect population(s) or habitat of endangered or threatened wildlife species, in compliance with this policy.

COP Section Reference:

Section 5.1 Terrestrial Vegetation and Wildlife; Section 5.3 Avian Species; Section 5.6 Marine Mammals; Section 5.7 Sea Turtles; Appendix B Summary of Agency Engagement; Appendix N IPaC Report, New York State Department of Environmental Conservation and New Jersey Department of Environmental Protection Natural Heritage Response Letters; Appendix P Ornithological and Marine Fauna Aerial Survey; Appendix Q Avian Impact Assessment for the Proposed Empire Wind Project in the New York Bight; Appendix R 2018 Bat Survey Report; Appendix S Bat Impact Assessment for the Proposed Empire Wind Project in the New York Bight; Appendix T Benthic Resource Characterization Reports; and Appendix U Essential Fish Habitat (EFH) Assessment

Policy 7:7-11.3 Standards for conducting endangered or threatened wildlife species habitat evaluation

Response to Policy for EW 1 and EW 2:

The temporary anchoring of vessels in New Jersey State waters during installation is not anticipated to impact endangered or threatened marine species habitat.

The submarine export cables and anchoring activities related to the construction of EW 1 comply with this policy to the extent applicable. A summary of potential habitats of endangered or threatened marine species is provided in response to Policy 7:7-9.36. Coordination with applicable resource agencies is ongoing to ensure the Project will not negatively affect population(s) or habitat of endangered or threatened marine species, in compliance with this policy.

Response to Policy for WFDA:

The WFDA complies with this policy to the extent applicable. A summary of potential habitats of endangered or threatened wildlife and plant species habitats is provided in response to Policy 7:7-9.36. Coordination with applicable resource agencies is ongoing to ensure the Project will not negatively affect population(s) or habitat of endangered or threatened wildlife species, in compliance with this policy.

COP Section Reference:

Section 5.1 Terrestrial Vegetation and Wildlife; Section 5.3 Avian Species; Section 5.6 Marine Mammals; Section 5.7 Sea Turtles; Appendix B Summary of Agency Engagement; Appendix N IPaC Report, New York State Department of Environmental Conservation and New Jersey Department of Environmental Protection Natural Heritage Response Letters; Appendix P Ornithological and Marine Fauna Aerial Survey; Appendix Q Avian Impact Assessment for the Proposed Empire Wind Project in the New York Bight; Appendix R 2018 Bat Survey Report; Appendix S Bat Impact Assessment for the Proposed Empire Wind Project in the New York Bight; Appendix T Benthic Resource Characterization Reports; and Appendix U Essential Fish Habitat (EFH) Assessment

Policy 7:7-11.4 Standards for reporting the results of impact assessments and habitat evaluations

Response to Policy for EW 1 and EW 2:

The temporary anchoring of vessels in New Jersey State waters during installation is not anticipated to impact endangered or threatened marine species habitat.

In addition, the submarine export cables comply with this policy to the extent applicable. A summary of potential habitats of endangered or threatened marine species is provided in response to Policy 7:7-9.36. Coordination with applicable resource agencies is ongoing to ensure the Project is adequately reporting the results of impact assessments and habitat evaluations.

Response to Policy for WFDA:

The WFDA complies with this policy to the extent applicable. A summary of potential habitats of endangered or threatened wildlife and plant species habitats is provided in response to Policy 7:7-9.36. Coordination with applicable resource agencies is ongoing to ensure the Project is adequately reporting the results of impact assessments and habitat evaluations.

COP Section Reference:

Section 5.1 Terrestrial Vegetation and Wildlife; Section 5.3 Avian Species; Section 5.6 Marine Mammals; Section 5.7 Sea Turtles; Appendix B Summary of Agency Engagement; Appendix N IPaC Report, New York State Department of Environmental Conservation and New Jersey Department of Environmental Protection Natural Heritage Response Letters; Appendix P Ornithological and Marine Fauna Aerial Survey; Appendix Q Avian Impact Assessment for the Proposed Empire Wind Project in the New York Bight; Appendix R 2018 Bat Survey Report; Appendix S Bat Impact Assessment for the Proposed Empire Wind Project in the New York Bight; Appendix T Benthic Resource Characterization Reports; and Appendix U Essential Fish Habitat (EFH) Assessment

A.3.4 Subchapter 12: General Water Areas

Policy 7:7-12.2 Shellfish aquaculture

Response to Policy for EW 1 and EW 2:

This policy does not apply, as the temporary anchoring of vessels in New Jersey State waters during installation is not anticipated to impact shellfish aquaculture or impacts to shellfish aquaculture.

In addition, the submarine export cables are located offshore in federal waters and are not anticipated to impact shellfish aquaculture or impacts to shellfish aquaculture.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and is not anticipated to impact shellfish aquaculture or impacts to shellfish aquaculture.

COP Section Reference:

Not applicable

Policy 7:7-12.3 Boat ramps

Response to Policy for EW 1 and EW 2:

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to a boat ramp and

boat ramps are not proposed.

In addition, the submarine export cables are located offshore in federal waters.

Response to Policy for WFDA:

This policy is not applicable because the WDFA is located offshore in federal waters.

COP Section Reference:

Not applicable

Policy 7:7-12.4 Docks and piers for cargo and commercial fisheries*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent docks and piers for cargo and commercial fisheries

and new docks or piers for cargo and commercial fisheries are not proposed.

