

The latest revision date of Appendix A to the Empire Offshore Wind COP is July 2023. This appendix was not revised as part of the November 2023 submittal; therefore, the date on the Appendix A cover sheet remains as July 2023.

APPENDIX

Coastal Zone Management Consistency Statements

A

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JULY 2023

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FIGURES

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ACRONYMS

ac	acres
AIS	Automatic Identification System
AVEHAP	Analysis of Visual Effects to Historic and Architectural Properties
BOEM	Bureau of Ocean Energy Management
CAFRA	Coastal Area Facility Review Act
CBRA	cable burial risk assessment
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	feet
GW	gigawatts
ha	hectares
HDD	horizontal directional drilling
HRG	high-resolution geophysical
IALA	International Association of Marine Aids
km	kilometers
Lease Area	Renewable Energy Lease Area OCS-A 0512
LNМ	Local Notice to Mariners
m	meter
mi	miles
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 miles
NOAA	National Oceanic and Atmospheric Administration
NPS	U.S. National Park Service
NRHP	National Register of Historic Places
NSRA	Navigation Safety Risk Assessment
NWI	National Wetlands Inventory
NY SHPO	New York State Historic Preservation Office
NYC WRP	New York City Waterfront Revitalization Program
NYCEDC	New York City Economic Development Corporation
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
PAPE	preliminary area of potential effect
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 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 State of New York, inclusive of the New York City Waterfront Revitalization Program (NYC WRP). 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)). In addition, Empire is voluntarily submitting a consistency certification to the State of New Jersey, which demonstrates compliance with the New Jersey Coastal Management Program. 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. This consistency certification is included as Appendix A to the Construction and Operations Plan (COP) pursuant to 30 CFR § 585.627(9), in order to assist the Bureau of Ocean Energy Management (BOEM) with compliance under the National Environmental Policy Act, 42 U.S.C. Sections 4321 et seq., and other relevant laws. This COP also provides the necessary data and information required for the CZMA Consistency Certification Information review pursuant to 15 CFR 930.58.

As described in detail herein, the proposed activity complies with the enforceable policies of the New York approved management program and will be conducted in a manner consistent with such a program. In addition, 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, A.4, and A.5**.

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 Project 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**.

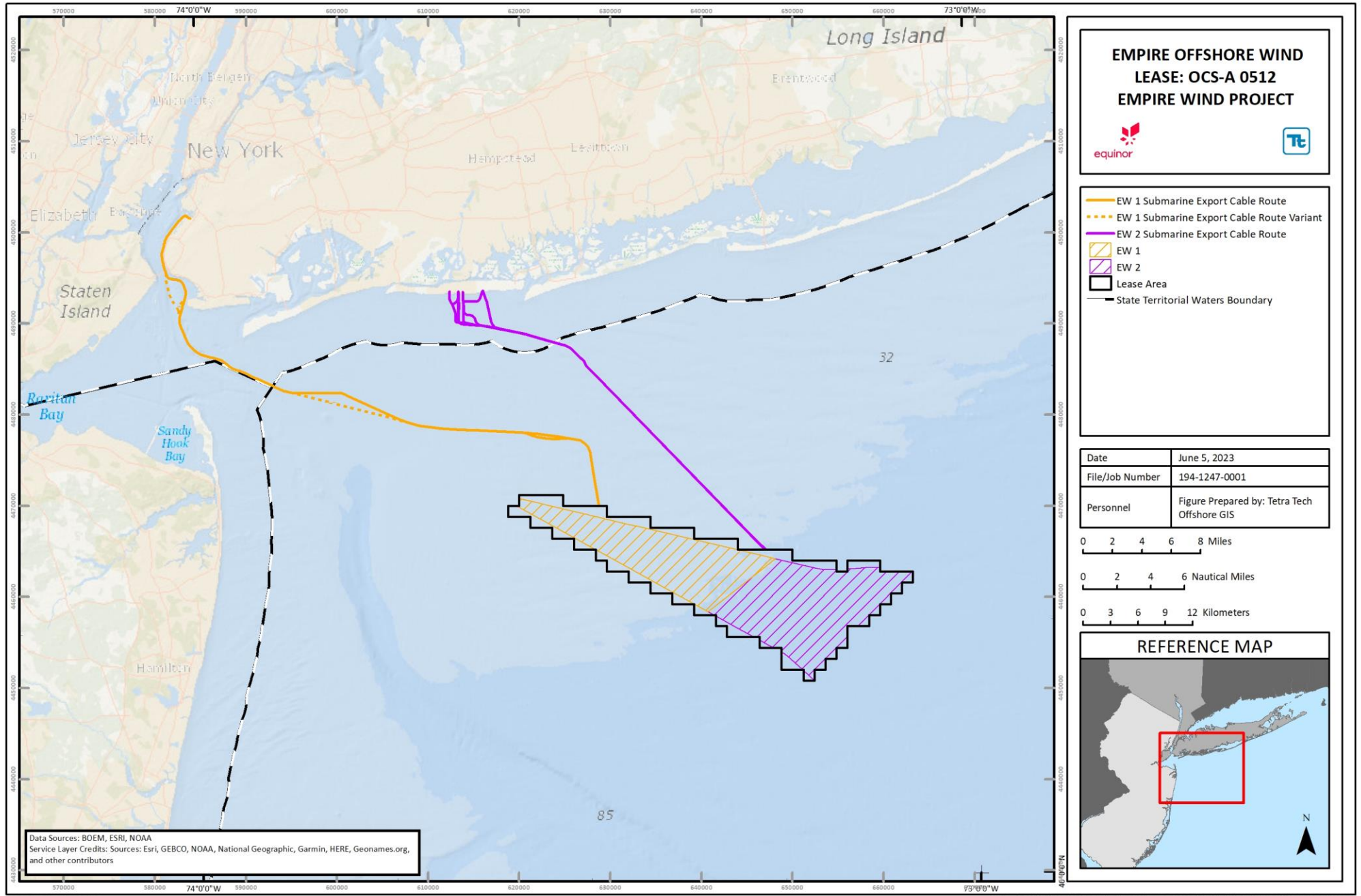


Figure A-1 Project Area

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.

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 147 wind turbines and supporting tower structures, 2 offshore substations, up to 149 foundations and associated support and access structures (for aforementioned wind turbines and offshore substations) at up to 176 locations, 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 installed in 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) is 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 E (Laurelton Boulevard);
- 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 5.6 mi (9.1 km), for a single onshore export cable and interconnection route (up to two routes proposed);
- Two onshore substation locations:
 - EW 1 onshore 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 this COP.

- EW 2 Onshore Substation A in Oceanside, New York, or EW 2 Onshore Substation C in Island Park, New York,² and
- One staffed Operations and Maintenance (O&M) Base at the EW 1 landfall.

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. When the consistency review requires analysis of individual segments, they will be called out separately, but otherwise, “export cables” refers to all segments collectively.

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 all facilities, however, they will include the South Brooklyn Marine Terminal (SBMT), in Brooklyn, New York. Empire has leased portions of SBMT for EW 1 and EW 2 for laydown and staging for wind turbine blades, turbines, nacelles, foundation transition pieces, and 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.

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 industry and will be governed by applicable environmental standards, with which Empire will comply when using the facilities.

In August 2016, the State of New York Public Service Commission adopted the Clean Energy Standard.³ Under this standard, 50 percent of New York State’s electricity must come from renewable sources of energy by 2030. In 2017, New York set a goal of having 2.4 gigawatts of energy generated by offshore wind by 2030, which the Commission adopted as a supplementary goal for its Clean Energy Standard by order dated July 12, 2018. On November 8, 2018, the New York State Energy Research and Development Authority (NYSERDA) issued its first competitive solicitation for 800 megawatts (MW) or more of new offshore wind projects. On July 18, 2019, Empire and the 816-MW EW 1 Project was announced as a winner of that first state solicitation. On the same day, the Climate Leadership and Community Protection Act was signed into law. This act requires that the State obtain 70 percent of its electricity from renewable sources by 2030 and 100 percent by 2040, and that New York has 9,000 MW of offshore wind capacity by 2035. Equinor Wind US LLC and NYSEERDA entered into the Offshore Wind Renewable Energy Certificate Purchase and Sale Agreement (PSA) on October 23, 2019. Equinor Wind US LLC subsequently entered a 50-50 partnership with bp plc in 2021 and assigned Lease OCS-A 0512 to Empire Offshore Wind LLC. The PSA requires Empire to design, obtain permitting/approvals for, build and operate the Project and to sell the Offshore Renewable Energy Certificates generated to NYSEERDA.

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

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

³ Case 15-E-0302 & Case 16-E-0270, (NYSEERDA n.d.)

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 this 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 YORK STATE COASTAL MANAGEMENT PROGRAM FEDERAL CONSISTENCY CERTIFICATION REVIEW

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

EW 1: Export cables, onshore substation, and Operations and Maintenance Base (O&M Base)⁴

EW 2: Export cables and onshore substation.

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

Policy 1: Restore, revitalize, and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational, and other compatible uses.

Response to Policy for EW 1:

The activities associated with EW 1 export cables, onshore substation, and O&M Base are consistent with this policy to the extent applicable. The proposed export cables will be buried; therefore, no impact on the uses of the waterfront areas is anticipated. The EW 1 onshore substation is proposed to be located within previously disturbed paved parcels of SBMT and is consistent with the existing uses of this facility. The redevelopment of these locations for this use is consistent with this policy and will complement the New York City Economic Development Corporation's (NYCEDC) greater redevelopment plan for SBMT. The onshore substation and O&M Base will be designed to comply with applicable New York building codes, electrical standards, and environmental conditions to the extent practicable.

Response to Policy for EW 2:

This policy is not applicable to most activities associated with EW 2 because the export cables and EW 2 Onshore Substation A are not located in a deteriorated and underutilized waterfront area where restoration, revitalization, and redevelopment opportunities exist. EW 2 Onshore Substation C is located in an area identified by the 2014 Barnum Island/Oceanside/The Village of Island Park/Harbor Isle NY Rising Community Reconstruction Plan⁵ as a redevelopment opportunity. The development of the Project as an industrial, water-dependent use is consistent with economic redevelopment of the area.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located on the Outer Continental Shelf (OCS) in federal waters, outside of the waterfront area and the coastal zone. Installation and operation of the WFDA will not limit or impede the restoration, revitalization, and redevelopment of deteriorated and underutilized waterfront areas.

⁴ For the purposes of this consistency review, activities associated with the O&M Base are assessed under EW 1, though these activities would also be associated with EW 2 as well.

⁵ https://stormrecovery.ny.gov/sites/default/files/crp/community/documents/bi-o-vip-hi_final-20140701_high.pdf

COP Section Reference:

Not applicable

Policy 2: Facilitate the siting of water dependent uses and facilities on or adjacent to coastal waters.*Response to Policy for EW 1:*

The export cables and onshore substation comply with this policy to the extent applicable. The export cables, to be located within the Sunset Park Significant Maritime and Industrial Area (SMIA), are a water-dependent use since they originate from an offshore WFDA and will be buried under the seabed to the shoreline. Construction and maintenance of the buried export cables both onshore and offshore will not limit or impede current or future water-dependent and industrial uses. Additionally, the onshore export and interconnection cables will be buried and follow existing rights-of-ways (ROWs) to the extent practicable, connecting to a proposed onshore substation and existing POI, respectively. The substation location under consideration for EW 1 is not currently a water-dependent facility, and its use as a substation will facilitate the siting of the export cables, which are a water-dependent use, and their connection to the existing POI. The O&M Base, which will be located at the EW 1 landfall site, requires pier space for docking its service vessels, and is therefore, a water-dependent facility.

Response to Policy for EW 2:

The export cables and onshore substation comply with this policy to the extent applicable. The export cables are a water-dependent use since they originate from an offshore WFDA and will be buried under the seabed to the shoreline. Construction and maintenance of the buried export cables both onshore and offshore will not limit or impede current or future water-dependent uses and facilities on or adjacent to coastal waters. Additionally, the onshore export and interconnection cables will be buried and follow existing ROWs, connecting to an onshore substation and existing POI, respectively, and will be located within the coastal zone. EW 2 Onshore Substation A does not contain waterfront access. EW 2 Onshore Substation C contains waterfront access, but will be designed to minimize impacts to current or future water-dependent uses and facilities on or adjacent to coastal waters to the extent practicable.

Response to Policy for WFDA:

The WFDA complies with this policy to the extent applicable because it will not affect the siting of coastal water-dependent uses and facilities due to its location in federal waters.

*COP Section Reference:***Section 2 Project Design Development and Section 3 Project Description*****Policy 3: Further develop the State's major ports of Albany, Buffalo, New York, Ogdensburg, and Oswego as centers of commerce and industry, and encourage the siting, in these port areas, including those under the jurisdiction of State public authorities, of land use and development that is essential to, or in support of, the waterborne transportation of cargo and people.****Response to Policy for EW 1:*

The export cables and onshore substation comply with this policy to the extent applicable. Siting, design, construction, and operations of these Project components are not anticipated to significantly interfere with or impede the use of any of these major ports. In addition, the export cables will be buried under the seafloor or underground in existing ROWs to the extent practicable. Routing of the submarine export cables was refined based on feedback from the maritime community, including the Port Authority of New York and New Jersey.

As part of the initial cable installation studies, Empire determined that mechanical dredging may be required to facilitate installation of the EW 1 export cable to SBMT landfall. In addition to the proposed dredging activity, NYCEDC will conduct additional dredging efforts around the Project's proposed dredging footprint in support of redeveloping and improving marine infrastructure for SBMT; additional dredging performed by the U.S. Army Corps of Engineers (USACE) will deepen and widen the channel for general navigational purposes. This work will take place with or without the Project and is an example of the necessary infrastructure improvements that have already been identified in the area to improve the State's major ports and navigational channels.

Response to Policy for EW 2:

The activities associated with EW 2 are not applicable to Policy 3 because the onshore export cables and onshore substation are not within or abutting New York State's major ports; however, the offshore construction of the Project will make use of at least one of these major ports.

Response to Policy for WFDA:

The construction and operations of an offshore wind project is a new type of development project with components to be constructed and operated in the New York coastal zone. As such, these activities will use ports for new types of activities, which further supports development of some New York ports. Upstate New York's Port of Albany is assumed to be the starting point for transporting wind turbine tower components to a local staging area at SBMT in Brooklyn, New York, from where they will be transported to their installation locations in the Lease Area. Empire will utilize SBMT as a construction staging and pre-assembly site for the wind turbine components (nacelles, tower sections, blades), and for other construction and installation activities, including the permanent location of an export cable landfall and an onshore substation. This work will involve the temporary use of areas adjacent to coastal waters, in addition to waterfront access to transport the components from SBMT to the WFDA for installation. These activities will not interfere with normal port operations because SBMT port activities will only include staging and operations for the Project. Project construction and operations will support the development of the Ports of Albany and South Brooklyn (SBMT) for manufacturing, staging, pre-assembly, operations, and waterborne transport of construction materials.

COP Section Reference:

Section 2 Project Design Development and Section 3 Project Description

Policy 4: Strengthen the economic base of smaller harbor areas by encouraging the development and enhancement of those traditional uses and activities which have provided such areas with their unique maritime identity.

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

Activities related to EW 1, EW 2, and the WFDA are not applicable to Policy 4, because the Project is not located near or adjacent to a smaller harbor.

COP Section Reference:

Not applicable

Policy 5: Encourage the location of development in areas where public services and facilities essential to such development are adequate.

Response to Policy for EW 1:

The export cables and onshore substation comply with this policy to the extent applicable. Empire prioritized POIs for the Project that will allow for an optimal export cable route and minimal necessary POI substation

upgrades. Empire evaluated several POIs and associated landfalls and onshore and submarine export cable routes so that the EW 1 onshore substation will be close to the existing POI.

Upstate New York's Port of Albany is assumed to be the starting point for transporting wind turbine tower components to a local staging area at SBMT in Brooklyn, New York, from where they will be transported to their installation locations in the WFDA. SBMT will be utilized as a construction laydown and staging site for the wind turbine blades and transition pieces, in addition to other construction and installation activities, including the permanent location of a cable landfall and an onshore substation.