In addition, the submarine export cables are located offshore in federal waters.

Response to Policy for WFDA:

This policy is not applicable because the WDFA is located offshore in federal waters.

COP Section Reference:

Not applicable

Policy 7:7-12.5 Recreational docks and piers*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located within or adjacent to recreational docks and piers and recreational docks or piers are not proposed.

In addition, the submarine export cables are located offshore in federal waters.

Response to Policy for WFDA:

This policy is not applicable because the WDFA is located offshore in federal waters.

COP Section Reference:

Not applicable

Policy 7:7-12.6 Maintenance and dredging*Response to Policy for EW 1 and EW 2:*

This policy is not applicable to the Project. No maintenance dredging from previously legally dredged navigation and access channels, marinas, lagoons, canals or boat moorings, for the purpose of safe navigation, is currently proposed. New dredging activities for the purpose of installation of the export cables are addressed under Policy 7:7-12.7.

Response to Policy for WFDA:

This policy is not applicable to the Project. No maintenance dredging from previously legally dredged navigation and access channels, marinas, lagoons, canals or boat moorings, for the purpose of safe navigation,

is currently proposed. New dredging activities for the purpose of installation of the export cables are addressed under Policy 7:7-12.7.

COP Section Reference:

Not applicable

Policy 7:7-12.7 New dredging

Response to Policy for EW 1 and EW 2:

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation will not include new dredging activities.

In addition, the submarine export cables are located offshore in federal waters and as such, will not be located in New Jersey general water areas.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters; as such, it will not be located in New Jersey general water areas.

COP Section Reference:

Section 4.2 Water Quality; Section 5.2 Wetlands and Waterbodies; Section 5.5 Benthic Resources and Finfish, Invertebrates, and Essential Fish Habitat; Section 8.7 Marine Transportation and Navigation; Section 9 Summary of Avoidance, Minimization, and Mitigation Measures; Appendix F Oil Spill Response Plan; Appendix J Sediment Transport Analysis; and Appendix DD Navigation Safety Risk Assessment

Policy 7:7-12.8 Environmental dredging

Response to Policy for EW 1 and EW 2/WFDA:

This policy is not applicable to the Project because no environmental dredging is proposed specifically to remove contaminated sediments for the purpose of remediating to an environmental standard.

Response to Policy for WFDA:

This policy is not applicable to the Project because no environmental dredging is proposed specifically to remove contaminated sediments for the purpose of remediating to an environmental standard.

COP Section Reference:

Not applicable

Policy 7:7-12.9 Dredged material disposal

Response to Policy for EW 1 and EW 2:

The temporary anchoring of vessels in New Jersey State waters during installation will not include new dredging activities.

Although it is not anticipated that dredged material (if generated) from the submarine export cables will be transported to New Jersey tidal waters, Empire will work with NJDEP, NYSDEC, USACE, and EPA, if necessary, to develop acceptable dredge material disposal plans under applicable regulations for any ocean disposal of dredged material, in the event that dredged material needs to be managed in offshore federal waters.

Response to Policy for WFDA:

Although it is not anticipated that dredged material (if generated) from the WFDA will be transported to New Jersey tidal waters, Empire will work with NJDEP, NYSDEC, USACE, and EPA, if necessary, to develop acceptable dredge material disposal plans under applicable regulations for any ocean disposal of dredged material, in the event that dredged material needs to be managed in the WFDA.

COP Section Reference:

Section 3 Project Description

Policy 7:7-12.10 Solid waste or sludge dumping*Response to Policy for EW 1 and EW 2:*

This policy is not applicable to the Project because no solid waste or sludge dumping is proposed.

Response to Policy for WFDA:

This policy is not applicable to the Project because no solid waste or sludge dumping is proposed.

COP Section Reference:

Not applicable

Policy 7:7-12.11 Filling*Response to Policy for EW 1 and EW 2:*

This policy is not applicable to the Project because no filling with the purpose of raising the water bottom elevations to create land areas is proposed.

Response to Policy for WFDA:

This policy is not applicable to the Project because no filling with the purpose of raising the water bottom elevations to create land areas is proposed.

COP Section Reference:

Not applicable

Policy 7:7-12.12 Mooring*Response to Policy for EW 1 and EW 2:*

This policy is not applicable to the Project because no mooring or new mooring areas are proposed.

Response to Policy for WFDA:

This policy is not applicable to the Project because no mooring or new mooring areas are proposed.

COP Section Reference:

Not applicable

Policy 7:7-12.13 Sand and gravel mining*Response to Policy for EW 1 and EW 2:*

This policy is not applicable to the Project because no sand and/or gravel mining is proposed.

Response to Policy for WFDA:

This policy is not applicable to the Project because no sand and/or gravel mining is proposed.

COP Section Reference:

Not applicable

Policy 7:7-12.14 Bridges*Response to Policy for EW 1, EW 2, and WFDA:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation will not impact bridges.

In addition, the submarine export cables are located offshore in federal waters and no bridge construction or impacts are proposed.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore and no bridge construction is proposed.

COP Section Reference:

Not applicable

Policy 7:7-12.15 Submerged pipelines*Response to Policy for EW 1 and EW 2:*

This policy is not applicable to the Project because no submerged pipelines are proposed as part of the Project.

Response to Policy for WFDA:

This policy is not applicable to the Project because no submerged pipelines are proposed as part of the Project.