The SBMT site will encourage development near existing areas of concentrated development where infrastructure and public services are adequate, where topography, geology, and other environmental conditions are suitable for and able to accommodate development. Therefore, the development will strengthen existing industrial and maritime centers.

Response to Policy for EW 2:

The export cables and onshore substations comply with this policy to the extent applicable. Empire evaluated several POIs and associated landfalls, onshore, and submarine export cable routes. The potential EW 2 onshore substation parcels have each been identified as a viable option to support EW 2, and all are located in areas where infrastructure and public services are adequate.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located within federal waters within designated Renewable Energy Lease Area OCS-A 0512 under BOEM's jurisdiction.

COP Section Reference:

Section 1.4 Purpose and Need for the Project, Section 1.5 Regulatory Framework, Section 2 Project Design Development; Section 2.1 Project Siting; and Section 3.3 Project Infrastructure Overview

Policy 6: Expedite permit procedures in order to facilitate the siting of development activities at suitable locations.

Response to Policy for EW 1 and EW 2:

The export cables, onshore substations, and O&M Base are consistent with this policy. Empire will coordinate the development of state/local permits through processes such as Article VII of the New York Public Service Law to ensure each agency's regulatory program and procedures are adhered to and implemented. Empire has also engaged in a comprehensive outreach program with state and local regulators and other stakeholders to ensure efficient review of permit applications. Permits necessary for the improvement of port and construction/staging facilities will be the responsibility of the owners of such facilities. Empire expects such improvements will broadly support the offshore wind industry and will be governed by applicable environmental standards, with which Empire will comply when using the facilities.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located within federal waters within designated Renewable Energy Lease Area OCS-A 0512 under BOEM's jurisdiction.

COP Section Reference:

Section 1.5 Regulatory Framework and Appendix B Summary of Agency Engagement

A.3.1 New York State Coastal Policies: Fish and Wildlife Policies

Policy 7: Significant coastal fish and wildlife habitats will be protected, preserved, and where practical, restored so as to maintain their viability as habitats.

Response to Policy for EW 1 and EW 2:

The activities associated with EW 1 and EW 2 comply with this policy to the extent applicable. The EW 1 export cables and onshore substation were sited to avoid protected coastal, estuarine, and marine habitats and are not located within or near Significant Coastal Fish and Wildlife Habitat. The EW 2 export cables and onshore substation sites were also sited to avoid protected coastal, estuarine, and marine habitats. While not located within Significant Coastal Fish and Wildlife Habitat, the EW 2 export cables and EW 2 Onshore Substation C marina demolition and bulkhead repair within the existing facility footprint are located near Significant Coastal Fish and Wildlife Habitats. Surface disturbance of coastal habitats at the EW 2 export cable landfall and at the Reynolds Channel crossing will be avoided by the use of a trenchless installation method. Disturbance associated with the bulkhead upgrades at the EW 2 Onshore Substation C site, if used, will be minimized through the use of best management practices. The EW 2 onshore export and interconnection cable routes and the EW 2 Onshore Substation A have been sited to follow existing roadways, rights-of-way, and previously developed lands, where practicable. While the potential cable bridge crossing of Barnums Channel is located near wetlands and adjacent areas, it will not impact Significant Coastal Fish and Wildlife Habitat.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located within federal waters within designated Renewable Energy Lease Area OCS-A 0512 under BOEM's jurisdiction, outside of where the State of New York has identified Significant Coastal Fish and Wildlife Habitats.

COP Section Reference:

Section 3 Project Description; Section 5.1 Terrestrial Vegetation and Wildlife

Policy 8: Protect fish and wildlife resources in the coastal area from the introduction of hazardous wastes and other pollutants which bio-accumulate in the food chain or which cause significant sublethal or lethal effect on those resources.

Response to Policy for EW 1:

The export cables, onshore substation, and O&M Base comply with this policy to the extent applicable. The avoidance, minimization, and mitigation measures proposed by Empire include measures to effectively minimize possible contamination of and bio-accumulation in the State's coastal fish and wildlife resources at levels that cause mortality or create physiological and behavioral disorders. The Project will operate in accordance with federal, state, and local laws regulating the at-sea discharges of vessel-generated waste and management of accidental spills or release of oils or other hazardous wastes through the Oil Spill Response Plan (OSRP), as detailed in **Appendix F**; Project Spill Prevention, Control, and Countermeasures (SPCC) Plan; and New York State Department of Environmental Conservation (NYSDEC) Management Practices Catalogue for Nonpoint Source Pollution Prevention and Water Quality Protection in New York State. As part of the Article VII process, Empire will develop an Environmental Management & Construction Plan (EM&CP) that will include contingency plans to address accidental spills and releases of potential pollutants.

Along the EW 1 submarine export cable route, jet plowing pre-sweeping for sandwave/megaripple removal and dredging at cable crossings and for cable installation at SBMT will disturb sediments. Sediment samples were collected in 2018, 2019, and 2021 in accordance with Technical & Operations Guidance Series 5.1.9

guidance⁶ and USACE requirements to support permitting efforts and to adequately characterize the sediments that will be removed, as well as exposed, as a result of dredging and/or jet plowing activities. In the EW 1 submarine export cable corridor near the boundary of state waters and extending further offshore to the Lease Area, core samples consisted of greater than 90 percent sand. The data showed constituents of concern at multiple locations in the New York Harbor, including dioxins/furans, total endosulfan, endosulfan sulfate, endrin, polychlorinated biphenyls (PCBs), arsenic, cadmium, chromium, copper, lead, nickel, silver, zinc and mercury at concentrations that exceeded their respective Class C or Class B Screening Guidance Values. A Phase 2 sediment sampling program was conducted in 2021 where route adjustments were made and within specific areas requiring pre-sweeping/dredging activities along the EW 1 export cable corridor. This sampling effort was informed by consultation with New York State agencies and USACE. Several samples in the near shore portion of the submarine cable route exceeded their respective Class C or Class B Screening Guidance Values. Samples collected in the potential dredge area between the 35th Street and 29th Street piers consistently contained concentrations of mercury, lead, and Total PAH above Class C levels. Samples collected from the northern side of Gravesend Bay also contained constituents above the Class C levels, including mercury. In other areas of the submarine export cable route, samples showed few areas above Class A. To the north of the Verrazzano-Narrows Bridge, some sample locations are at Class A levels for all analytes, while a few include elevated mercury, lead, total PCB, and/or total PAH at Class C levels.

Empire will use the sediment sampling results to determine the appropriate handling and management methods of sediments in order to protect fish and wildlife resources. This will include the development of Empire's Dredge Disposal and Management Plan. Final discharge volumes and rates will be provided following selection of both the supplier and equipment type and/or final design and location. Wastes will be managed in accordance with applicable regulations. Similarly, Best Management Practices will be developed such that specific construction measures will be developed to protect fish and wildlife resources and allow the NYSDEC and USACE to issue the necessary permits for the Project. During normal operations, the export cables do not create the potential for the release of hazardous wastes or pollutants.

Response to Policy for EW 2:

The export cables and onshore substations comply with this policy to the extent applicable. The avoidance, minimization, and mitigation measures proposed by Empire include measures to effectively minimize possible contamination of and bio-accumulation in the State's coastal fish and wildlife resources at levels that cause mortality or create physiological and behavioral disorders. The Project will operate in accordance with laws regulating the at-sea discharges of vessel-generated waste and management of accidental spills or release of oils or other hazardous wastes through the OSRP, as detailed in **Appendix F** and the Project SPCC Plan. As part of the Article VII process, Empire will develop an EM&CP that will include contingency plans to address accidental spills and releases of potential pollutants. Empire will also operate the onshore substation under the requirements of a State Pollutant Discharge Elimination System (SPDES) Stormwater Pollution Prevention Plan (SWPPP) approved by the NYSDEC. Additionally, as recommended by the South Shore Estuary Reserve Comprehensive Management Plan, the Project will adhere to the NYSDEC Management Practices Catalogue for Nonpoint Source Pollution Prevention and Water Quality Protection in New York State by incorporating applicable site-specific measures.

Preliminary sediment analysis has been performed along the export cable route, extending from the WFDA to near the EW 2 landfall. The sampling stations had a predominance of sand, which precludes the need to

⁶ NYSDEC (New York State Department of Environmental Conservation). 2004. *Technical & Operations Guidance Series (TOGS) 5.1.9. In-water and Riparian Management of Sediment and Dredged Material*. Available online at: https://www.dec.ny.gov/docs/water_pdf/togs519.pdf.

perform sediment chemistry analyses. Empire will develop and implement a sampling and analysis plan in consultation with the NYSDEC and USACE if the ongoing refinement of construction methods indicate dredging will be required to install the export cable, involving sufficient dredge volume triggering the need for additional sediment testing, and in locations not previously tested for grain size. Results will be discussed with the agencies, and if indicated by the results, measures will be incorporated into the construction procedures that will protect fish and wildlife resources from sediment-bound constituents of concern that have the potential to bio-accumulate. These measures will be incorporated into the necessary permitting processes to allow permits to be issued for the construction of the Project. During normal operations, the export cables do not create the potential for the release of hazardous wastes or pollutants.

Response to Policy for WFDA:

The construction and operations of the WFDA complies with this policy to the extent applicable. The avoidance, minimization, and mitigation measures proposed by Empire include measures to ensure the Project will operate in accordance with laws regulating the at-sea discharges of vessel-generated waste and management of accidental spills or release of oils or other hazardous wastes through the OSRP, as detailed in **Appendix F**. In addition, BOEM's authorization of the Project will include requirements to address potential accidental releases of oils and lubricants associated with the turbine equipment within the WFDA, including emergency response requirements. These measures will be protective of fish and wildlife resources of New York's coastal areas.

COP Section Reference:

Section 3.4.1 Construction and Installation Activities: Offshore Infrastructure; Section 4.2 Water Quality; Section 5.1 Terrestrial Vegetation and Wildlife; Section 5.2 Wetlands and Waterbodies; Section 8.12 Public Health and Safety; Appendix F Oil Spill Response Plan; and Appendix J Sediment Transport Analysis

Policy 9: Expand recreational use of fish and wildlife resources in coastal areas by increasing access to existing resources, supplementing existing stocks, and developing new resources.

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

This policy is not applicable since the Project design and operation do not provide opportunities to increase access, supplement stocks, or develop new resources.

COP Section Reference:

Not applicable

Policy 10: Further develop commercial finfish, shellfish, and crustacean resources in the coastal area by encouraging the construction of new, or improvement of existing on-shore commercial fishing facilities, increasing marketing of the State's seafood products, maintaining adequate stocks, and expanding aquaculture facilities.

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

This policy is not applicable because the Project does not provide opportunities to further develop commercial finfish, shellfish, and crustacean resources.

COP Section Reference:

Not applicable

A.3.2 New York State Coastal Policies: Flooding and Erosion Hazards Policies

Policy 11: Buildings and other structures will be sited in the coastal area so as to minimize damage to property and the endangering of human lives caused by flooding and erosion.

Response to Policy for EW 1 and EW 2:

The export cables, onshore substations, and future O&M Base comply with this policy to the extent applicable. EW 1 and EW 2 activities located within the flood zone have been designed to incorporate flood control measures to avoid or minimize damage to property and the endangering of human lives caused by flooding and erosion. These measures will follow the guidance outlined in the SWPPP. The cables will be buried and have no effect on flooding or erosion once installed.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located in federal waters within designated Renewable Energy Lease Area OCS-A 0512 under BOEM's jurisdiction and therefore will not include the siting of buildings or other structures in the New York coastal area.

COP Section Reference:

Section 2.1 Project Siting; Section 5.2 Wetlands and Waterbodies; Section 8.12 Public Health and Safety; and Section 9 Summary of Avoidance, Minimization, and Mitigation Measures

Policy 12: Activities or development in the coastal area will be undertaken so as to minimize damage to natural resources and property from flooding and erosion by protecting natural protective features including beaches, dunes, barrier islands and bluffs.

Response to Policy for EW 1:

This policy is not applicable. There are no natural protective features including beaches, dunes, barrier islands, and bluffs within the New York coastal area of the export cables and onshore substation site.

Response to Policy for EW 2:

The export cables and onshore substation comply with this policy to the extent applicable. The construction and installation methodology proposed will comply with local and state regulations and guidelines. Based on the existing conditions along the export cable route, trenchless installation methods such as horizontal directional drilling (HDD), Direct Pipe, and jack and bore methods are proposed to avoid or minimize damage to natural resources and property from flooding and erosion. The use of trenchless installation methods will avoid altering beaches and dunes. The cables will be buried and have no effect on flooding or erosion. Empire will adhere to applicable regulations associated with Coastal Erosion Hazard Areas. Additionally, implementation of soil erosion and sediment control plans for the landfall location, onshore export and interconnection cable route, and construction of the onshore substation will adhere to the requirements detailed in the New York State Standards and Specifications for Erosion and Sediment Control (Blue Book). Finally, the Project EM&CP will include measures to minimize damage to natural resources and property from flooding and erosion (e.g., hay bale and/or silt fence barriers).

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located within federal waters within designated Renewable Energy Lease Area OCS-A 0512 under BOEM's jurisdiction.

COP Section Reference:

Section 3.3 Project Infrastructure Overview; Section 3.4 Construction and Installation Activities; Section 5.1 Terrestrial Vegetation and Wildlife; Section 5.2 Wetlands and Waterbodies; and Section 9 Summary of Avoidance, Minimization, and Mitigation Measures.

Policy 13: The construction or reconstruction of erosion protection structures shall be undertaken only if they have a reasonable probability of controlling erosion for at least thirty years as demonstrated in design and construction standards and/or assured maintenance or replacement programs.

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

Bulkhead replacement or reconstruction activities associated with the EW 1 onshore substation and/or EW 2 Onshore Substation C will comply with this policy. This policy is not applicable to the export cables because they do not require and do not include construction or reconstruction of erosion protection structures in the New York Coastal Area. The EW 2 Onshore Substation A site does not contain erosion protection structures, nor are new erosion protection structures proposed.

In addition, the WFDA is located within federal waters within designated Renewable Energy Lease Area OCS-A 0512 under BOEM's jurisdiction, and this policy is not applicable.

COP Section Reference:

Not applicable

Policy 14: Activities and development, including the construction or reconstruction of erosion protection structures, shall be undertaken so that there will be no measurable increase in erosion or flooding at the site of such activities or development, or at other locations.

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

Bulkhead replacement or reconstruction activities associated with the EW 1 onshore substation and/or EW 2 Onshore Substation C will comply with this policy. This policy is not applicable to the export cables because they do not require and do not include construction or reconstruction of erosion protection structures in the New York Coastal Area. The EW 2 Onshore Substation A site does not contain erosion protection structures, nor are new erosion protection structures proposed.

In addition, the WFDA is located within federal waters. Construction or reconstruction of erosion protection structures will not be required in the WFDA and therefore this policy is not applicable to the WFDA.

COP Section Reference:

Not applicable

Policy 15: Mining, excavation or dredging in coastal waters shall not significantly interfere with the natural coastal processes which supply beach materials to land adjacent to such waters and shall be undertaken in a manner which will not cause an increase in erosion of such land.

Response to Policy for EW 1:

The export cables and onshore substation comply with this policy to the extent applicable. Construction activities associated with installing the submarine export cables (e.g., plowing, jetting and trenching), will not significantly interfere with the natural coastal processes. These activities will result in a low displacement of sediments. Disturbed sediments will settle immediately and not disperse into the water column. Construction and operations of the onshore substation will not require excavation or dredging in coastal waters. The small

amount of area to be dredged at the HDD exit hole location will be backfilled, as would any trench created for cable installation. This will result in no net change in the seafloor elevations or associated hydrodynamics, thereby avoiding interference with coastal processes.

There are several additional cable installation and burial methods being considered. Some activities will be performed before the installation of the cables, some during the installation of the cables, and some after the installation of the cables. Cable pre-lay activities may include pre-installation grapnel run, route clearance and boulder removal, pre-sweeping, dredging, and pre-trenching. These cable pre-lay activities, described below, will not affect erosion of shorelands.

In certain limited areas of the EW 1 submarine export cable corridor, where underwater megaripples and sandwaves are present on the seafloor, pre-sweeping may be necessary prior to cable lay activities. The primary pre-sweeping method will involve using a suction hopper dredge vessel and/or mass flow excavator from a construction vessel to remove the excess sediment on the seafloor along the footprint of the cable lay; however, other types of dredging equipment may be used depending on environmental conditions and equipment availability. Where pre-sweeping is required, a clearance width up to approximately 164 feet (ft) (50 meters [m]) is anticipated; the length of clearance will vary along the submarine export cable route, ranging from approximately 197 ft (60 m) to 5,577.4 ft (1,700 m). Excavation of material, when used as an installation solution, will not interfere with natural coastal processes.

Pre-trenching activities may also be required in select locations along the submarine export cable route in areas where deeper burial depths may be required and/or seabed conditions are not suitable for traditional cable burial methods. Local dredging at locations where the submarine export cables are crossing other assets may also be needed in order to reduce the shoaling of the crossing design. This crossing design will include the removal of up to approximately 8 ft (2.4 m) of sediment to form a trench measuring approximately 3.3 ft by 85 ft (1 m by 26 m) at the bottom; utilizing a 3:1 side slope, the upper bounds of this area will be approximately 52.5 ft by 87 ft (16 m by 26 m). The final depth of the dredged area will be governed by the vertical distance between the natural seabed and the assets to be crossed, and will need to be approved by the asset owners through a crossing agreement.

In addition, mechanical dredging may be required to facilitate cable installation and burial at the SBMT landfall. During dredging activities, the material will be collected in an appropriate manner for either re-use or disposal (depending on the nature of the material) and in accordance with applicable regulations. No backfilling is proposed for these activities. Empire will follow the guidelines set forth in a Dredge Disposal Management Plan for handling, managing, and possibly disposing of the material at select landfills. Should a suction hopper dredge vessel, mass flow excavator, or similar equipment be used to complete these activities, Empire anticipates that dredged material generated from the Project may either be sidecasted near the site of installation or removed for beneficial reuse or proper disposal. The actual method of dredged material management will be based on sampling and consultation with regulatory agencies. Final discharge volumes and rates will be provided following selection of both the supplier and equipment type and/or final design and location. Wastes will be managed in accordance with applicable regulations. Dredging, excavation, and other sediment- and soil-disturbing activities will be completed in compliance with federal and state permits that will be issued to be protective of the environment.

The Project's construction, operations, and decommissioning activities will comply with federal, state, and local regulations associated with protecting the state's natural coastal processes and will work with the agencies to incorporate measures that help avoid or minimize potential impacts from dredging and fill activities.

Response to Policy for EW 2:

The export cables and onshore substation comply with this policy to the extent applicable. Construction activities associated with installing the submarine export cable offshore (e.g., jetting, plowing, and trenching) will not significantly interfere with the natural coastal processes. These activities will result in a low displacement of sediments. Disturbed sediments will settle immediately and not disperse into the water column.

A trenchless cable installation methodology (i.e., HDD or Direct Pipe) is the preferred methodology for landing the export cables in order to avoid potential impacts such as erosion of the shoreline. This may require a small amount of material to be dredged at the offshore exit point. Empire does not propose to backfill such excavation, but allow the seabed to return naturally. EW 2 Onshore Substation A is not located on or near the shoreline and, therefore, will not require excavation or dredging in coastal waters. EW 2 Onshore Substation C will not require underwater excavation or dredging and will not interfere with natural coastal processes.

The Project's construction, operations, and decommissioning activities will comply with federal, state, and local regulations associated with protecting the state's natural coastal processes, and Empire will work with the agencies to incorporate measures that help avoid or minimize potential impacts from dredging and fill activities.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located within federal waters within designated Renewable Energy Lease Area OCS-A 0512 under BOEM's jurisdiction, and construction activities any dredging required for seabed preparation will not significantly interfere with the natural coastal processes.

COP Section Reference:

Section 3.3 Project Infrastructure Overview; Section 3.4 Construction and Installation Activities; and Section 4.2 Water Quality

Policy 16: Public funds shall only be used for erosion protective structures where necessary to protect human life, and new development which requires a location within or adjacent to an erosion hazard area to be able to function, or existing development; and only where the public benefits outweigh the long term monetary and other costs including the potential for increasing erosion and adverse effects on natural protective features.

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

This policy is not applicable because the Project does not require public funds for construction or reconstruction of erosion protective structures.

COP Section Reference:

Not applicable

Policy 17: Non-structural measures to minimize damage to natural resources and property from flooding and erosion shall be used whenever possible.

Response to Policy for EW 1 and EW 2:

Since the export cables will be buried, they will not alter flooding or erosion and, therefore, do not require additional measures to minimize damage to natural resources and property. The onshore substations and EW 1 O&M Base are sited in previously disturbed paved parcels in an industrial environment. The onshore substations will occupy a very minor area of the coastal area where flooding may occur and will therefore, have a negligible effect on flooding and erosion. Facilities constructed within flood zones will be designed to

minimize potential impacts to property. Damage-minimizing measures are not relevant and therefore not proposed.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located within federal waters within designated Renewable Energy Lease Area OCS-A 0512 under BOEM's jurisdiction. In addition, damage to natural resources and property from flooding will not occur within the lease area given the WFDA distance from shore, where flooding and erosion effects will not occur.

COP Section Reference:

Section 2 Project Design Development; Section 3 Project Description; Section 5.2 Wetlands and Waterbodies; Section 8.12 Public Health and Safety; Section 9 Summary of Avoidance, Minimization, and Mitigation Measures; and Appendix E Conceptual Project Design Drawings

A.3.3 New York State Coastal Policies: General Policy

Policy 18: To safeguard the vital economic, social and environmental interests of the State and of its citizens, proposed major actions in the coastal area must give full consideration to those interests, and to the safeguards which the State has established to protect valuable coastal resource areas.

Response to Policy for EW 1 and EW 2:

The activities for EW 1 and EW 2 comply with this policy to the extent applicable. The siting, design, construction, and operations activities for the export cables, O&M Base, and onshore substation have taken into account the safeguarding of vital economic, social, and environmental interests of the State and of its citizens. For example, the use of the sand borrow area in the vicinity of EW 2 Landfall C can continue even if EW 2 uses this landfall. Impacts during construction will be temporary and limited to the immediate vicinity of construction activity. Siting of the export cables and onshore substations in developed, industrialized areas and existing ROWs minimizes long-term impacts and helps safeguard vital economic, social and environmental interests during the life of the Project. Additionally, Empire's comprehensive outreach strategy, as evidenced by engagement with regulators, local officials, and other stakeholders, has informed siting and design of Project components.

Response to Policy for WFDA:

This policy does not directly apply because the WFDA is located in federal waters, outside of the coastal area. 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, temporary, and 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 1.2 Project Overview; Section 3 Project Description; Section 4.2 Water Quality; Section 5 Biological Resources and Habitats; Section 6 Cultural Resources; Section 7 Visual Resources; Section 8.1 Population, Economy, Employment, and Housing and Property Values; Section 8.4 Environmental Justice; Section 8.8 Commercial and Recreational Fishing; Section 8.12 Public Health and Safety; Section 9 Summary of Avoidance, Minimization, and Mitigation Measures; Appendix B Summary of Agency Engagement; Appendix E Conceptual Project Design Drawings; Appendix H Marine Site Investigation Report; Appendix T Benthic Resources Characterization Reports; Appendix U Essential

Fish Habitat (EFH) Assessment; Appendix X Marine Archaeological Resources Assessment; Appendix Y Terrestrial Archaeological Resources Assessment; Appendix Z Analysis of Visual Effects to Historic and Architectural Properties; and Appendix AA Visual Impact Assessment

A.3.4 New York State Coastal Policies: Public Access Policies

Policy 19: Protect, maintain, and increase the level and types of access to public water related recreation resources and facilities.

Response to Policy for EW 1 and EW 2:

This policy is not applicable because the construction and operations of the export cables and onshore substations will not permanently impact recreational access to the waterfront, with the exception of EW 2 Onshore Substation C, where a portion of the property provides access to a small marina that contains slips for small boats. However, EW 2 Onshore Substation C will be designed to minimize impacts to current or future water-dependent uses to the extent practicable.

Construction at the proposed landfall sites and the export cables may temporarily affect public access to the shoreline at the landfall site. However, the export cable routes will not reduce water-dependent and water-enhanced recreation. No changes to navigation are expected along the export cable routes. The onshore substations will be located within existing developed sites that have been cleared, previously disturbed and not currently used for recreation or tourism.

Response to Policy for WFDA:

This policy is not applicable for constructing, operating, and decommissioning the WFDA due to its location in federal waters within designated Renewable Energy Lease Area OCS-A 0512 under BOEM's jurisdiction, thereby not affecting access to public water related recreation resources and facilities in New York State's coastal waters.

COP Section Reference:

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

Policy 20: Access to the publicly owned foreshore and to lands immediately adjacent to the foreshore or the water's edge that are publicly owned shall be provided and it shall be provided in a manner compatible with adjoining uses.

Response to Policy for EW 1 and EW 2:

The export cables and onshore substation comply with this policy to the extent applicable. Once installed, the buried export cables will not impede access to the publicly owned foreshore or other publicly owned lands. The onshore substations are on existing industrial and/or previously developed sites that do not provide access to publicly owned land.

Response to Policy for WFDA:

This policy is not applicable. The WFDA is located offshore in federal waters and is therefore not located adjacent to publicly owned lands.

COP Section Reference:

Section 1.2.3 Proposed Activities; Section 3.3 Project Infrastructure Overview; and Section 8.2 Land Use and Zoning

A.3.5 New York State Coastal Policies: Recreational Policies

Policy 21: Water-dependent and water-enhanced recreation will be encouraged and facilitated, and will be given priority over non-water-related uses along the coast.

Response to Policy for EW 1 and EW 2:

The construction and operations of the export cables and onshore substations comply with this policy to the extent applicable. Construction activities may have short-term impacts to water-dependent recreation due to an increase in traffic and the staging of construction equipment, both onshore (vehicle) and offshore (vessel). Once installed, the buried export cables will allow for the same level of recreation at any of the sites involved. The onshore substations are either on existing industrial land or previously developed private property. Therefore, there will be no effects on water-dependent or water-enhanced recreational uses due to the siting and operation of substations.

The EW 1 and EW 2 submarine export cables pass adjacent to recreational diving areas, and the EW 2 submarine export cables are adjacent to an artificial reef (National Oceanic and Atmospheric Administration [NOAA]). Empire will notify recreational mariners about proposed Project activities during construction, operations, and decommissioning in the Mariners Briefings that are submitted via the Empire Wind website and email, and through Local Notices to Mariners (LNMs).

A portion of the land where EW 2 Onshore Substation C is located in Island Park, New York, provides access to a small privately-owned marina that contains slips for small boats. While the construction and operations of EW 2 Onshore Substation C would eliminate the waterfront access provided by this marina, there are other marinas in the Island Park area, including two (Boathouse Marina and Harbor Isle Marina) that are within one mile, that can be utilized for water-dependent and water-enhanced recreation. The construction and operation of the EW 2 onshore substation would comply with this policy to the extent practicable, as it would not prevent or discourage water-dependent or water-enhanced recreation from occurring along the coast.

Response to Policy for WFDA:

This policy does not directly apply because the WFDA is located in federal waters, outside of any coastal area and associated recreational activities. However, indirectly, in recognition that recreational boating and fishing can be contiguous between state and federal waters, the WFDA is being developed with consideration of recreational interests, such that access restrictions will be limited, temporary, and associated with specific work locations within the WFDA. In the long term, recreational activities will not be significantly altered, and may be enhanced for recreational fishing, since the foundation structures may become fish attractants.

COP Section Reference:

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

Policy 22: Development when located adjacent to the shore will provide for water-related recreation whenever such use is compatible with reasonably anticipated demand for such activities and is compatible with the primary purpose of the development.

Response to Policy for EW 1 and EW 2:

The export cables, onshore substations, and O&M Base comply with this policy to the extent applicable. The O&M Base and onshore substations are either on industrial land with an industrial shoreline or previously developed private property. Once installed beneath the seabed, the submarine export cables will allow for water-related recreation, since other than deep sediment disturbance activity, water-related recreation over the cables will not be restricted.

A portion of the land where EW 2 Onshore Substation C is located, in Island Park, New York, provides access to a small marina that provides slips for small boats. While the construction and operations of EW 2 Onshore Substation C would eliminate the waterfront access provided by this marina, there are other marinas in the Island Park area, including two (Boathouse Marina and Harbor Isle Marina) that are within one mile, that can be utilized for water-dependent and water-enhanced recreation. The construction and operation of EW 2 Onshore Substation would comply with this policy to the extent applicable, as water-related recreational use is not compatible with the primary purpose of the development.

Response to Policy for WFDA:

The WFDA complies with this policy to the extent applicable. Since the WFDA is located adjacent to two major traffic separation schemes (TSSs), vessel use is consistent with the existing use in the area. As such, the increase in 18 vessels for EW 1 and 18 vessels for EW 2 during construction should not significantly impact the existing traffic patterns. For offshore construction activities, Empire will submit information to the USCG to issue a LNM and update the Project website.

COP Section Reference:

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

A.3.6 New York State Coastal Policies: Historic and Scenic Resources Policies

Policy 23: Protect, enhance and restore structures, districts, areas or sites that are of significance in the history, architecture, archaeology or culture of the State, its communities, or the Nation.

Response to Policy for EW 1:

The export cables, onshore substation, and O&M Base comply with this policy to the extent applicable. Empire has completed a Marine Archaeological Resource Assessment that was supported through engagement with BOEM, NY SHPO, and NJ HPO. Sonar 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. If avoidance of the target and the associated avoidance buffer is not feasible, then additional archaeological investigation (Phase Ib/II) to determine the source(s) of each unavoidable target and assess its eligibility for listing in the NRHP would occur. If a target is deemed ineligible for listing in the NRHP, then no further action is required. If a target is eligible for listing in the NRHP, then an assessment of adverse effects would occur, under consultation with the consulting parties, and strategies to minimize or mitigate adverse effects may be employed. However, if avoidance of the target and the associated avoidance buffer is not feasible, Empire could minimize adverse effects by micrositing Project components within target

avoidance buffers and limiting the types of vessels used to install and maintain Project infrastructure. If, however, it is determined that avoidance of the target and the associated avoidance buffer is not feasible, Empire could propose a combination of onsite and offsite mitigation that would be applied to each archaeological site where adverse effects cannot be avoided or mitigated. If necessary, the final mitigation plan would be developed in consultation with the appropriate consulting parties with a nexus to the Project. Additional evaluation of appropriate measures regarding potential submerged cultural resources will be completed, with support from and engagement with regulatory authorities.

Construction, operations, and maintenance of the substation and O&M Base will not require physical alteration or destruction of any New York State and National Register of Historic Places (NRHP)-eligible or listed buildings. Additionally, the onshore substation and O&M Base design building type and roof elevation will be commensurate with the existing local-built environment. Bush Terminal Historic District (NRHP-eligible district) and Storehouse #2 (NRHP-eligible property) are already located in a bustling, modern waterfront, so the introduction of an additional modern component to this setting will not adversely affect either resource because their significance does not derive from their historic maritime setting being preserved.

Installation of the submarine export cables in nearshore waters will introduce vessels relatively close to shore in the areas near the landfall site. While these vessels will be easily visible from shore, they will not remain in any area for more than several weeks. Because of the relatively short duration that they will be in any single location, they are not anticipated to adversely affect onshore historic resources.