COP Section Reference:

Section 3 Project Description

Policy 7:7-12.16 Overhead transmission lines*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation will not impact overhead transmission lines and no overhead transmission lines are proposed.

In addition, the submarine export cables are located offshore in federal waters and no overhead transmission lines are proposed.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and no overhead transmission lines are proposed.

COP Section Reference:

Not applicable

Policy 7:7-12.17 Dams and impoundments*Response to Policy for EW 1 and EW 2:*

This policy is not applicable to the Project because dams or impoundments are not proposed.

Response to Policy for WFDA:

This policy is not applicable to the Project because dams or impoundments are not proposed.

COP Section Reference:

Not applicable

Policy 7:7-12.18 Outfalls and intakes*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation will not impact outfalls or intakes and no outfalls or intakes are proposed.

In addition, the submarine export cables are located offshore in federal waters.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters.

COP Section Reference:

Not applicable

Policy 7:7-12.19 Realignment of water areas*Response to Policy for EW 1 and EW 2:*

This policy is not applicable to the Project because no realignment of water areas is proposed.

Response to Policy for WFDA:

This policy is not applicable to the Project because no realignment of water areas is proposed.

COP Section Reference:

Not applicable

Policy 7:7-12.20 Vertical wake or wave attenuation structures*Response to Policy for EW 1 and EW 2:*

This policy is not applicable to the Project because no vertical wake or wave attenuation structures are proposed.

Response to Policy for WFDA:

This policy is not applicable to the Project because no vertical wake or wave attenuation structures are proposed.

COP Section Reference:

Not applicable

Policy 7:7-12.21 Submerged cables*Response to Policy for EW 1 and EW 2:*

The temporary anchoring of vessels in New Jersey State waters during installation does not consist of submerged cables, therefore, this policy is not applicable.

In addition, the submarine export cables are located in federal waters, outside of the coastal area, and therefore, this policy is not applicable. However, the submarine export cable routes were selected to minimize overlap with sensitive benthic habitats, and cables will be further micro-sited within the installation corridor to avoid sensitive habitats to the extent feasible. Given these avoidance measures, the probability of adverse interactions of construction with sensitive benthic resources is low. The analysis of impacts supports the overall determination that the Project would not result in substantial adverse impacts to shellfish habitat and any impacts would be short-term and not affect stocks or populations.

Response to Policy for WFDA:

The WFDA is located in federal waters, outside of the coastal area and therefore this policy is not applicable.

COP Section Reference:

Section 2 Alternatives; Section 3 Project Description; Section 5.5 Benthic Resources and Finfish, Invertebrates, and Essential Fish Habitat; Section 6.1 Marine Archaeological Resources; Section 8.7 Marine Transportation and Navigation; Section 8.8 Commercial and Recreational Fisheries; Appendix T Benthic Resource Characterization Reports; Appendix U Essential Fish Habitat (EFH) Assessment; Appendix V Fisheries Mitigation Plan; Appendix X Marine Archeological Resources Assessment; and Appendix DD Navigation Safety Risk Assessment

Policy 7:7-12.22 Artificial reefs*Response to Policy for EW 1 and EW 2:*

This policy is not applicable to the Project because artificial reefs are not proposed.

Response to Policy for WFDA:

This policy is not applicable to the Project because artificial reefs are not proposed.

COP Section Reference:

Not applicable

Policy 7:7-12.23 Living shorelines*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation will not impact existing or proposed living shorelines.

In addition, the submarine export cables are located offshore in federal waters and no living shorelines are proposed nor will any existing ones be affected.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and no living shorelines are proposed nor will any existing ones be affected.

COP Section Reference:

Not applicable

Policy 7:7-12.24 Miscellaneous uses

Response to Policy for EW 1 and EW 2:

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is a water-dependent use; no miscellaneous uses are proposed.

In addition, the submarine export cables are located offshore in federal waters and are a water-dependent use; no miscellaneous uses are proposed.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and is a water-dependent use; no miscellaneous uses are proposed.

COP Section Reference:

Not applicable

A.3.5 Subchapter 13: Requirements for Impervious Cover and Vegetative Cover for General Land Areas and Certain Special Areas

Policy 7:7-13.3 Impervious cover requirements that apply to sites in the upland waterfront development and CAFRA areas

Response to Policy for EW 1 and EW 2:

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located in upland waterfront development or a regulated activity within CAFRA areas.

In addition, the submarine export cables are located offshore in federal waters and are not located in upland waterfront development or CAFRA areas.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and is not located in upland waterfront development or CAFRA areas. N.J.A.C. 7:7-13.1(d) 10 also exempts wind turbines from this subchapter.

COP Section Reference:

Not applicable

Policy 7:7-13.4 Vegetative cover requirements that apply to sites in the upland waterfront development and CAFRA areas*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located in upland waterfront development or a regulated activity within CAFRA areas.

In addition, the submarine export cables are located offshore in federal waters and are therefore not located in upland waterfront development or CAFRA areas.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and is therefore not located in upland waterfront development or CAFRA areas. N.J.A.C. 7:7-13.1(d) 10 also exempts wind turbines from this subchapter.

COP Section Reference:

Section 4.5.1 Terrestrial Vegetation and Wildlife

Policy 7:7-13.5 Determining if a site is forested or unforested*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located in upland waterfront development or a regulated activity within CAFRA areas.

In addition, the submarine export cables are located offshore in federal waters and are therefore not located in upland waterfront development or CAFRA areas.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and is therefore not located in upland waterfront development or CAFRA areas. N.J.A.C. 7:7-13.1(d) 10 also exempts wind turbines from this subchapter.

COP Section Reference:

Section 4.5.1 Terrestrial Vegetation and Wildlife

Policy 7:7-13.6 Upland waterfront development area regions and growth ratings*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located in upland waterfront development.

In addition, the submarine export cables are located offshore in federal waters and are not located in upland waterfront development areas.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and is not located in upland waterfront development areas. N.J.A.C. 7:7-13.1(d) 10 also exempts wind turbines from this subchapter.

COP Section Reference:

Not applicable

Policy 7:7-13.7 Determining the environmental sensitivity of a site in the upland waterfront development area*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located in upland waterfront development.

In addition, the submarine export cables are located offshore in federal waters and are not located in upland waterfront development or CAFRA areas.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and is not located in upland waterfront development or CAFRA areas. N.J.A.C. 7:7-13.1(d) 10 also exempts wind turbines from this subchapter.

COP Section Reference:

Not applicable

Policy 7:7-13.8 Determining the development potential of a site in the upland waterfront development area*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located in upland waterfront development.

In addition, the submarine export cables are located offshore in federal waters and are not located in upland waterfront development or CAFRA areas.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and is not located in upland waterfront development or CAFRA areas. N.J.A.C. 7:7-13.1(d) 10 also exempts wind turbines from this subchapter.

COP Section Reference:

Not applicable

Policy 7:7-13.9 Determining the development potential for a residential or minor commercial development site in the upland waterfront development area*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation do not involve residential or minor commercial development.

In addition, the submarine export cables are located offshore in federal waters and do not involve residential or minor commercial development.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and does not involve residential or minor commercial development.

COP Section Reference:

Not applicable

Policy 7:7-13.10 Determining the development potential for a major commercial or industrial development site in the upland waterfront development area*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located in upland waterfront development or a regulated activity within CAFRA areas.

In addition, the submarine export cables are located offshore in federal waters and are not located in upland waterfront development or CAFRA areas.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and is not located in upland waterfront development or CAFRA areas. N.J.A.C. 7:7-13.1(d) 10 also exempts wind turbines from this subchapter.

COP Section Reference:

Not applicable

Policy 7:7-13.11 Determining the development potential for a campground development site in the upland waterfront development area*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation does not involve campground development.

In addition, the submarine export cables are located offshore in federal waters. Linear developments and electrical substations are not subject to subchapter 13 under N.J.A.C. 7:7-13.1(d) 2 and 9, respectively. Additionally, this Project does not involve campground development.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore. Linear developments and electrical substations are not subject to subchapter 13 under N.J.A.C. 7:7-13.1(d) 2 and 9, respectively. Additionally, this Project does not involve campground development.

COP Section Reference:

Not applicable

Policy 7:7-13.12 Determining the development intensity of a site in the upland waterfront development area*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located in upland waterfront development or a regulated activity within CAFRA areas.

In addition, the submarine export cables are located offshore in federal waters and are not located in upland waterfront development or CAFRA areas.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and is not located in upland waterfront development or CAFRA areas. N.J.A.C. 7:7-13.1(d) 10 also exempts wind turbines from this subchapter.

COP Section Reference:

Not applicable

Policy 7:7-13.13 Impervious cover limits for a site in the upland waterfront development area*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located in upland waterfront development and does not involve creation of impervious cover on any land areas.

In addition, the submarine export cables are located offshore in federal waters and are not located in upland waterfront development and does not involve creation of impervious cover on any land areas.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and is not located in upland waterfront development and does not involve creation of impervious cover on any land areas.

COP Section Reference:

Not applicable

Policy 7:7-13.14 Vegetative cover percentage for a site in the upland waterfront development area*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located in upland waterfront development or a regulated activity within CAFRA areas.

In addition, the submarine export cables are located offshore in federal waters and are not located in upland waterfront development or CAFRA areas.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and is not located in upland waterfront development or CAFRA areas. N.J.A.C. 7:7-13.1(d) 10 also exempts wind turbines from this subchapter.

COP Section Reference:

Section 4.5.1 Terrestrial Vegetation and Wildlife

Policy 7:7-13.15 Coastal Planning Areas in the CAFRA area*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not a regulated activity within CAFRA areas.

In addition, the submarine export cables are located offshore in federal waters and are not located in CAFRA areas.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and is not located in CAFRA areas. N.J.A.C. 7:7-13.1(d) 10 also exempts wind turbines from this subchapter.

COP Section Reference:

Not applicable

Policy 7:7-13.16 Boundaries for Coastal Planning Areas, CAFRA centers, CAFRA cores, and CAFRA nodes; non-mainland coastal centers*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located in Coastal Planning Areas, a non-mainland coastal center, or a regulated activity within CAFRA areas.

In addition, the submarine export cables are located offshore in federal waters and are therefore not located in Coastal Planning Areas, CAFRA areas or non-mainland coastal centers.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and is therefore not located in Coastal Planning Areas, CAFRA areas or non-mainland coastal centers. N.J.A.C. 7:7-13.1(d) 10 also exempts wind turbines from this subchapter.