Archeological surveys of the onshore export and interconnection cable routes and onshore substation location conclude that all possess low archaeological sensitivity. Additionally, the findings of the site files reviews, background research, and pedestrian survey indicate that major portions of the cable routes have been subject to various episodes of significant ground disturbances or land-making that has resulted in low expectations of recovering significant and undocumented archaeological resources within the preliminary area of potential effect (PAPE). No further investigations are warranted. If unanticipated archeological resources are discovered during construction, Empire will follow the measures outlined in an Unanticipated Discoveries Plan, developed in accordance with state laws.

Additionally, Empire has completed a Visual Impact Assessment (VIA) that was supported through engagement with BOEM, the U.S. National Park Service (NPS), the New York State Historic Preservation Office (NY SHPO), the New Jersey State Historic Preservation Office (NJ HPO), New Jersey Department of Environmental Protection (NJDEP) and NYSDEC. Short-term visual effects will occur during construction of the onshore substation facilities and will result from visual evidence of construction activities and the presence of construction equipment and work crews. Long-term visual effects during operation of the onshore substation site will result from the visibility of the aboveground components associated with the substation buildings, outside electrical equipment, static masts, and perimeter fence.

Response to Policy for EW 2:

The export cables and onshore substations comply with this policy to the extent applicable. The EW 2 Onshore Substation C will be visible from the NRHP-listed Cobble Villa, however, an adverse effect is not anticipated.

Preliminary archeological surveys of the onshore export and interconnection cable routes and onshore substation conclude that archaeological sensitivity is judged to be low across the full extent of the EW 2 onshore cable route, with the exception of seven sections along the EW 2 onshore export cable segments:

- An approximately 1,000-ft (300-m) section of EW 2 Route IP-A from the intersection of Williams Lane and Long Beach Road to the intersection of Long Beach Road and the Long

Island Railroad in the incorporated village of Island Park and the unincorporated hamlet of Barnum Island, Town of Hempstead, Nassau County, New York. Tetra Tech recommends monitoring be undertaken from the vicinity of No. 520 Long Beach Road (latitude 40.610198°N, longitude -73.650853°W) northeastward along Long Beach Road to the vicinity of the intersection of Long Beach Road and the Long Island Railroad (latitude 40.611958°N, longitude -73.648596°W).

- An approximately 330-ft (100-m) section of EW 2 Route IP-B at the southern terminus of Parente Lane North northward to the intersection of IP-B with IP-C, in the unincorporated hamlet of Barnum Island, Town of Hempstead, Nassau County, New York. Tetra Tech recommends monitoring undertaken from a point near No. 19 Parente Lane North (latitude 40.609920°N, longitude -73.648570°W) to the corridor's junction with EW 2 Route IP-C (latitude 40.610805°N, longitude -73.648451°W).
- An approximately 650-ft (200-m) section of EW 2 Route IP-C from the intersection of Saratoga Boulevard and Sherman Road, under the Long Island Railroad, to the intersection of IP-C with IP-A at Long Beach Road, then northeastward to the intersection of the Route with Long Beach Road, in the unincorporated hamlet of Barnum Island, Town of Hempstead, Nassau County, New York. Tetra Tech recommends monitoring be undertaken from the vicinity of No. 33 Saratoga Boulevard (latitude 40.610690°N, longitude -73.647847°W) northward along D'Amato Drive to the intersection of Long Beach Road and the Long Island Railroad (latitude 40.611911°N, longitude -73.648633°W).
- An approximately 370-ft (112-m) section of EW 2 Route IP-F from near No. 11 Parente Lane North to the intersection of Kildare Road in the unincorporated hamlet of Barnum Island, Town of Hempstead, Nassau County, New York. Tetra Tech recommends monitoring undertaken from a point opposite No. 11 Parente Lane North (latitude 40.610487°N, longitude -73.648496°W) north and westward along Parente Lane North to the intersection of Kildare Road and Parente Lane North (latitude 40.610855°N, longitude -73.649474°W).
- An approximately 110-ft (35-m) section of EW 2 Route IP-F along Kildare Road from the intersection of Parente Lane North northward to the intersection of Long Beach Road in the unincorporated hamlet of Barnum Island, Town of Hempstead, Nassau County, New York. Tetra Tech recommends monitoring undertaken from the intersection of Parente Lane North (latitude 40.610855°N, longitude -73.649474°W) to the intersection of Long Beach Road (latitude 40.611188°N, longitude -73.649505°W).
- An approximately 475-ft (145-m) section of EW 2 Route IP-F along Long Beach Road from the intersection of Kildare Road northeastward to the intersection of North Nassau Lane with Waterford Road in the unincorporated hamlet of Barnum Island, Town of Hempstead, Nassau County, New York. Tetra Tech recommends monitoring undertaken from the intersection of Long Beach Road and Kildare Road (latitude 40.611188°N, longitude -73.649505°W) to the intersection of Waterford Road and North Nassau Lane (latitude 40.612314°N, longitude -73.649209°W).
- An approximately 800-ft (245 m) section of EW 2 Route IP-G along Long Beach Road from the intersection of Sherman Road northeastward to the intersection of Long Beach Road and McCarthy Road in the unincorporated hamlet of Barnum Island, Town of Hempstead, Nassau County, New York. Tetra Tech recommends monitoring undertaken from the intersection of

Long Beach Road and Sherman Road (latitude 40.612256°N, longitude -73.648163°W) to the intersection of Long Beach Road and McCarthy Road (latitude 40.613648°N, longitude -73.646087°W).

Based on discussions with BOEM, Empire will provide a Secretary of the Interior-qualified professional archaeologist to monitor onshore Project-related construction that results in significant ground disturbance along the seven sections of EW 2 onshore cable routes defined above. Based on the site files review, cartographic analysis, pedestrian reconnaissance, and the use of a qualified archaeological monitor, impacts to terrestrial archaeological resources are not anticipated. If unanticipated archeological resources are discovered during construction, Empire will follow the measures outlined in an Unanticipated Discoveries Plan, developed in accordance with state laws.

Empire has completed a VIA that was supported through engagement with BOEM, NPS, NY SHPO, NJ HPO, NJDEP, and NYSDEC. Short-term visual effects will occur during construction of the onshore substation facilities and will result from visual evidence of construction activities and the presence of construction equipment and work crews. Long-term visual effects during operation of the onshore substation sites will result from the visibility of the aboveground components associated with the substation buildings, outside electrical equipment, static masts, and perimeter fence.

Empire has completed a Marine Archaeological Resource Assessment that was supported through engagement with BOEM, NY SHPO, and NJ HPO. Targets resembling potential submerged cultural resources have been identified within the submarine export cable route siting corridor. A buffer will be applied to these targets, and the submarine export cables will be routed to avoid potentially impacting these resources, where feasible. 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. Empire has completed a Marine Archaeological Resource Assessment that was supported through engagement with BOEM, NY SHPO, and NJ HPO. Targets resembling potential submerged cultural resources have been identified within the WFDA. A buffer will be applied to these targets, and the Project components will be sited to avoid potentially impacting these resources, where feasible. If avoidance of the target and the associated avoidance buffer is not feasible, then additional archaeological investigation (Phase Ib/II) to determine the source(s) of each unavoidable target and assess its eligibility for listing in the NRHP would occur. If a target is deemed ineligible for listing in the NRHP, then no further action is required. If a target is eligible for listing in the NRHP, then an assessment of adverse effects would occur, under consultation with the consulting parties, and strategies to minimize or mitigate adverse effects may be employed. However, if avoidance of the target and the associated avoidance buffer is not feasible, Empire could minimize adverse effects by micrositing Project components within target avoidance buffers and limiting the types of vessels used to install and maintain Project infrastructure. If, however, it is determined that avoidance of the target and the associated avoidance buffer is not feasible, Empire could propose a combination of onsite and offsite mitigation that would be applied to each archaeological site where adverse effects cannot be avoided or mitigated. If necessary, the final mitigation plan would be developed in consultation with the appropriate consulting parties with a nexus to the Project. Within the Lease Area, Empire has conducted within archaeological geotechnical testing to identify the extent of preservation of mapped submerged ancient landforms. This representative sampling has allowed interpolation across the entire Lease Area and is believed to be a reasonable effort, based on the available data, to resolve adverse effects to the submerged ancient landforms. Additional information is available in **Appendix X**. Additional evaluation of appropriate measures

regarding potential submerged cultural resources will be completed, with support from and engagement with regulatory authorities.

Empire has completed a VIA that was supported through engagement with BOEM, NPS, NY SHPO, NJ HPO, NJDEP, and NYSDEC.

Short-term visual effects will occur during construction of the offshore Project components (i.e., wind turbines, offshore substations, foundations, and submarine export and interarray cables) and will result from construction activities and the presence of vessels used to transport components from fabrication and manufacturing facilities directly to the WFDA. Long-term visual effects are expected during the operation and maintenance phases of the Project as a result of introducing several vertical objects (i.e., wind turbines) and the two offshore substations into a landscape setting dominated by open expanses of water and defined by the horizon line.

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, Federal Aviation Administration (FAA), USCG, and International Association of Marine Aids to Navigation and Lighthouse Authorities (IALA). 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.

COP Section Reference:

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

Policy 24: Prevent impairment of scenic resources of statewide significance.

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

The EW 1, EW 2, and WFDA activities comply with this policy to the extent applicable. The Project components do not pass through areas identified as scenic resources of statewide significance. In addition, the WFDA is located offshore in federal waters and is therefore not within the vicinity of any scenic resource of New York statewide significance. Therefore, this policy is not applicable for the WFDA.

COP Section Reference:

Section 5.1 Terrestrial Vegetation and Wildlife

Policy 25: Protect, restore or enhance natural and man-made resources which are not identified as being of statewide significance, but which contribute to the overall scenic quality of the coastal area.

Response to Policy for EW 1 and EW 2:

The EW 1 and EW 2 activities comply with this policy to the extent applicable. The export cables will be located underground, and the onshore substations and O&M Base design building type and roof elevation will be

commensurate with the existing local built environment. Therefore, these activities will not directly impact the natural and man-made resources that contribute to the overall scenic quality of the coastal area.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters, where there are no man-made resources that contribute to the overall scenic quality of the coastal area.

COP Section Reference:

Section 1.2.3 Proposed Activities; Section 3.3 Project Infrastructure Overview; Section 6.3 Historic Properties and Architectural Properties; and Appendix AA Visual Impact Assessment

A.3.7 New York State Coastal Policies: Agricultural Lands Policy

Policy 26: Conserve and protect agricultural lands in the State's coastal area.

Response to Policy for EW 1 and EW 2:

This policy is not applicable because the export cables and onshore substation are not located within protected agricultural lands in New York's coastal areas.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is not located within protected agricultural lands in New York's coastal areas.

COP Section Reference:

Not applicable

A.3.8 New York State Coastal Policies: Energy and Ice Management Policies

Policy 27: Decisions on the siting and construction of major energy facilities in the coastal area will be based on public energy needs, compatibility of such facilities with the environment, and the facility's need for a shorefront location.

Response to Policy for EW 1 and EW 2:

The activities associated with EW 1 and EW 2 comply with this policy to the extent applicable. The purpose of the Project is to generate renewable electricity from an offshore wind farm(s) located in the Lease Area. The Project addresses the need identified by New York for renewable energy and will help the State of New York Public Service Commission achieve their renewable energy goals. As part of the State's plan, the Climate Leadership and Community Protection Act of 2019 requires that the State obtain 70 percent of its electricity from renewable sources by 2030 and 100 percent by 2040, and that New York has 9,000 MW of offshore wind capacity by 2035. On November 8, 2018, NYSERDA issued its first competitive solicitation for 800 MW or more of new offshore wind projects. On July 18, 2019, Empire and its 816-MW EW 1 Project were announced as a winning bidder in the State's competitive solicitation for Offshore Wind Renewable Energy Credits. Equinor Wind US LLC and NYSERDA entered into the Offshore Wind Renewable Energy Certificate PSA on October 23, 2019. Equinor Wind US LLC subsequently entered a 50-50 partnership with bp plc in 2021 and assigned Lease OCS-A 0512 to Empire Offshore Wind LLC. The PSA requires Empire to design, obtain permitting/approvals for, build and operate the Project and to sell the Offshore Renewable Energy Certificates generated to NYSERDA.

Electricity from EW 1 will be delivered from the Lease Area as described in the COP. As such, EW 1 development will have a POI into the existing Gowanus substation, Brooklyn, New York. On January 13, 2021, Empire and its 1,260 MW EW 2 Project were announced as a winning bidder in the State's second competitive solicitation for Offshore Wind Renewable Energy Credits, under which NYSERDA is seeking up to 2,500 MW of offshore wind. EW 2 is proposed to interconnect into the E.F. Barrett Generation Station, in Oceanside, New York. Given that the electricity is produced offshore and needs to be delivered to the existing electric grid on land, Project components do have to be sited, constructed and operated at a shorefront location, namely the export cables in the ocean, a landfall location, and export cables on shore. The onshore substation needs to be sited between the landfall location and the intended POI.

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 York State coastal areas, it serves as a source of renewable energy that supports the renewable energy goals of New York State. The WFDA requires, as a part of the overall Project, that some Project components be located at a shorefront location.

COP Section Reference:

Section 1.4 Purpose and Need for the Project; and Section 3 Project Description

Policy 28: Ice management practices shall not interfere with the production of hydroelectric power, damage significant fish and wildlife and their habitats, or increase shoreline erosion or flooding.

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

This policy does not apply because ice management practices are not a required feature of the Project.

COP Section Reference:

Not applicable

Policy 29: The development of offshore uses and resources, including renewable energy resources, shall accommodate New York's long-standing ocean and Great Lakes industries, such as commercial and recreational fishing and maritime commerce, and the ecological functions of habitats important to New York.

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

The construction, operations, and decommissioning activities associated with EW 1, EW 2, and WFDA comply with this policy to the extent applicable. The export cables, onshore substations, and WFDA have been designed to include construction and operations 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 York. To ensure local mariners are aware of the construction activities, Empire will submit information to the USCG to issue an 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 developed a Fisheries Mitigation Plan and an Environmental Mitigation Plan for use during pre-construction, construction, and operations, which include measures to help minimize or avoid potential impacts to the fishing industry, wetlands, waterbodies, vegetation, and wildlife. Once installed beneath the seabed, the submarine export and interarray cables will have negligible effects on long-standing ocean industries.

A Navigation Safety Risk Assessment (NSRA) (**Appendix DD Navigation Safety Risk Assessment**) of existing and future maritime navigation has been conducted, per USCG guidance, and Layout Rules were developed to promote the continued safe use of the waterway. These self-imposed “Layout Rules” will be followed to design a space that supports multiple uses of the defined waterways. Draft layouts have been discussed with selected fishing representatives and agencies. For example, Empire applied embedded mitigation to the Project in the form of a 1 nm (1.8 km) setback from the edge of the Ambrose/Nantucket TSS and the Ambrose/Hudson Canyon TSS to the edge of the “Developable Area”. The 1 nm (1.8 km) setback was informed by a “Buffer Sensitivity Analysis” conducted by Anatec Limited focusing on allision risk using representative Automatic Identification System data, with the 1 nm (1.8 km) setback carried forward into the NSRA for further analysis. In addition, Empire applied further embedded mitigation in the form of the Layout Rules, with straight wind farm perimeters being of relevance to allision risk. The increased vessel traffic during construction, operations and decommissioning will be consistent with the existing uses and should be negligible. Since 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.

COP Section Reference:

Section 3.3.1 Offshore Infrastructure; Section 5.1 Terrestrial Vegetation and Wildlife; Section 5.2 Wetlands and Waterbodies; Section 8.3 Recreation and Tourism; Section 8.7 Marine Transportation and Navigation; Section 8.8 Commercial and Recreational Fishing; Section 9 Summary of Avoidance, Minimization, and Mitigation Measures; and Appendix DD Navigation Safety Risk Assessment

A.3.9 New York State Coastal Policies: Water and Air Resources Policies

Policy 30: Municipal, industrial, and commercial discharge of pollutants, including but not limited to, toxic and hazardous substances, into coastal waters will conform to State and National water quality standards.