COP Section Reference:

Not applicable

Policy 7:7-13.17 Impervious cover limits for a site in the CAFRA area*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not a regulated activity within CAFRA areas.

In addition, the submarine export cables are located offshore in federal waters and are not located in a CAFRA area.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and is not located in a CAFRA area. N.J.A.C. 7:7-13.1(d) 10 also exempts wind turbines from this subchapter.

COP Section Reference:

Not applicable

Policy 7:7-13.18 Vegetative cover percentages for a site in the CAFRA area*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not a regulated activity within CAFRA areas.

In addition, the submarine export cables are located offshore in federal waters and are not located in CAFRA areas.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and is not located in CAFRA areas. N.J.A.C. 7:7-13.1(d) 10 also exempts wind turbines from this subchapter.

COP Section Reference:

Section 4.5.1 Terrestrial Vegetation and Wildlife

Policy 7:7-13.19 Mainland coastal centers*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is not located in mainland coastal centers.

In addition, the submarine export cables are located offshore in federal waters and are therefore not located in mainland coastal centers.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and is therefore not located in mainland coastal centers. N.J.A.C. 7:7-13.1(d) 10 also exempts wind turbines from this subchapter.

COP Section Reference:

Not applicable

A.3.6 Subchapter 14: General Location Rules***Policy 7:7-14.1 Rule on location of linear development****Response to Policy for EW 1 and EW 2:*

This policy does not directly apply because the temporary anchoring of vessels in New Jersey State waters during installation is not a major action that would impact the vital economic, social, and environmental interest of the State and its citizens.

In addition, the submarine export cables are located in federal waters, outside of the coastal area and therefore does not include major actions that would significantly impair valuable coastal waters and resources, thus avoiding impacts to the vital economic, social, and environmental interests of the State and its citizens. However, indirectly, in recognition that some interests are broad reaching and contiguous between state and federal waters, such as recreational boating, maritime commerce, and commercial fishing, the submarine export cables are being developed with consideration of these and other interests, such that access restrictions will be limited and temporary, associated with specific work locations. In the long term, vital economic, social, and environmental interests will not be significantly altered.

Response to Policy for WFDA:

This policy does not directly apply because the WFDA is located in federal waters, outside of the coastal area and therefore does not include major actions that would significantly impair valuable coastal waters and resources, thus avoiding impacts to the vital economic, social, and environmental interests of the State and its citizens. However, indirectly, in recognition that some interests are broad reaching and contiguous between state and federal waters, such as recreational boating, maritime commerce, and commercial fishing, the WFDA is being developed with consideration of these and other interests, such that access restrictions will be limited and temporary, associated with specific work locations within the WFDA. In the long term, vital economic, social, and environmental interests will not be significantly altered.

COP Section Reference:

Section 3 Project Description; and Section 8 Human Resources and the Built Environment

Policy 7:7-14.2 Basic location rule

Response to Policy for EW 1 and EW 2:

This policy does not directly apply because the temporary anchoring of vessels in New Jersey State waters during installation is not a major action that would significantly impair valuable coastal waters and resources.

In addition, the submarine export cables are located offshore in federal waters, outside of the coastal area and therefore does not include major actions that would significantly impair valuable coastal waters and resources.

Response to Policy for WFDA:

This policy does not directly apply because the WFDA is located offshore in federal waters, outside of the coastal area and therefore does not include major actions that would significantly impair valuable coastal waters and resources.

COP Section Reference:

Section 3 Project Description; and Section 8 Human Resources and the Built Environment

Policy 7:7-14.3 Secondary impacts

Response to Policy for EW 1 and EW 2:

This policy does not directly apply because the temporary anchoring of vessels in New Jersey State waters during installation is not a major action that would significantly impair valuable coastal waters and resources.

In addition, the submarine export cables are located offshore in federal waters, outside of the coastal area and therefore do not include major actions that would significantly impair valuable coastal waters and resources.

Response to Policy for WFDA:

This policy does not directly apply because the WFDA is located offshore in federal waters, outside of the coastal area and therefore does not include major actions that would significantly impair valuable coastal waters and resources.

COP Section Reference:

Section 9 Summary of Avoidance, Minimization, and Mitigation Measures

A.3.7 Subchapter 15: Use Rules***Policy 7:7-15.2 Housing****Response to Policy for EW 1 and EW 2:*

This rule is not applicable because the submarine export cables and anchoring activities related to the construction of EW 1 are located offshore and the Project does not include any housing development.

Response to Policy for WFDA:

This rule is not applicable because the WFDA is located offshore in federal waters and the Project does not include any housing development.

COP Section Reference:

Not applicable

Policy 7:7-15.3 Resort/recreations*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation does not include any resort or recreational facility development.

In addition, the submarine export cables and anchoring activities related to the construction of EW 1 are located offshore and the Project does not include any resort or recreational facility development.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and the Project does not include any resort or recreational facility development.

COP Section Reference:

Not applicable

Policy 7:7-15.4 Energy facility*Response to Policy for EW 1 and EW 2:*

The temporary anchoring of vessels in New Jersey State waters during installation is being completed in support of a source of renewable energy that supports renewable energy goals.

The submarine export cables comply with this policy to the extent applicable. Although the submarine export cables are located offshore in federal waters, outside of New Jersey coastal areas, it is proposed to serve as a source of renewable energy that supports renewable energy goals.