Response to Policy for EW 1 and EW 2:

The export cables and onshore substations comply with this policy to the extent applicable. The avoidance, minimization, and mitigation measures proposed by Empire include measures to effectively minimize possible contamination of and bio-accumulation in the State’s coastal waters at levels that could cause harm to public health during pre-construction, construction, operations, and decommissioning activities. The Project will operate in accordance with all federal, state, and local laws regulating the at-sea discharges of vessel-generated waste and management of accidental spills or release of oils or other hazardous wastes through the OSRP, as detailed in **Appendix F**, the Project SPCC Plan, and NYSDEC Management Practices Catalogue for Nonpoint Source Pollution Prevention and Water Quality Protection in New York State. As part of the Article VII process, Empire will develop an Inadvertent Returns Plan and SWPPP as components of the EM&CP. Empire anticipates that dredged material generated from the Project may either be sidecasted near the site of installation or removed for beneficial reuse or proper disposal. The actual method of dredged material management will be based on sampling and consultation with regulatory agencies. Additionally, Empire will follow the guidelines set forth in a Dredge Disposal Management Plan for handling and disposing of the material at select landfills. Final discharge volumes and rates will be provided following selection of both the supplier and equipment type and/or final design and location. Wastes will be managed in accordance with applicable regulations. Dredging, excavation, and other sediment- and soil-disturbing activities will be completed in compliance with federal and state permits that will be issued to be protective of the environment.

Response to Policy for WFDA:

The WFDA complies with the policy to the extent applicable. The avoidance, minimization, and mitigation measures proposed by Empire will effectively minimize possible contamination of and bio-accumulation in federal waters at levels that could cause harm to public health during pre-construction, construction, operations, and decommissioning activities. The Project will operate in accordance with all federal (e.g., EPA and USCG) requirements and state and local laws regulating at-sea discharges of vessel-generated waste and management of accidental spills or release of oils or other hazardous wastes through the OSRP, as detailed in **Appendix W**.

COP Section Reference:

Section 4.2 Water Quality; Section 5.1 Terrestrial Vegetation and Wildlife; Section 8.12 Public Health and Safety; Section 9 Summary of Avoidance, Minimization, and Mitigation Measures; and Appendix F Oil Spill Response Plan

Policy 31: State coastal area policies and management objectives of approved local Waterfront Revitalization Programs will be considered while reviewing coastal water classifications and while modifying water quality standards; however, those waters already overburdened with contaminants will be recognized as being a development constraint.

Response to Policy for EW 1:

The export cables, O&M Base, and onshore substation are subject to the NYC WRP Federal Consistency Review. A consistency review of the Project with the NYC WRP is provided in **Section 4.0**.

Response to Policy for EW 2, and WFDA:

This policy is not applicable because the EW 2 export cable and potential onshore substations are not subject to an LWRP. The WFDA is located within federal waters. Therefore, this policy is not applicable for the WFDA.

COP Section Reference:

Not applicable

Policy 32: Encourage the use of alternative or innovative sanitary waste systems in small communities where the costs of conventional facilities are unreasonably high, given the size of the existing tax base of these communities.

Response to Policy for EW 1 and EW 2:

This policy is not applicable because the export cables and onshore substation are not located in small communities where the costs of conventional facilities are high, and they do not require the use of alternative or innovative sanitary waste systems.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is not located in small communities where the costs of conventional facilities are high, and it does not require the use of alternative or innovative sanitary waste systems. Therefore, this policy is not applicable for the WFDA.

COP Section Reference:

Not applicable

Policy 33: Best management practices will be used to ensure the control of stormwater runoff and combined sewer overflows draining into coastal waters.

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

The EW 1 and EW 2 onshore export cables and onshore substations comply to the extent applicable to this policy. Excavation, soil stockpile, and grading associated with installation of the onshore export and interconnection cables, and development of the onshore substations, O&M Base, and supporting infrastructure may have the potential to temporarily impact the water quality and quantity of stormwater runoff from the construction work areas. Impacts to water quality from erosion and run-off during construction are expected to be short-term and localized as onshore construction areas are generally flat and the soil types are not especially susceptible to erosion. Empire proposes to implement soil erosion and sediment control plans for each landfall location satisfactory to the requirements detailed in the New York State Standards and Specifications for Erosion and Sediment Control (Blue Book). As part of the Article VII process, Empire will develop a Construction Contingency Plan.

The WFDA does not require the control of stormwater runoff and combined sewer overflows because they are located within federal waters, outside of New York coastal areas. As such, this policy is not applicable for the WFDA.

COP Section Reference:

Not applicable

Policy 34: Discharge of waste materials into coastal waters from vessels subject to State jurisdiction will be limited so as to protect significant fish and wildlife habitats, recreational areas and water supply areas.

Response to Policy for EW 1

The export cables and onshore substation comply with this policy to the extent applicable. Empire will operate in accordance with laws regulating the at-sea discharges of vessel-generated waste and management of accidental spills or release of oils or other hazardous wastes through the Project SPCC Plan, the OSRP, as detailed in **Appendix F**, and NYSDEC Management Practices Catalogue for Nonpoint Source Pollution Prevention and Water Quality Protection in New York State. As part of the Article VII process, Empire will develop a Construction Contingency Plan and SWPPP as part of the EM&CP.

Response to Policy for EW 2:

The export cables and onshore substation comply with this policy to the extent applicable. Empire will operate in accordance with laws regulating the at-sea discharges of vessel-generated waste and management of accidental spills or release of oils or other hazardous wastes through the Project SPCC Plan, the OSRP, as detailed in **Appendix F**, and NYSDEC Management Practices Catalogue for Nonpoint Source Pollution Prevention and Water Quality Protection in New York State, as well as the site-specific measures for activities located within the South Shore Estuary Reserve, as recommended by the South Shore Estuary Reserve Comprehensive Management Plan. As part of the Article VII process, Empire will develop a Construction Contingency Plan and SWPPP as part of the EM&CP.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters. Empire will operate in accordance with laws (e.g., EPA, USCG) regulating the at-sea discharges of vessel-generated waste.

*COP Section Reference:***Section 4.2 Water Quality; Section 5.1 Terrestrial Vegetation and Wildlife; Section 8.12 Public Health and Safety; and Section 9 Summary of Avoidance, Minimization, and Mitigation Measures**

Policy 35: Dredging and filling in coastal waters and disposal of dredged material will be undertaken in a manner that meets existing State dredging permit requirements, and protects significant fish and wildlife habitats, scenic resources, natural protective features, important agricultural lands, and wetlands.

Response to Policy for EW 1:

The export cables and onshore substation comply with this policy to the extent applicable. Construction activities associated with installing the submarine export cables (e.g., plowing, jetting, and trenching), will not significantly interfere with significant fish and wildlife habitats, scenic resources, natural protective features, important agricultural lands, and wetlands. Construction means and methods have been selected to minimize the volume of sediment displacement, which is anticipated to settle immediately and not disperse long distances into the water column.

At export cable landfall, multiple potential landfall techniques are under consideration, including open-cut, HDD, and through-bulkhead methods; dredging will be required. The small area to be dredged just offshore of the landfall location will be backfilled, as would any trench created for cable installation if using the open-cut method. Should open-cut trench be selected, sediment located directly adjacent to the bulkhead may be required to be excavated to facilitate cable landfall; this area will be backfilled to adjacent water depths following installation. This will result in no net change in the seafloor elevations or associated hydrodynamics, thereby avoiding potential effects on significant fish and wildlife habitats, scenic resources, natural protective features, and tidal wetlands. Additionally, Empire's Inadvertent Returns Plan, which will be submitted for approval by the appropriate agencies prior to the start of HDD, if used, will specify response actions to be implemented should an accidental release of non-toxic drilling mud occur.

Along the submarine export cable route, there are installation and burial activities that will be performed before the installation of the cables, some during the installation of the cables, and some after the installation of the cables; several of the methods being considered may require dredging. Cable pre-lay activities may include pre-installation grapnel run, route clearance and boulder removal, pre-sweeping, dredging, and pre-trenching. These cable pre-lay activities, described below, will be undertaken in a manner that meets existing State dredging permit requirements, and protects significant fish and wildlife habitats, scenic resources, natural protective features, important agricultural lands, and wetlands.

In certain limited areas of the EW 1 submarine export cable corridor, where underwater megaripples and sandwaves are present on the seafloor, pre-sweeping may be necessary prior to cable lay activities. The primary pre-sweeping method will involve using a suction hopper dredge vessel and/or mass flow excavator from a construction vessel to remove the excess sediment on the seafloor along the footprint of the cable lay; however, other types of dredging equipment may be used depending on environmental conditions and equipment availability.

Pre-trenching activities may also be required in select locations along the submarine export cable route in areas where deeper burial depths may be required and/or seabed conditions are not suitable for traditional cable burial methods.

Local dredging at areas where the submarine export cables are crossing other assets may also be needed in order to reduce the shoaling of the crossing design. Localized dredging using equipment may be required in order to

minimize shoaling on the seabed before cable protection is installed. This crossing design will consist of the removal of up to approximately 8 ft (2.4 m) of sediment to form a trench measuring approximately 3.3 ft by 85 ft (1 m by 26 m) at the bottom; utilizing a 3:1 side slope, the upper bounds of this area will be approximately 52.5 ft by 87 ft (16 m by 26 m). Approximately 735 cubic yards (yd³) (562 m³) of material is anticipated to be removed by suction hopper dredge at each crossing. The final depth of the dredged area will be governed by the vertical distance between the natural seabed and the assets to be crossed, and will need to be approved by the asset owners through a crossing agreement.

During dredging activities, the material will be collected in an appropriate manner for either re-use or disposal (depending on the nature of the material) and in accordance with applicable regulations. No backfilling is proposed for these activities if implemented for the purposes of cable installation. Empire will follow the guidelines set forth in a Dredge Disposal Management Plan for handling and disposing of the material at select landfills. Should a suction hopper dredge vessel, mass flow excavator, or similar equipment be used to complete these activities, Empire anticipates that dredged material generated from the Project may either be sidecasted near the site of installation or removed for beneficial reuse or proper disposal. The actual method of dredged material management will be based on sampling and consultation with regulatory agencies. Final discharge volumes and rates will be provided following selection of both the supplier and equipment type and/or final design and location. Wastes will be managed in accordance with applicable regulations. Dredging, excavation, and other sediment- and soil-disturbing activities will be completed in compliance with federal and state permits that will be issued to be protective of the environment.

The final cable burial method(s) will be selected prior to the FDR/FIR. The equipment selected will depend on seabed conditions, the required burial depths, and the results of various cable burial studies; more than one installation and burial method may be selected per route and has the potential to be used pre-installation, during installation, and/or post-installation. The Project's construction, operations, and decommissioning activities will comply with federal, state, and local regulations associated with protecting the State's significant fish and wildlife habitats, scenic resources, natural protective features, and wetlands, and will work with the agencies to incorporate measures that help avoid or minimize potential impacts from dredging and fill activities.

Response to Policy for EW 2:

The export cables and onshore substations comply with this policy to the extent applicable. Construction activities associated with installing the submarine export cable (e.g., jetting, plowing and trenching), will not significantly interfere with significant fish and wildlife habitats, scenic resources, natural protective features, important agricultural lands, and wetlands. Construction means and methods have been selected that will result in a small volume of sediment displacement.

A trenchless cable installation methodology (i.e., HDD or Direct Pipe) is the preferred methodology for the export cable landfall(s) in order to avoid potential impacts, such as erosion of the shoreline. Empire's Inadvertent Returns Plan, which will be submitted for approval by the applicable agencies prior to the start of trenchless installation activities, will specify response actions to be implemented should an accidental release of non-toxic drilling mud occur. Jet plowing, mechanical plowing, or mechanical trenching has been selected for the majority of the export cable installation, and these methods result in less sediment resuspension and transport than dredging. EW 2 export cable landfall(s) may also require dredging, which will be managed as described in the response to this policy for EW 1.

EW 2 Onshore Substation A will not require excavation or dredging in coastal waters. Bulkhead replacement or reconstruction activities, and the associated fill material, tied to EW 2 Onshore Substation C will comply

with this policy. Bulkhead replacement or reconstruction activities, if undertaken, will be conducted in accordance with state permit requirements.

The Project's construction, operations, and decommissioning activities will comply with federal, state, and local regulations associated with protecting the State's significant fish and wildlife habitats, scenic resources, natural protective features, and wetlands, and will work with the agencies to incorporate measures that help avoid or minimize potential impacts from dredging and fill activities.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located within federal waters within designated Renewable Energy Lease Area OCS-A 0512 under BOEM's jurisdiction, and dredging is not anticipated within the WFDA.

COP Section Reference:

Section 3.3 Proposed Infrastructure Overview; Section 3.4 Construction and Installation Activities; and Section 4.2 Water Quality

Policy 36: Activities related to the shipment and storage of petroleum and other hazardous materials will be conducted in a manner that will prevent or at least minimize spills into coastal waters; all practicable efforts will be undertaken to expedite the cleanup of such discharges; and restitution for damages will be required when these spills occur.

Response to Policy for EW 1 and EW 2:

The export cables and onshore substations comply with this policy to the extent applicable. During construction and operations, water quality has the potential to be impacted through the introduction of constituents of concern, including oil and fuel spills and releases. Project-related construction vessels also have the potential to release oil and fuels. Project-related vessels will be subject to USCG regulations regarding wastewater and discharges and will operate in compliance with oil spill prevention and response plans that meet USCG requirements. Specifically, Project vessels will comply with USCG standards in U.S. territorial waters to legally discharge uncontaminated ballast and bilge water, and standards regarding ballast water management. While inside of the 3-nm state-border/No-Discharge Zone (NDZ), vessels will take normal vessel procedures to close off Marine Sanitation Device (MSD)-effluence discharge piping and redirect it to onboard "Zero-Discharge Tanks" for the appropriate disposal either at dock or outside of an NDZ. Additionally, vessels under 79 ft (24.1 m) in length will comply with the Small Vessel General Permit issued by EPA on September 10, 2014, for compliance with NPDES permitting. Therefore, the Project will operate in accordance with federal, state, and local laws regulating the management of accidental spills or release of oils or other hazardous wastes through the OSRP, as detailed in **Appendix F**, the Project SPCC Plan, and NYSDEC Management Practices Catalogue for Nonpoint Source Pollution Prevention and Water Quality Protection in New York State. As part of the Article VII process, Empire will develop a Construction Contingency Plan and SWPPP as part of the EM&CP.

Response to Policy for WFDA:

The WFDA elements of the Project comply with this policy to the extent applicable. While outside of the 3-nm state-border/NDZ, vessels will deploy a USCG-certified MSD with certifications displayed. Furthermore, Empire will operate in accordance with laws regulating the at-sea discharges of vessel-generated waste and management of accidental spills or release of oils or other hazardous wastes through the OSRP, as detailed in **Appendix W**, and the Project SPCC Plan, which will be developed.

COP Section Reference:

Section 4.2 Water Quality; Section 5.1 Terrestrial Vegetation and Wildlife; Section 8.12 Public Health and Safety; Section 9 Summary of Avoidance, Minimization, and Mitigation Measures; and Appendix F Oil Spill Response Plan

Policy 37: Best management practices will be utilized to minimize the non-point discharge of excess nutrients, organics and eroded soils into coastal waters.

Response to Policy for EW 1 and EW 2:

Construction activities associated with the installation of the export cables and onshore substations comply with this policy to the extent applicable as part of the avoidance, minimization, and mitigation measures proposed by Empire to mitigate water quality impacts and nonpoint source pollution. The Project will operate in accordance with NYSDEC Management Practices Catalogue for Nonpoint Source Pollution Prevention and Water Quality Protection in New York State. Specific measures will be detailed in an approved EM&CP.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters and will therefore not generate non-point discharges in New York State coastal areas.