Response to Policy for WFDA:

The WFDA complies with this policy to the extent applicable. Although the WFDA is located offshore in federal waters, outside of New Jersey coastal areas, it serves as a source of renewable energy that supports the renewable energy goals.

COP Section Reference:

Section 1.4 Purpose and Need for the Project; and Section 2 Project Design Development

Policy 7:7-15.5 Transportation*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation does not include the development of any transportation facilities.

In addition, the submarine export cables are located offshore and the Project does not include the development of any transportation facilities.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and the Project does not include the development of any transportation facilities.

COP Section Reference:

Not applicable

Policy 7:7-15.6 Public facility*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation does not include the development of any public facilities.

In addition, the submarine export cables and WFDA are located offshore in federal waters and the Project does not include the development of any public facilities.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and the Project does not include the development of any public facilities.

COP Section Reference:

Not applicable

Policy 7:7-15.7 Industry*Response to Policy for EW 1 and EW 2:*

This policy does not directly apply because the temporary anchoring of vessels in New Jersey State waters during installation is not a major action that would significantly impact industrial uses..

In addition, the submarine export cables are located offshore in federal waters, outside of the coastal area, and therefore, does not include major actions that would significantly impact industrial uses.

Response to Policy for WFDA:

This policy does not directly apply because the WFDA is located offshore in federal waters, outside of the coastal area and therefore does not include major actions that will significantly impact industrial uses.

COP Section Reference:

Section 8.2 Land Use and Zoning

Policy 7:7-15.8 Mining*Response to Policy for EW 1 and EW 2:*

This rule is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation does not include any mining activities.

In addition, the submarine export cables are located offshore in federal waters and the Project does not include any mining activities.

Response to Policy for WFDA:

This rule is not applicable because the WFDA is located offshore in federal waters and the Project does not include any mining activities.

COP Section Reference:

Not applicable

Policy 7:7-15.9 Port*Response to Policy for EW 1 and EW 2:*

This rule is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation does not propose any additional port development.

In addition, the submarine export cables are located offshore in federal waters and the Project does not propose any additional port development.

Response to Policy for WFDA:

This rule is not applicable because the WFDA is located offshore in federal waters and the Project does not propose any additional port development.

COP Section Reference:

Not applicable

Policy 7:7-15.10 Commercial facility*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation does not include the development of any commercial facilities.

In addition, the submarine export cables are located offshore in federal waters and the Project does not include the development of any commercial facilities.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and the Project does not include the development of any commercial facilities.

COP Section Reference:

Not applicable

Policy 7:7-15.11 Coastal engineering*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation does not include the use of coastal engineering measures to protect the shoreline from the effects of erosion, storms, and sediment and sand movement.

In addition, the submarine export cables are located offshore in federal waters and the Project does not include the use of coastal engineering measures to protect the shoreline from the effects of erosion, storms, and sediment and sand movement.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and the Project does not include the use of coastal engineering measures to protect the shoreline from the effects of erosion, storms, and sediment and sand movement.

COP Section Reference:

Not applicable

Policy 7:7-15.12 Dredged material placement on land*Response to Policy for EW 1, EW 2, and WFDA:*

This rule is not applicable because the Project does not propose to place any dredged material on land. As the Project design advances, and on land dredge material disposal becomes a possibility, Empire will work with the NJDEP, USACE, and EPA, as applicable, in developing disposal plans and in obtaining necessary approvals and permits.

COP Section Reference:

Not applicable

Policy 7:7-15.13 National defense facilities*Response to Policy for EW 1 and EW 2:*

This rule is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation does not include the construction of any national defense facilities

In addition, the submarine export cables are located offshore in federal waters and the Project does not include the construction of any national defense facilities.

Response to Policy for WFDA:

This rule is not applicable because the WFDA is located offshore in federal waters and the Project does not include the construction of any national defense facilities.

COP Section Reference:

Not applicable

Policy 7:7-15.14 High-rise structures*Response to Policy for EW 1 and EW 2:*

The rule is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation does not include the development of any high-rise structures.

In addition, the submarine export cables are located offshore in federal waters and the Project does not include the development of any high-rise structures.

Response to Policy for WFDA:

The rule is not applicable because the WFDA is located offshore in federal waters and the Project does not include the development of any high-rise structures.

COP Section Reference:

Not applicable

A.3.8 Subchapter 16: Resource Rules***Policy 7:7-16.2 Marine fish and fisheries****Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation will not impact recreational use of fish and wildlife resources in New Jersey's coastal areas.

In addition, the submarine export cables are located in federal waters and will therefore not impact recreational use of fish and wildlife resources in New Jersey's coastal areas. However, indirectly, in recognition that some interests are broad reaching and contiguous between state and federal waters, such as fisheries, the cable routes are being developed with consideration of these and other interests, such that access restrictions will be limited and temporary, associated with specific work locations along the cable routes. In the long term, vital economic, social, and environmental interests will not be significantly altered.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located in federal waters and will therefore not impact recreational use of fish and wildlife resources in New Jersey's coastal areas. However, indirectly, in recognition that some interests are broad reaching and contiguous between state and federal waters, such as fisheries, the WFDA is being developed with consideration of these and other interests, such that access restrictions will be limited and temporary, associated with specific work locations within the WFDA. In the long term, vital economic, social, and environmental interests will not be significantly altered.

COP Section Reference:

Section 5.5 Benthic Resources and Finfish, Invertebrates, and Essential Fish Habitat; Section 8.7 Marine Transportation and Navigation; Section 8.8 Commercial and Recreational Fishing; Appendix T Benthic Resource Characterization Reports; Appendix U Essential Fish Habitat (EFH) Assessment; Appendix V Fisheries Mitigation Plan; and Appendix DD Navigation Safety Risk Assessment

Policy 7:7-16.3 Water quality*Response to Policy for EW 1 and EW 2:*

Project-related vessels associated with the temporary anchoring in New Jersey State waters comply with this policy to the extent applicable. Impacts associated with the temporary anchoring include only a small, localized, and temporary increase in suspended sediments, and is therefore protective of water quality. Furthermore, the temporary anchoring is not located within or adjacent to the Delaware River Basin or the waters under the jurisdiction of the Interstate Environmental Commission in the New Jersey-New York metropolitan area.

This policy is not applicable to the submarine export cables because they are located in federal waters. Empire's avoidance, minimization, and mitigation plan will be developed and finalized in accordance with all applicable federal laws, such as regulation of at-sea discharges of vessel-generated wastewater (USCG jurisdiction).

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located on the OCS in federal waters. However, Empire's avoidance, minimization, and mitigations plan will be developed and finalized in accordance with all applicable federal laws, such as regulation of at-sea discharges of vessel-generated wastewater (USCG jurisdiction).

COP Section Reference:

Section 4.2 Water Quality

Policy 7:7-16.4 Surface water use*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is located offshore and is therefore not anticipated to impact the quality and quantity of surface water supplies.

In addition, the submarine export cables are located offshore in federal waters and are therefore not anticipated to impact the quality and quantity of surface water supplies.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and is therefore not anticipated to impact the quality and quantity of surface water supplies.

COP Section Reference:

Section 4.2 Water Quality

Policy 7:7-16.5 Groundwater use*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is located offshore and is therefore not anticipated to impact the quality and quantity of groundwater supplies.

In addition, the submarine export cables are located offshore in federal waters and are therefore not anticipated to impact the quality and quantity of groundwater supplies.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and is therefore not anticipated to impact the quality and quantity of groundwater supplies.

COP Section Reference:

Section 4.2 Water Quality

Policy 7:7-16.6 Stormwater management*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is located offshore, outside of New Jersey coastal areas.

In addition, the submarine export cables are located offshore in federal waters, outside of New Jersey coastal areas.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters, outside of New Jersey coastal areas.

COP Section Reference:

Section 4.2 Water Quality

Policy 7:7-16.7 Vegetation*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is located offshore, outside of New Jersey coastal areas, and will not impact vegetation..

In addition, the submarine export cables are located offshore in federal waters, outside of New Jersey coastal areas, and will not impact vegetation.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters, outside of New Jersey coastal areas, and will not impact vegetation.

COP Section Reference:

Section 5.1 Terrestrial Vegetation and Wildlife

Policy 7:7-16.8 Air quality*Response to Policy for EW 1 and EW 2:*

Project-related vessels associated with the temporary anchoring in New Jersey State waters comply with this policy to the extent applicable. Air quality may be temporarily impacted from emissions associated with marine vessel activities within the New Jersey coastal areas during installation. Sources associated with the Project activities are expected to be subject to the air permitting requirements of the EPA. Empire will obtain the required federal air permits to meet air quality standards for construction and operation activities.

The submarine export cables comply to the extent applicable with this policy. Air quality may be temporarily impacted from emissions associated with onshore and marine vessel activities within the New Jersey coastal area during construction and operation of the Project. Sources associated with the Project activities are expected to be subject to the air permitting requirements of the EPA since they have jurisdiction for air permitting for projects located on the OCS. Empire will obtain the required federal air permits to meet air quality standards for construction, operation and decommissioning activities.

Response to Policy for WFDA:

The WFDA complies to the extent applicable with this policy. Empire has developed an inventory of anticipated emissions from Project-related construction and O&M vessels and helicopters operating at or within 25 nm (46.3 km) of the Project Area for comparison to the General Conformity thresholds. Air quality may be temporarily impacted from emissions associated with onshore and marine vessel activities within the New Jersey coastal area during construction and operation of the Project. Sources associated with the Project activities are expected to be subject to the air permitting requirements of the EPA since they have jurisdiction for air permitting for projects located on the OCS. Empire will obtain the required federal air permits to meet air quality standards for construction, operation and decommissioning activities.

COP Section Reference:

Section 4.3 Air Quality; and Section 8.5 Land Transportation and Traffic

Policy 7:7-16.9 Public access*Response to Policy for EW 1 and EW 2:*

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is located offshore and will not impact public access to New Jersey's coastal waters.

In addition, the submarine export cables are located offshore in federal waters and will not impact public access to New Jersey's coastal waters.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and will not impact public access to New Jersey's coastal waters.

COP Section Reference:

Section 8.3 Recreation and Tourism; and Section 9 Summary of Avoidance, Minimization, and Mitigation Measures

Policy 7:7-16.10 Scenic resources and design*Response to Policy for EW 1 and EW 2:*

Project-related vessels associated with the temporary anchoring in New Jersey State waters comply with this policy to the extent applicable. During construction activities, Project-related vessels will temporarily be located in offshore waters to support installation and burial activities.

The submarine export cables comply with this policy to the extent applicable. During construction activities, Project-related vessels will temporarily be located in offshore waters to support installation and burial activities. During operations, the submarine export cables will not be visible because they will be buried beneath the seabed.