COP Section Reference:

Section 4.2 Water Quality; Section 5.1 Terrestrial Vegetation and Wildlife; Section 8.12 Public Health and Safety; and Section 9 Summary of Avoidance, Minimization, and Mitigation Measures

Policy 38: The quality and quantity of surface water and groundwater supplies will be conserved and protected, particularly where such waters constitute the primary or sole source of water supply.

Response to Policy for EW 1 and EW 2:

The export cables and onshore substations comply with this policy to the extent applicable as part of the avoidance, minimization, and mitigation measures proposed by Empire. As part of the Article VII process, Empire will develop a Construction Contingency Plan and SWPPP as part of the EM&CP to minimize potential impacts to surface water and groundwater supplies. Empire will determine through site-specific tests pits whether groundwater is expected to be encountered during construction activities. If dewatering is expected to occur, Empire will develop a site-specific dewatering plan to protect groundwater and nearby surface water resources in accordance with the agency-approved, project-specific SWPPP. Empire also proposes to implement an Inadvertent Return Plan that addresses short-term localized inadvertent return/releases during HDD activities should drilling fluids migrate unpredictably to the land or seabed surface, potentially increasing turbidity in marine, groundwaters, and/or surface water resources.

Additionally, Empire's Inadvertent Returns Plan, which will be submitted for approval to the appropriate agencies, as applicable, prior to the start of HDD, will specify response actions to be implemented should an accidental release of non-toxic drilling mud occur.

No impacts to groundwater and surface water are anticipated during operations because the onshore export and interconnection cables and onshore substations will not require the use of these resources. Depending on groundwater depths along the export cable trench or foundations at the onshore substation, groundwater may not be encountered.

Response to Policy for WFDA:

This policy is not applicable because the WFDA is located offshore in federal waters where there are no surface water and groundwater supplies.

COP Section Reference:

Section 4.2 Water Quality; Section 5.1 Terrestrial Vegetation and Wildlife; Section 8.12 Public Health and Safety; and Section 9 Summary of Avoidance, Minimization, and Mitigation Measures

Policy 39: The transport, storage, treatment and disposal of solid wastes, particularly hazardous wastes, within coastal areas will be conducted in such a manner so as to protect groundwater and surface water supplies, significant fish and wildlife habitats, recreation areas, important agricultural land, and scenic resources.

Response to Policy for EW 1 and EW 2:

The export cables and onshore substations comply with this policy to the extent applicable. Vessel activities will adhere to applicable federal, state, and local regulations when transporting, storing, treating, and disposing wastes. Solid wastes generated on land will be properly handled, stored and disposed of, according to New York requirements, as detailed in the EM&CP.

Response to Policy for WFDA:

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

COP Section Reference:

Section 4.2 Water Quality; Section 5.1 Terrestrial Vegetation and Wildlife; Section 8.12 Public Health and Safety; and Section 9 Summary of Avoidance, Minimization, and Mitigation Measures

Policy 40: Effluent discharged from major steam electric generating and industrial facilities into coastal waters will not be unduly injurious to fish and wildlife and shall conform to state water quality standards.

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

This policy is not applicable because the Project is not a major steam electric generating or industrial facility.

COP Section Reference:

Not applicable

Policy 41: Land use or development in the coastal area will not cause national or State air quality standards to be violated.

Response to Policy for EW 1 and EW 2:

The export cables and onshore substations 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 York State coastal areas during construction and operations of the Project. Sources associated with the Project activities are expected to be subject to the air permitting requirements of the EPA and NYSDEC. Empire will obtain the required federal and state air permits to meet air quality standards for construction and operations 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 York State coastal areas during construction and operations of the Project. Sources associated with the Project activities are expected to be subject to the air permitting requirements of the EPA and NYSDEC. Empire will obtain the required federal and state air permits to meet air quality standards for construction, operations, and decommissioning activities.

*COP Section Reference:***Section 4.3 Air Quality**

Policy 42: Coastal management policies will be considered if the State reclassifies land areas pursuant to the prevention of significant deterioration regulations of the Federal Clean Air Act.

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

This policy is not applicable, because activities associated with the construction, operations, and decommissioning of the Project will not change the prevention of significant deterioration land classifications in coastal regions or adjacent areas.

COP Section Reference:

Not applicable

Policy 43: Land use or development in the coastal area must not cause the generation of significant amounts of acid rain precursors: nitrates and sulfates.

Response to Policy for EW 1 and EW 2:

The onshore export cables and onshore substations comply to the extent applicable with this policy. Sources associated with the Project activities are expected to be subject to the air permitting requirements of the EPA and NYSDEC. Air quality may temporarily be affected; however, onshore vehicles and marine vessel activities associated with construction and operations of the Project are not expected to generate significant amounts of nitrates and sulfates, in comparison to existing traffic densities.

Response to Policy for WFDA:

The WFDA complies to the extent applicable with this policy. Sources associated with the Project activities are expected to be subject to the air permitting requirements of the EPA and NYSDEC. Empire 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 temporarily be affected however, onshore and marine vessel activities associated with construction and operations of the Project are not expected to generate significant amounts of nitrates and sulfates, in comparison to existing traffic densities.

*COP Section Reference:***Section 4.3 Air Quality**

A.3.10 New York State Coastal Policies: Wetlands Policy

Policy 44: Preserve and protect tidal and freshwater wetlands and preserve the benefits derived from these areas.

Response to Policy for EW 1:

EW 1 complies with this policy to the extent applicable. The EW 1 submarine export cables are located within NYSDEC-mapped tidal wetlands, but which are non-vegetated and permanently submerged greater than 6 ft (2 m). HDD and open-cut alternatives, among others, are being considered for landfall. The EW 1 interconnection cables and onshore substation site and the O&M Base are situated above the bank of the Upper Bay and do not cross any mapped wetlands or waterbodies.

Response to Policy for EW 2:

EW 2 complies with this policy to the extent applicable. The EW 2 export cables are located within NYSDEC-mapped tidal wetlands and a trenchless cable installation method (i.e., HDD or Direct Pipe) will be used for cable landfall in order to avoid and minimize potential impacts to tidal and freshwater wetlands. As the export cables will be buried below the seabed, impacts to tidal wetlands are expected to be temporary and associated with installation activities. The EW 2 onshore substations sites were sited to avoid or minimize siting within protected tidal and freshwater wetlands to the extent practicable. An open-cut methodology is being considered for installation of one of the EW 2 onshore export and interconnection cable route segments near the EW 2 Oceanside POI. If an open-cut methodology is used, or in the unlikely event that a trenchless method results in unforeseen impacts, the wetland surface will be restored to its pre-construction grade and contours, and it will be revegetated with the vegetation species that were present before construction. The remainder of the EW 2 onshore export and interconnection cable route segments are situated within ROWs to minimize impacts to tidal and freshwater wetlands.

Response to Policy for WFDA:

This policy is not applicable. The WFDA is located offshore in federal waters. Therefore, construction, operations, and decommissioning activities will not impact New York State tidal and freshwater wetlands.

COP Section Reference:

Section 3 Project Description; Section 5.2 Wetlands and Waterbodies; and Section 9 Summary of Avoidance, Minimization, and Mitigation Measures

A.4 NEW YORK CITY WATERFRONT REVITALIZATION PROGRAM REVIEW

Since the EW 1 submarine export cables, onshore substation, onshore and interconnection cables, and O&M Base⁷ are proposed to be located within the boundaries of the NYC WRP, construction of these facilities must demonstrate consistency with the enforceable policies of NYC WRP. In addition, Empire is proposing to potentially utilize SBMT for construction and staging activities; since these activities are proposed to be located within the boundaries of the NYC WRP, they must demonstrate consistency with the enforceable policies of NYC WRP. The following narrative demonstrates how the proposed Project is in compliance, as detailed in Part II: The Policies, of the NYC WRP.⁸

Policy One: Support and Facilitate Commercial and Residential Redevelopment in Areas Well-Suited to Such Development.

1.1 Encourage commercial and residential redevelopment in appropriate Coastal Zone areas.

Response to Policy for EW 1:

This policy is not applicable because the Project is part of an industrial development project. The export cables and onshore substation were sited within an M3 district. M3 districts are designated for areas with heavy industries that generate noise, traffic, or pollutants. M3 districts are usually located near the waterfront and buffered from residential areas. Typical uses include power plants, solid waste transfer facilities, recycling plants, and fuel supply depots. Commercial and residential redevelopment is not suited to M3 districts.

COP Section Reference:

Section 8.2 Land Use and Zoning

1.2 Encourage non-industrial development with uses and design features that enliven the waterfront and attract the public.

Response to Policy for EW 1:

This policy is not applicable because the Project is sited in existing developed, industrialized areas, namely within an M3 district, whereas non-industrial activity and increased public activity are not well-suited in this zoning designation. The proposed construction and staging area at SBMT is also within M3 districts.

COP Section Reference:

Section 8.2 Land Use and Zoning

1.3 Encourage redevelopment in the Coastal Zone where public facilities and infrastructure are adequate or will be developed.

Response to Policy for EW 1:

This policy is not applicable because the Project is located in an industrially zoned location and commercial and residential redevelopment is not appropriate, nor does the nature of the Project support opportunities for such redevelopment. The proposed construction and staging area at SBMT is also within an industrial zoning district and is not suited to commercial or residential redevelopment.

⁷ For the purposes of this consistency review, activities associated with the O&M Base are assessed under EW 1, though these activities would also be associated with EW 2.

⁸ New York City Department of City Planning Waterfront Revitalization Program Policies (<https://www1.nyc.gov/assets/planning/download/pdf/applicants/wrp/wrp-2016/nyc-wrp-partII.pdf>)

COP Section Reference:

Not applicable

1.4 In areas adjacent to [Significant Maritime and Industrial Areas] SMIA, ensure new residential development maximizes compatibility with existing adjacent maritime and industrial uses.

Response to Policy for EW 1:

This policy is not applicable because the Project does not involve residential development.

COP Section Reference:

Not applicable

1.5 Integrate consideration of climate change and sea level rise into the planning and design of waterfront residential and commercial development, pursuant to WRP Policy 6.2.

Response to Policy for EW 1:

This policy is not applicable because the Project does not involve residential or commercial development of the waterfront. Regardless, construction of the onshore substation will satisfy the design requirements governing the placement of the onshore substation within a mapped floodplain; including but not limited to, above-ground structures will be located at base flood elevation plus two feet or adequately protected through appropriate engineering design.

COP Section Reference:

Not applicable

Policy Two: Support Water-Dependent and Industrial Uses in New York City Coastal Areas that are Well-Suited to Their Continued Operation.

2.1 Promote water-dependent and industrial uses in Significant Maritime and Industrial Areas.

Response to Policy for EW 1:

The Project complies with this policy to the extent applicable and promotes industrial use in SMIA. The submarine export cables, to be located within the Sunset Park SMIA, are a water-dependent use that will be buried beneath the seabed to connect the onshore substation, which is an integral component to the transmission of electricity from the offshore windfarm to the existing grid. Furthermore, the O&M Base depends on direct access to the waterfront to facilitate the O&M activities required offshore in the WFDA. Construction and maintenance of the export cables will have limited potential to impede current and future water-dependent and industrial uses since the cable easement is very narrow and burial depths consider existing and potential uses (e.g., draft requirements for certain port facilities). Additionally, the interconnection cables from the new onshore substation to the existing POI will follow existing ROWs to the extent practicable. Onshore substations, staging areas, and the O&M Base are consistent with industrial uses in the SMIA.

COP Section Reference:

Section 2 Project Design Development; Section 3 Project Description; and Section 8.11 Other Coastal and Marine Uses

2.2 Encourage a compatible relationship between working waterfront uses, upland development, and natural resources within the Ecologically Sensitive Maritime and Industrial Area.*Response to Policy for EW 1:*

This policy is not applicable because the Project is not located within an Ecologically Sensitive Maritime and Industrial area.

COP Section Reference:

Not applicable

2.3 Encourage working waterfront uses at appropriate sites outside the Significant Maritime and Industrial Areas or Ecologically Sensitive Maritime Industrial Area.*Response to Policy for EW 1:*

The Project complies with this policy to the extent applicable. The Project does not interfere with working waterfront uses at appropriate sites outside the SMIA and is not located in an Ecologically Sensitive Maritime Industrial Area.

COP Section Reference:

Not applicable

2.4 Provide infrastructure improvements necessary to support working waterfront uses.*Response to Policy for EW 1:*

The Project complies with this policy to the extent applicable. The Project will strengthen New York's energy grid by generating renewable electricity. Infrastructure improvements will be made to transfer the energy from the Lease Area offshore to the onshore substation and ultimately the grid. The Project helps address the need identified by New York State for renewable energy and will help to advance the State of New York Public Service Commission's renewable energy goals. Additionally, the export cables and onshore substation are located within existing ROWs, and paved infrastructure sites which have been cleared, previously disturbed, and zoned for the proposed use. Mitigation measures such as flooding and sea level rise resiliency will be implemented as part of the substation design, which could improve site conditions of the existing parcel along the waterfront. Pending the outcome of dredging analyses as well as dredging requirements for the Project, if required, beneficial uses will be evaluated for dredge spoil, which could include the potential to support port redevelopment or improvement projects within the region.

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 all facilities, although they will include SBMT, in Brooklyn, New York. Empire has leased portions of 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 will receive, store, assemble, and export Project components via marine vessels and onshore cranes and other equipment.

The final port selection for staging and construction will be determined based upon whether the ports are able to accommodate Empire's schedule, workforce and equipment needs. In order to contribute to development and build-out of the offshore industry in the State of New York, the owner/operator of SBMT is proposing to

conduct upgrades to the port facility that would allow offshore wind developers (including Empire) to utilize the facility as a construction and staging area.

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 industry and will be governed by applicable environmental standards, with which Empire will comply when using the facilities.

Therefore, the activities associated with this Project and described above are consistent with Policy 2.4, ensuring necessary improvements to working waterfront uses take place.

COP Section Reference:

Section 1.4 Purpose and Need for the Project; Section 2 Project Design Development; and Section 3 Project Description

2.5 Incorporate consideration of climate change and sea level rise into the planning and design of waterfront industrial development and infrastructure, pursuant to WRP Policy 6.2.

Response to Policy for EW 1:

Construction of the onshore substation and O&M Base will satisfy the design requirements governing the placement of the onshore substation and O&M Base within a mapped floodplain; including but not limited to, above-ground structures will be located at base flood elevation plus two feet or adequately protected through appropriate engineering design. Specific mitigation strategies regarding special flood hazard areas and stormwater management will be designed on a case-by-case basis and during the regulatory process. Additionally, the onshore substation will be designed according to New York building codes to the extent practicable. Warning signals and procedures for evacuation of employees in case of an emergency will be developed and posted.

COP Section Reference:

Section 2 Project Design Development; Section 3 Project Description; Section 8.12 Public Health and Safety; Section 9 Summary of Avoidance, Minimization, and Mitigation Measures; and Appendix E Conceptual Project Design Drawings

Policy Three: Promote Use Of New York City's Waterways for Commercial and Recreational Boating and Water-Dependent Transportation.

3.1 Support and encourage in-water recreational activities in suitable locations.

Response to Policy for EW 1:

This policy is not applicable since the Project does not create opportunities to support or encourage in-water recreational activities.

COP Section Reference:

Section 8.3 Recreation and Tourism

3.2 Support and encourage recreational, educational and commercial boating in New York City's maritime centers.*Response to Policy for EW 1:*

This policy is not applicable since the Project does not include any opportunities to support and encourage recreational, educational, and commercial boating. Regardless, the Project will not discourage these activities other than temporarily during construction when access near the construction vessels will be limited, to ensure the safety of other boaters.

*COP Section Reference:***Section 8.3 Recreation and Tourism*****3.3 Minimize conflicts between recreational boating and commercial ship operations.****Response to Policy for EW 1:*

The Project complies with this policy to the extent applicable. During construction, Empire will provide the necessary information to allow an LNM to be issued that includes the location of the submarine export cable construction vessels and the exclusion zone around them. This will serve to support safe boat/vessel operations by recreational boaters and commercial vessel operators, who may travel in the area near Project construction activity. Empire has been and will continue to coordinate with other relevant port authorities, harbor pilots, and mariner groups.

*COP Section Reference:***Section 8.7 Marine Transportation and Navigation; Section 8.11 Other Marine Uses; and Appendix DD Navigation Safety Risk Assessment*****3.4 Minimize impact of commercial and recreational boating activities on the aquatic environment and surrounding land and water uses.****Response to Policy for EW 1:*

The Project complies with this policy to the extent applicable. The activities associated with installation and maintenance of the submarine export cables will be temporary and localized. Therefore, it should not impact the opportunity to influence how other commercial or recreational boating occurs.

COP Section Reference:

Not applicable

3.5 In Priority Marine Activity Zones, support the ongoing maintenance of maritime infrastructure for water-dependent uses*Response to Policy for EW 1:*

The export cables and onshore substation, which are located within a Priority Marine Activity Zone, comply with this policy to the extent applicable. Construction and operations of the export cables and onshore substation will not impact ongoing maintenance of maritime infrastructure for water-dependent uses. This topic is further covered through the New York State Office of General Services and USACE authorization processes, which provide additional assurance that the Project complies with this policy.

COP Section Reference:

Section 8.7 Marine Transportation and Navigation

Policy Four: Protect and Restore the Quality and Function of Ecological Systems Within the New York City Coastal Area.

4.1 Protect and restore the ecological quality and component habitats and resources within the Special Natural Waterfront Areas.

Response to Policy for EW 1:

This policy is not applicable because the Project is not located within a Special Natural Waterfront Area.

COP Section Reference:

Not applicable

4.2 Protect and restore the ecological quality and component habitats and resources within the Ecologically Sensitive Maritime and Industrial Area.

Response to Policy for EW 1:

This policy is not applicable because the Project is not located within an Ecologically Sensitive Maritime and Industrial Area.

COP Section Reference:

Not applicable

4.3 Protect designated Significant Coastal Fish and Wildlife Habitats.

Response to Policy for EW 1:

This policy is not applicable because the Project is not located within a Significant Coastal Fish and Wildlife Habitat. The export cables and onshore substation were sited to avoid protected coastal, estuarine, and marine habitats, including Significant Coastal Fish and Wildlife Habitats.

COP Section Reference:

Not applicable

4.4 Identify, remediate and restore ecological functions within Recognized Ecological Complexes.

Response to Policy for EW 1:

The Project complies with this policy to the extent applicable. The EW 1 export cables pass through the Gravesend Bay Recognized Ecological Complex. Empire is proposing this route as the practicable alternative that minimizes environmental impacts and reduces potential conflicts with maintained channels, anchorages, and marine navigation. Impacts to the Gravesend Bay Recognized Ecological Complex will be avoided and minimized through the following measures:

- The cable route has been designed to avoid the highly used anchorage areas, thus avoiding the need for deeper burial and/or cable protection measures.
- Jetting is the most efficient method of submarine cable installation that minimizes the extent and duration of bottom disturbance for the significant length and water depths along the submarine export

cable route. The majority of suspended sediments from jetting settle back in the trench naturally, reducing sedimentation impacts.

- In siting the submarine export cable, the Empire has actively avoided sensitive benthic habitats (including eelgrasses) where feasible, further minimizing the disturbance of sensitive habitat features.
- Empire will minimize potential impacts to winter flounder through implementation of appropriate timing windows during submarine cable installation.

The activities associated with installation and maintenance of the submarine export cables will be temporary and localized. Therefore, it should not impact the opportunity to identify, remediate and restore ecological functions within the Gravesend Bay Recognized Ecological Complex.

COP Section Reference:

Section 2 Project Design Development; Section 3 Project Description; and Section 5.1 Terrestrial Vegetation and Wildlife

4.5 Protect and restore tidal and freshwater wetlands.

Response to Policy for EW 1:

The Project complies with this policy to the extent applicable because it was sited to avoid protected coastal, estuarine, and marine habitats, including tidal and freshwater wetlands, and therefore, construction activities will not directly impact tidal or freshwater wetlands. The submarine export cables will be buried below the seabed under non-vegetated areas mapped as tidal wetland by NYSDEC, but which are permanently submerged greater than 6 ft (2 m). The EW 1 onshore substation and onshore interconnection cables to the existing POI are situated above the bank of the Upper Bay and do not cross any wetlands or waterbodies.

COP Section Reference:

Section 2 Project Design Development; Section 3 Project Description; Section 5.2 Wetlands and Waterbodies; and Section 9 Summary of Avoidance, Minimization, and Mitigation Measures.

4.6 In addition to wetlands, seek opportunities to create a mosaic of habitats with high ecological value and function that provide environmental and societal benefits. Restoration should strive to incorporate multiple habitat characteristics to achieve the greatest ecological benefit at a single location.

Response to Policy for EW 1:

The Project is consistent with this policy to the extent applicable. Consistent with a variety of other environmental regulations, the Project has selected export cable installation methods that minimize disturbance of the seafloor, and in particular, conversion of seafloor habitat types. Because of the minimal disturbance nature of the construction methods, active restoration is not a planned component of the Project associated with the export cables. However, as the Project design is still preliminary and specific impacts are not known, detailed mitigation strategies will be developed as needed as part of the final design and conform to the requirements of state and federal permitting respective to wetlands and waterbody resources. The substations are in industrially zoned locations and their development by Empire are consistent with the intended use and other policies supporting working waterfronts, not creating ecologically beneficial habitats.

*COP Section Reference:***Section 5.2 Wetlands and Waterbodies; and Section 9 Summary of Avoidance, Minimization, and Mitigation Measures*****4.7 Protect vulnerable plant, fish and wildlife species, and rare ecological communities. Design and develop land and water uses to maximize their integration or compatibility with the identified ecological community.****Response to Policy for EW 1:*

The Project complies with this policy to the extent applicable because it was sited to avoid vulnerable plant, fish, and wildlife species, and rare ecological communities. The onshore export and interconnection cables were sited in areas that are already disturbed and do not contain any vulnerable plant, fish, and wildlife species. However, the NYSDEC has documented a breeding area for the peregrine falcon, a New York State-listed endangered species, in the vicinity of the EW 1 submarine export cable on the Verrazano-Narrows Bridge. The Atlantic sturgeon, a New York State-designated critically imperiled species, occurs within the New York Harbor and therefore is assumed to have the potential to occur along the submarine export cable route. To actively avoid or reduce interaction with vulnerable plant, fish, and wildlife species, Empire will consider the timing of construction activities; working with the fishing industry and fisheries agencies on sensitive spawning and fishing periods to actively avoid or reduce interaction with receptors, where feasible. Construction impacts will be temporary and localized, while the long-term presence and operations of the export cables and onshore substation will have no impacts on these resources. The analysis of impacts supports the overall determination that the Project will not result in substantial adverse impacts on vulnerable plant, fish, and wildlife species. Impacts on fish and wildlife species will be short-term and not affect stocks or populations.

COP Section Reference:

Section 2 Project Design Development; Section 3 Project Description; Section 5 Biological Resources and Habitats; Section 9 Summary of Avoidance, Minimization, and Mitigation Measures; Appendix N Information for Planning and Conservation (IPaC) Report, New York State Department of Environmental Conservation and New Jersey Department of Environmental Protection Natural Heritage Response Letters; 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

4.8 Maintain and protect living aquatic resources.*Response to Policy for EW 1:*

The construction and operations of the Project complies with this policy to the extent applicable. Construction means and methods have been developed with a goal of minimizing adverse impacts to aquatic resources and avoiding impacts when possible. The effort to site facilities used existing and developed information to avoid sensitive coastal, estuarine, and marine habitats. A variety of Best Management Practices are incorporated into planning and Empire expects to continue agency and resource management agency consultations and coordination as the Project goes through the permitting process. It is anticipated that permits will be issued, and the Project licensed, with a number of conditions intended to maintain and protect living aquatic resources. Empire and its contractors will have a number of personnel involved in managing compliance requirements.

COP Section Reference:

Section 2 Project Design Development; Section 3 Project Description; Section 5 Biological Resources and Habitats; Section 9 Summary of Avoidance, Minimization, and Mitigation Measures; Appendix T Benthic Resource Characterization Reports; and Appendix U Essential Fish Habitat (EFH) Assessment

Policy Five: Protect and Improve Water Quality in The New York City Coastal Area.***5.1 Manage direct or indirect discharges to waterbodies.****Response to Policy for EW 1:*

The Project complies with this policy to the extent applicable. The Project will operate in accordance with laws regulating the at-sea discharges of vessel-generated waste and management of accidental spills or release of oils or other hazardous wastes through the OSRP, as detailed in **Appendix W**, the Project SPCC Plan and NYSDEC Management Practices Catalogue for Nonpoint Source Pollution Prevention and Water Quality Protection in New York State. As part of the Article VII process, Empire will develop a Construction Contingency Plan and SWPPP, along with other features of the EM&CP, that will serve to manage direct and indirect discharges to waterbodies.

COP Section Reference:

Section 4.2 Water Quality; Section 5.1 Terrestrial Vegetation and Wildlife; Section 8.12 Public Health and Safety; Section 9 Summary of Avoidance, Minimization, and Mitigation Measures; and Appendix F Oil Spill Response Plan

5.2 Protect the quality of New York City's waters by managing activities that generate nonpoint source pollution.*Response to Policy for EW 1:*

Construction activities associated with the Project comply with this policy to the extent applicable as part of the avoidance, minimization, and mitigation measures proposed by Empire to mitigate water quality impacts and nonpoint source pollution. The Project will operate in accordance with NYSDEC Management Practices Catalogue for Nonpoint Source Pollution Prevention and Water Quality Protection in New York State. It is anticipated that the Project will require authorization under the SPDES program for both construction and industrial stormwater discharges, and the Project will be undertaken in compliance with these authorizations.

COP Section Reference:

Section 4.2, Water Quality; Section 5.1 Terrestrial Vegetation and Wildlife; Section 8.12 Public Health and Safety; and Section 9 Summary of Avoidance, Minimization, and Mitigation Measures

5.3 Protect water quality when excavating or placing fill in navigable waters and in or near marshes, estuaries, tidal marshes, and wetlands.*Response to Policy for EW 1:*

The export cable is consistent with this policy to the extent applicable. No marshes or vegetated wetlands occur along the export and interconnection cable route or the onshore substation. The anticipated primary means of installing the submarine export cables is jet plowing, which only creates a small, localized, and temporary increase in suspended sediments, and is therefore protective of water quality. Other forms of cable installation are anticipated to be needed for shorter distances of the cable route, if at all. Placing fill will occur at locations

where surface armoring is required, and this will consist of coarse material such as stone or concrete mats; these methods are protective of water quality. At the HDD locations (if utilized), the exit pit will be backfilled with appropriate material approved by the NYSDEC and USACE, in a manner that will be protective of water quality. There are several additional cable installation and burial methods being considered. Some activities will be performed before the installation of the cables, some during the installation of the cables, and some after the installation of the cables. Cable pre-lay activities may include pre-installation grapnel run, route clearance and boulder removal, pre-sweeping, dredging, and pre-trenching.

In certain limited areas of the EW 1 submarine export cable corridor, where underwater megaripples and sandwaves are present on the seafloor, pre-sweeping may be necessary prior to cable lay activities. The primary pre-sweeping method will involve using a suction hopper dredge vessel and/or mass flow excavator from a construction vessel to remove the excess sediment on the seafloor along the footprint of the cable lay; however, other types of dredging equipment may be used depending on environmental conditions and equipment availability. Where pre-sweeping is required, a clearance width up to approximately 164 ft (50 m) is anticipated; the length of clearance will vary along the submarine export cable route, ranging from approximately 197 ft (60 m) to 5,577.4 ft (1,700 m).

Pre-trenching activities may also be required in select locations along the submarine export cable route in areas where deeper burial depths may be required and/or seabed conditions are not suitable for traditional cable burial methods. Local dredging at locations where the submarine export cables are crossing other assets may also be needed in order to reduce the shoaling of the crossing design. This crossing design will consist of the removal of up to approximately 8 ft (2.4 m) of seabed sediment to form a trench measuring approximately 3.3 ft by 85 ft (1 m by 26 m) at the bottom; utilizing a 3:1 side slope, the upper bounds of this area will be approximately 52.5 ft by 87 ft (16 m by 26 m). The final depth of the dredged area will be governed by the vertical distance between the natural seabed and the assets to be crossed and will need to be approved by the asset owners through a crossing agreement.

In addition, mechanical dredging may be required to facilitate cable installation burial at the SBMT landfall. During dredging activities, the material will be collected in an appropriate manner for either re-use or disposal (depending on the nature of the material) and in accordance with applicable regulations. No backfilling is proposed for these activities. Empire will follow the guidelines set forth in a Dredge Disposal Management Plan for handling and disposing of the material at select landfills. Should a suction hopper dredge vessel, mass flow excavator, or similar equipment be used to complete these activities, Empire anticipates that dredged material generated from the Project may either be sidecasted near the site of installation or removed for beneficial reuse or proper disposal. The actual method of dredged material management will be based on sampling and consultation with regulatory agencies. Final discharge volumes and rates will be provided following selection of both the supplier and equipment type and/or final design and location. Wastes will be managed in accordance with applicable regulations. Dredging, excavation, and other sediment- and soil-disturbing activities will be completed in compliance with federal and state permits that will be issued to be protective of the environment.

Additionally, detailed mitigation strategies will be developed as part of the final design and will conform to the requirements of all state and federal permitting respective to water quality. Empire will continue to consult with the agencies to adopt agreed upon mitigation practices.

COP Section Reference:

Section 3.3 Project Infrastructure Overview; Section 3.4.1.4 Submarine Export Cables; Section 3.4.2.1 Export Cables and Interconnection Cables; Section 4.2 Water Quality; and Section 9 Summary of Avoidance, Minimization, and Mitigation Measures

5.4 Protect the quality and quantity of groundwater, streams, and the sources of water for wetlands.

Response to Policy for EW 1:

The Project complies with this policy to the extent applicable as part of the avoidance, minimization, and mitigation measures proposed by Empire. The Project will operate in accordance with NYSDEC Management Practices Catalogue for Nonpoint Source Pollution Prevention and Water Quality Protection in New York State. The Project does not include crossings of, or proximity to, streams and wetlands. The onshore installation of the export and interconnection cables will involve shallow trenching that is likely to avoid groundwater, or if encountered, will be managed in accordance with NYSDEC dewatering requirements.

COP Section Reference:

Section 4.2 Water Quality; Section 5.1 Terrestrial Vegetation and Wildlife; and Section 9 Summary of Avoidance, Minimization, and Mitigation Measures

5.5 Protect and improve water quality through cost-effective grey-infrastructure and in-water ecological strategies.

Response to Policy for EW 1:

This policy is not applicable because the Project does not involve permanent changes to the shoreline, impermeable land surface, or water quality, and avoids the need for grey-infrastructure. Further, in-water activities are temporary and water quality will be protected through the implementation of avoidance, minimization, and mitigation measures and permit conditions and requirements, thereby negating the need for in-water ecological strategies.

COP Section Reference:

Not applicable

Policy Six: Minimize Loss of Life, Structures, Infrastructure, and Natural Resources Caused by Flooding and Erosion, and Increase Resilience to Future Conditions Created by Climate Change.

6.1 Minimize losses from flooding and erosion by employing non-structural and structural management measures appropriate to the site, the use of the property to be protected, and the surrounding area.

Response to Policy for EW 1:

The onshore substation and O&M Base comply to the extent applicable with this policy. The onshore substation and O&M Base will be constructed at previously developed sites with substantial existing impervious surfaces and are not expected to adversely affect adjacent shorelines or properties. Construction will satisfy the design requirements governing the placement of the onshore substation within a mapped floodplain, including but not limited to, above-ground structures will be located at base flood elevation plus two feet or adequately protected through appropriate engineering design. Specific mitigation strategies regarding special flood hazard areas will be designed on a case-by-case basis during the regulatory process.