Response to Policy for WFDA:

The WFDA complies with this policy to the extent applicable. During operations, views of the offshore Project components (i.e., wind turbines and offshore substations) will be limited primarily to coastal areas of New York and New Jersey that are within approximately 26 mi (42 km) from the Lease Area and have views of the Atlantic Ocean. Areas along the southern coast of New York (specifically barrier islands along the southern coast of Long Island) and the eastern coast of New Jersey within 26 mi (42 km) of the Lease Area will theoretically have views of the nacelle (hub), the majority of the rotor blades and tops of the towers of both the minimum and maximum representative wind turbines. Viewers along the coast will perceive a change in the landscape, and it is anticipated that the contrast created by the change will vary from strong to none. Perceived change will be higher along the southern coast of Long Island, New York and the eastern coast of New Jersey that are closest to the Lease Area and where views are toward the broad side of the Lease Area. Perceived change will be less elsewhere on the coastline as viewers get farther away from the Lease Area. Views of the offshore substations will be limited to vantage points along the southern coast of Long Island, New York and the eastern coast of New Jersey. The offshore substations will appear as small, grayish blocks on the horizon and will be seen in the context of the wind turbines and large marine vessels. It is anticipated that the offshore substations will result in weak contrast or will not be noticeable or perceived from coastal vantage points.

The introduction of nighttime lights into the relatively dark setting of the Atlantic Ocean will be most noticeable from the southern coast of Long Island, New York and the eastern coast of New Jersey, respectively, particularly from locations that have views looking at the broad side of the Lease Area. It is anticipated that more contrast will be introduced in areas that are relatively void of man-made light sources, such as beaches and natural areas along barrier islands. In areas where boardwalks and other development parallel beaches, such as along the southern coast of Long Beach and the Rockaway Peninsula in Long Island, New York, and Asbury Park and Point Pleasant Beach in New Jersey, nighttime lighting associated with the Project will be seen in the context of man-made lights such as pedestrian lights along the boardwalk and lights associated with restaurants, hotels, arcades, and other commercial businesses.

To minimize long-term visual effects to identified resources within the State coastal area, Empire has taken steps to reduce the visibility of the Project to the extent practicable. All wind turbines and the offshore substations will be a white or light grey color in order to minimize their contrast with the sky in most atmospheric conditions. The wind turbine design and appearance are in line with mitigation measures recommended by BOEM, FAA, USCG, and IALA to Navigation and Lighthouse Authorities. Navigational lighting that minimizes the visibility of the wind turbines and the offshore substations, without compromising safety, will also be employed. This strategy includes limiting the amount of lighting and time duration to the minimum allowable by the FAA and USCG.

Under this policy, wind turbines are exempt from the requirement to be separated from the beach, dune, boardwalk, or waterfront, whichever is further inland, by a distance of two times the height of the structure.

COP Section Reference:

Section 7 Visual Resources; and Appendix AA Visual Impact Assessment

Policy 7:7-16.11 Buffers and compatibility of uses

Response to Policy for EW 1 and EW 2:

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is located offshore, and will not impact special areas, residential, recreational uses, or wetland buffers.

In addition, the submarine export cables are located offshore in federal waters and will not impact special areas, residential, recreational uses, or wetland buffers.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and will not impact special areas, residential, recreational uses, or wetland buffers.

COP Section Reference:

Section 8.2 Land Use and Zoning; Section 7 Visual Resources; and Appendix AA Visual Impact Assessment

Policy 7:7-16.12 Traffic

Response to Policy for EW 1 and EW 2:

This policy is not applicable because the temporary anchoring of vessels in New Jersey State waters during installation is located offshore and will not impact traffic on roadways in New Jersey's coastal areas.

In addition, the submarine export cables are located offshore in federal waters and will not impact traffic on roadways in New Jersey's coastal areas.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and will not impact traffic on roadways in New Jersey's coastal areas.

COP Section Reference:

Section 8.2 Land Use and Zoning; and Section 8.5 Land Transportation and Traffic

Policy 7:7-16.13 Subsurface sewage disposal systems

Response to Policy for EW 1 and EW 2:

This policy is not applicable because the Project is not proposing a subsurface sewage disposal system.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and no subsurface sewage disposal system is proposed.

COP Section Reference:

Not applicable

Policy 7:7-16.14 Solid and hazardous waste*Response to Policy for EW 1 and EW 2:*

Project-related vessels associated with the temporary anchoring in New Jersey State waters comply with this policy to the extent applicable. Vessel activities will adhere to all applicable federal, state, and local regulations when transporting, storing, treating, and disposing all wastes, including solid and hazardous waste.

The submarine export cables comply with this policy to the extent applicable. Vessel activities will adhere to all applicable federal, state, and local regulations when transporting, storing, treating, and disposing all wastes, including solid and hazardous waste.

Response to Policy for WFDA:

The WFDA complies with this policy to the extent applicable. Vessel activities will adhere to all applicable federal, state, and local regulations when transporting, storing, treating, and disposing all wastes, including solid and hazardous waste.

COP Section Reference:

Section 3 Project Description; Section 4.2 Water Quality; Section 8.12 Public Health and Safety; Section 9 Summary of Avoidance, Minimization, and Mitigation Measures; and Appendix F Oil Spill Response Plan