COP Section Reference:

Section 5.2 Wetlands and Waterbodies; Section 8.12 Public Health and Safety; Section 9 Summary of Avoidance, Minimization, and Mitigation Measures; and Appendix E Conceptual Project Design Drawings

6.2 Integrate consideration of the latest New York City projections of climate change and sea level rise (as published in New York City Panel on Climate Change 2015 Report, Chapter 2: Sea Level Rise and Coastal Storms) into the planning and design of projects in the city's Coastal Zone.

Response to Policy for EW 1:

The construction of the Project complies to the extent applicable with this policy. Construction of the onshore substation and O&M Base will satisfy the design requirements governing the placement of the onshore substation within a mapped floodplain; including but not limited to, above-ground structures will be located at base flood elevation plus two feet or adequately protected through appropriate engineering design. Specific design elements will continue to be developed as the Project progresses towards final design and receipt of required permits and authorizations. During this period, Empire will continue to evaluate and develop the Project design relative to sea level rise design requirements.

COP Section Reference:

Section 8.12, Public Health and Safety; Section 9 Summary of Avoidance, Minimization, and Mitigation Measures; and Appendix E Conceptual Project Design Drawings

6.3 Direct public funding for flood prevention or erosion control measures to those locations where the investment will yield significant public benefit.

Response to Policy for EW 1:

This policy is not applicable because the Project does not require public funds for flood prevention or erosion control measures.

COP Section Reference:

Not applicable

6.4 Protect and preserve non-renewable sources of sand for beach nourishment.

Response to Policy for EW 1:

This policy is not applicable because the Project-related construction and installation activities are not located on or near a beach or designated sand resource area for beach nourishment. The export cables will occupy a very narrow area of the seafloor and will not create a measurable change in the available sources of sand for beach nourishment.

COP Section Reference:

Not applicable

Policy Seven: Minimize Environmental Degradation and Negative Impacts on Public Health from Solid Waste, Toxic Pollutants, Hazardous Materials, and Industrial Materials That May Pose Risks to the Environment and Public Health and Safety.

7.1 Manage solid waste material, hazardous wastes, toxic pollutants, substances hazardous to the environment, and the unenclosed storage of industrial materials to protect public health, control pollution and prevent degradation of coastal ecosystems.

Response to Policy for EW 1:

The construction of the Project complies to the extent applicable with this policy. The construction and operations of the Project will be performed in compliance with regulations regarding the handling, storage and disposal of solid wastes, toxic pollutants, hazardous materials, and industrial materials. Measures will be incorporated into construction and operations procedures to protect public health, control pollution, and prevent degradation of coastal ecosystems. The Project will operate in accordance with federal, state, and local laws regulating the at-sea discharges of vessel-generated waste and management of accidental spills or release of oils or other hazardous wastes through the Oil Spill Response Plan, as detailed in **Appendix F**, Project SPCC Plan and NYSDEC Management Practices Catalogue for Nonpoint Source Pollution Prevention and Water Quality Protection in New York State. As part of the Article VII process, Empire will develop an EM&CP that will include contingency plans to address accidental spills and releases of potential pollutants. Empire will also operate the onshore substation under the requirements of a SPDES SWPPP approved by the NYSDEC. During construction and operations, Empire will manage all solid waste material, hazardous wastes, toxic pollutants, substances hazardous to the environment, and the unenclosed storage of industrial materials in accordance with applicable regulations.

COP Section Reference:

Section 4.2 Water Quality; Section 5.1 Terrestrial Vegetation and Wildlife; Section 5.2 Wetlands and Waterbodies; Section 8.12 Public Health and Safety; and Appendix F Oil Spill Response Plan

7.2 Prevent and remediate discharge of petroleum products.

Response to Policy for EW 1:

The construction and operations of the Project complies to the extent applicable with this policy. The Project will operate in accordance with federal, state, and local laws regulating the at-sea discharges of vessel-generated waste and management of accidental spills or release of oils or other hazardous wastes through the Oil Spill Response Plan, as detailed in **Appendix F**, Project SPCC Plan and NYSDEC Management Practices Catalogue for Nonpoint Source Pollution Prevention and Water Quality Protection in New York State. As part of the Article VII process, Empire will develop an EM&CP that will include contingency plans to address accidental spills and releases of potential pollutants. Empire will also operate the onshore substation under the requirements of a SPDES SWPPP approved by the NYSDEC.

COP Section Reference:

Section 4.2 Water Quality; Section 5.1 Terrestrial Vegetation and Wildlife; Section 5.2 Wetlands and Waterbodies; Section 8.12 Public Health and Safety; and Appendix F Oil Spill Response Plan

7.3 Transport solid waste and hazardous materials and site solid and hazardous waste facilities in a manner that minimizes potential degradation of coastal resources.

Response to Policy for EW 1:

The construction and operations of the Project complies to the extent applicable with this policy regarding the transport of solid and hazardous materials. Plans will be developed as part of the permitting process, and Empire will comply with permit requirements regarding the transport of solid waste and hazardous materials. The Project will operate in accordance with federal, state, and local laws regulating the at-sea discharges of vessel-generated waste and management of accidental spills or release of oils or other hazardous wastes through the Oil Spill Response Plan, as detailed in **Appendix F**, Project SPCC Plan and NYSDEC Management Practices Catalogue for Nonpoint Source Pollution Prevention and Water Quality Protection in New York State. As part of the Article VII process, Empire will develop an EM&CP that will include contingency plans to address accidental spills and releases of potential pollutants. Empire will also operate the onshore substation under the requirements of a SPDES SWPPP approved by the NYSDEC. Any transport of solid waste or hazardous materials will be done so in accordance with applicable regulations. The Project does not involve siting solid and hazardous waste facilities and so this component of the policy does not apply.

COP Section Reference:

Section 4.2 Water Quality; Section 5.1 Terrestrial Vegetation and Wildlife; Section 5.2 Wetlands and Waterbodies; Section 8.12 Public Health and Safety; and Appendix F Oil Spill Response Plan

Policy Eight: Provide Public Access to, from, and Along New York City's Coastal Waters.

8.1 Preserve, protect, maintain, and enhance physical, visual and recreational access to the waterfront.

Response to Policy for EW 1:

This policy is not applicable because construction and operations of the Project will not permanently impact physical, visual, or recreational access to the waterfront. Construction at the proposed landfall site and the export cables occurs on privately owned land or existing port facilities, so access is already limited, and it will not change due to the Project. The export cables routes will not affect access to the waterfront or affect navigation. Installation of the onshore and near-shore components will occur, to the extent practicable, during the off-season to avoid impacts in the peak recreation and tourism season. The onshore substation will be located within existing roads, ROWs, and infrastructure sites, that have already been cleared, previously disturbed, zoned for the proposed use, and are not currently used for recreation or tourism. The Project will maintain already present visual and physical waterfront access.

COP Section Reference:

Section 8.3 Recreation and Tourism

8.2 Incorporate public access into new public and private development where compatible with proposed land use and coastal location.

Response to Policy for EW 1:

This policy is not applicable because Empire is siting facilities in locations not compatible with public access and does not propose to construct new public and private development along a waterfront that is compatible with public access.

COP Section Reference:

Not applicable

8.3 Provide visual access to the waterfront where physically practical.

Response to Policy for EW 1:

The onshore substation and O&M Base comply with this policy to the extent applicable. Any building type and roof elevation will be commensurate with the existing local built environment. Therefore, the location of the substation and O&M Base along the waterfront will not affect the visual quality of New York City's urban context and the historic and working waterfront. The export cables will be buried and will have no effect on visual access to the waterfront.

COP Section Reference:

Section 6.3 Historic Properties and Architectural Properties; Section 7 Visual Resources; Appendix E Conceptual Project Design Drawings; Appendix Z Analysis of Visual Effects to Historic and Architectural Properties; and Appendix AA Visual Impact Assessment

8.4 Preserve and develop waterfront open space and recreation on publicly owned land at suitable locations.

Response to Policy for EW 1:

This policy is not applicable because Empire does not propose waterfront open space and recreation development on publicly owned land and the location of the onshore substation is not a suitable location for open space and recreation.

COP Section Reference:

Not applicable

8.5 Preserve the public interest in and use of lands and waters held in public trust by the State and City.

Response to Policy for EW 1:

The onshore substation and export cables comply with this policy to the extent applicable. The Project is seeking approval from the New York State Department of State for occupying the seafloor through a submerged lands lease, which will be for a narrow area of the seafloor that largely does not interfere with use of the water. Excavation in the location of the cables will be precluded in the future, but the buried nature of the cables allows other water uses, such as fishing or boating, to continue.

COP Section Reference:

Not applicable

8.6 Design waterfront public spaces to encourage the waterfront's identity and encourage stewardship.

Response to Policy for EW 1:

This policy is not applicable because the Project does not involve waterfront public spaces.

COP Section Reference:

Not applicable

Policy Nine: Protect Scenic Resources that Contribute to the Visual Quality of the New York City Coastal Area.***9.1 Protect and improve visual quality associated with New York City's urban context and the historic and working waterfront.****Response to Policy for EW 1:*

The export cables and onshore substation comply to the extent applicable with this policy because visible construction activities will be short-term and the export cables will be buried. Any building type and roof elevation will be commensurate with the existing local built environment. Therefore, the export cables and substation will not affect the visual quality of New York City's urban context and the historic and working waterfront.

COP Section Reference:

Section 6.3 Historic Properties and Architectural Properties; Section 7 Visual Resources; Appendix E Conceptual Project Design Drawings; Appendix Z Analysis of Visual Effects to Historic and Architectural Properties; and Appendix AA Visual Impact Assessment

9.2 Protect and enhance scenic values associated with natural resources.*Response to Policy for EW 1:*

The export cables and onshore substation comply to the extent applicable with this policy because the export cables will be buried and the proposed substation design building type and roof elevation will be commensurate with the existing local built environment. Additionally, the Project was sited to avoid a Recognized Ecological Complex, Bush Terminal Piers Park, located along the waterfront near the POI. Therefore, the export cables and substation will not affect the scenic values associated with natural resources.

COP Section Reference:

Section 6.3 Historic Properties and Architectural Properties; Section 7 Visual Resources; and Appendix AA Visual Impact Assessment

Policy Ten: Protect, Preserve, and Enhance Resources Significant to the Historical, Archaeological, Architectural, and Cultural Legacy of the New York City Coastal Area.***10.1 Retain and preserve historic resources, and enhance resources significant to the coastal culture of New York City.****Response to Policy for EW 1:*

The export cables comply with this policy to the extent applicable. Empire has completed a Marine Archaeological Resource Assessment that was supported through engagement with BOEM, NY SHPO, and NJ HPO. Sonar 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. If avoidance of the target and the associated avoidance buffer is not feasible, then additional archaeological investigation (Phase Ib/II) to determine the source(s) of each unavoidable target and assess its eligibility for listing in the NRHP would occur. If a target is deemed ineligible for listing in the NRHP, then no further action is required. If a target is eligible for listing in the NRHP, then an assessment of adverse effects would occur, under consultation with the consulting parties, and strategies to minimize or mitigate adverse effects may be employed. However, if avoidance of the target and the associated avoidance buffer is not feasible,

Empire could minimize adverse effects by micrositing Project components within target avoidance buffers and limiting the types of vessels used to install and maintain Project infrastructure. If, however, it is determined that avoidance of the target and the associated avoidance buffer is not feasible, Empire could propose a combination of onsite and offsite mitigation that would be applied to each archaeological site where adverse effects cannot be avoided or mitigated. If necessary, the final mitigation plan would be developed in consultation with the appropriate consulting parties with a nexus to the Project. Additional evaluation of appropriate measures regarding potential submerged cultural resources will be completed, with support from and engagement with regulatory authorities.

The onshore substation complies with this policy to the extent applicable. Construction, operations and decommissioning will not require physical alteration or destruction of any New York State and NRHP-eligible or listed buildings. Empire has undertaken consultations with the SHPO as well as performing studies and surveys to identify historic resources and analyze potential impacts to these resources. This consultation will continue as needed through the remainder of the permitting process. Additionally, the onshore substation design building type and roof elevation will be commensurate with the existing local built environment.

COP Section Reference:

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

10.2 Protect and preserve archaeological resources and artifacts.

Response to Policy for EW 1:

The export cables, onshore substation, and O&M Base comply with this policy to the extent applicable. 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. Empire has completed a Marine Archaeological Resource Assessment that was supported through engagement with BOEM, NY SHPO, and NJ HPO. Sonar 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. If avoidance of the target and the associated avoidance buffer is not feasible, then additional archaeological investigation (Phase Ib/II) to determine the source(s) of each unavoidable target and assess its eligibility for listing in the NRHP would occur. If a target is deemed ineligible for listing in the NRHP, then no further action is required. If a target is eligible for listing in the NRHP, then an assessment of adverse effects would occur, under consultation with the consulting parties, and strategies to minimize or mitigate adverse effects may be employed. However, if avoidance of the target and the associated avoidance buffer is not feasible, Empire could minimize adverse effects by micrositing Project components within target avoidance buffers and limiting the types of vessels used to install and maintain Project infrastructure. If, however, it is determined that avoidance of the target and the associated avoidance buffer is not feasible, Empire could propose a combination of onsite and offsite mitigation that would be applied to each archaeological site where adverse effects cannot be avoided or mitigated. If necessary, the final mitigation plan would be developed in consultation with the appropriate consulting parties with a nexus to the Project.

Additional evaluation of appropriate measures regarding potential submerged cultural resources will be completed, with support from and engagement with regulatory authorities.

Archeological surveys of the onshore cable routes and substation conclude that both possess low archaeological sensitivity. Additionally, the findings of the site files reviews, background research, and pedestrian survey indicate that major portions of the cable routes have been subject to various episodes of significant ground disturbances or land-making that have resulted in low expectations of recovering significant and undocumented archaeological resources within the PAPE. No further investigations are warranted.

COP Section Reference:

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

A.5 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.

A.5.1 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 planned 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. Additionally, this embedded mitigation builds on previous efforts undertaken to optimize the layout and deconflict other marine uses, including commercial and recreational fisheries. Empire applied embedded mitigation to the Project in the form of a 1 nm (1.8 km) setback from the edge of the Ambrose/Nantucket TSS and the Ambrose/Hudson Canyon TSS to the edge of the “Developable Area”. The 1 nm (1.8 km) setback was informed by a “Buffer Sensitivity Analysis” conducted by Anatec Limited focusing on allision risk using representative Automatic Identification System data, with the 1 nm (1.8 km) setback carried forward into the NSRA for further analysis. In addition, Empire applied further embedded mitigation in the form of the Layout Rules, with straight wind farm perimeters being of relevance to allision risk. 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**).

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 marina 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 revealed no potential shipwrecks or other submerged cultural resources within New Jersey state waters. 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 and 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 and 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 wetlands.

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:*

The submarine export cables comply with this policy to the extent applicable. While the desktop study of the marine archeological history of the Project Area indicated the potential existence of submerged cultural resources, assessment of geophysical survey data within the Project Area revealed no potential submerged cultural resources within New Jersey state waters. Therefore, no impacts to submerged cultural resources are anticipated.

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 transiting 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 AVEHAP PAPE 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 and Architectural 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 marine wildlife 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, 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 dredged material management areas.

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.5.2 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.5.3 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 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 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.5.4 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.

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

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 WFDA 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 WFDA 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 WDFDA 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.5.5 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:

Not applicable

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 on land and therefore does not require a determination of forested or unforested.

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:

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 areas.

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 areas.

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 7:7-13.8 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 areas.

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 7:7-13.9 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 does not involve residential or minor commercial development and is not located in upland waterfront development areas.

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

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 areas.

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 7:7-13.11 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 and is not located in upland waterfront development areas.

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 and is not located in upland waterfront development areas.

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 and is not located in upland waterfront development areas.

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 areas.

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 7:7-13.13 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 areas.

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:

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 or a non-mainland coastal center, and is not 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.5.6 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.5.7 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, the cables are proposed to transmit 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, if dredged material disposal on land 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.5.8 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 WDFDA 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