Empire Offshore Wind LLC and EW Offshore Wind Transport Corporation

Empire Wind 2 Project

Appendix F

Coastal Zone Management Consistency Statement

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ACRONYMS

ac	acres
CLCPA	Climate Leadership and Community Project Act
CZMA	Coastal Zone Management Act
EM&CP	Environmental Management & Construction Plan
EPA	U.S. Environmental Protection Agency
Empire or the Applicant	Empire Offshore Wind LLC and EW Offshore Wind Transport Corporation
EW 2	Empire Wind 2
ft	feet
GW	gigawatts
ha	hectares
HDD	horizontal directional drilling
HVAC	high-voltage alternating current
km	kilometers
kv	kilovolt
Lease Area	Renewable Energy Lease Area OCS-A 0512
LIPA	Long Island Power Authority
LNM	Local Notice to Mariners
m	meter
mi	miles
MW	megawatt
nm	nautical miles
NYISO	New York Independent System Operator, Inc.
NY Project	The portions of the EW 2 Project transmission system that are located within the State of New York
NYSDEC	New York State Department of Environmental Conservation
NYSERDA	New York State Energy Research and Development Authority
NY SHPO	New York State Historic Preservation Office
OSRP	Oil Spill Response Plan
POI	Point of interconnection at the Hampton Road substation
PSA	Purchase and Sale Agreement
SMIA	Significant Maritime and Industrial Area
SPCC	Spill Prevention, Control, and Countermeasures
SPDES	State Pollutant Discharge Elimination System
SWPPP	Stormwater Pollution Prevention Plan
USCG	U.S. Coast Guard

F.1 INTRODUCTION

Empire Offshore Wind LLC and EW Offshore Wind Transport corporation (collectively, Empire or the Applicant) proposes to construct and operate the Empire Wind 2 (EW 2) 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 EW 2 Project is fully consistent with the enforceable policies of the coastal management program (management program) of the State of New York. 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 § 930.11(h)). The EW 2 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 F** to the New York State Article VII Application.

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 program. This consistency certification is provided pursuant to the requirements of 15 Code of Federal Regulations § 930.57 (the CZMA federal consistency provision).

A description of how the EW 2 Project will be fully consistent with each applicable enforceable policy is provided in Section F.3.

F.2 PROJECT DESCRIPTION

The Applicant proposes to construct and operate the EW 2 Project as one of two separate offshore wind projects to be located within the Lease Area. The proposed transmission system for the EW 2 Project will connect the offshore wind farm to the point of interconnection (POI) at the Hampton Road substation. The EW 2 Project will interconnect to the New York State Transmission System operated by the New York Independent System Operator, Inc. (NYISO) at the Hampton Road substation, located at the corner of Hampton Road and Daly Boulevard in Oceanside, within the Town of Hempstead, New York. The EW 2 Project's onshore facilities, including the onshore export cable, interconnection cable, and loop-in / loop-out line routes, onshore substation, and Hampton Road substation, are located entirely within Nassau County, New York. The EW 2 Project Area is shown on **Figure 1**.

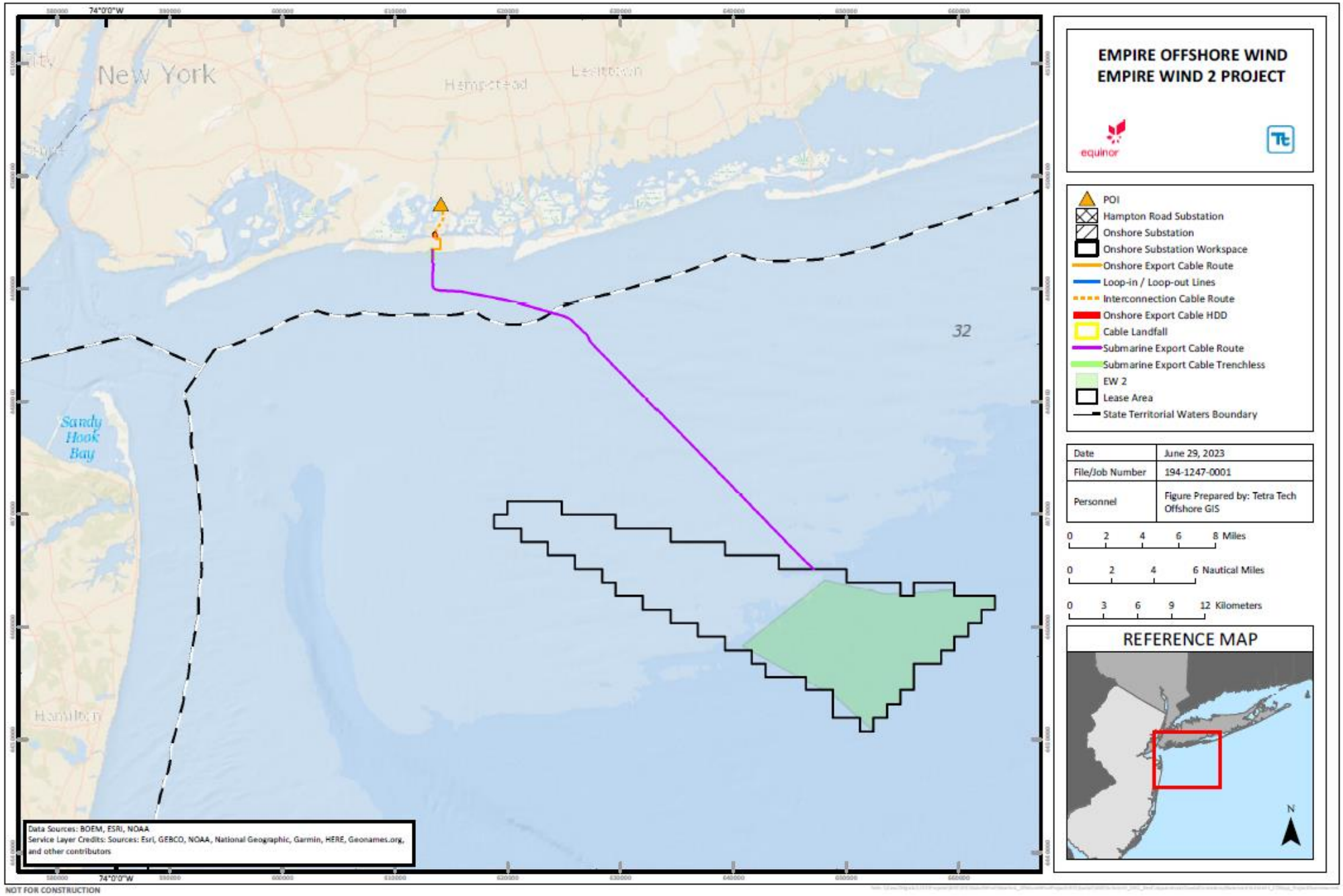

Figure 1 EW 2 Project Area

The New York Project consists of the elements of the EW 2 Project within New York State (NY Project), and includes:

- Two three-core 345-kV high-voltage alternating-current (HVAC) submarine export cables located within an approximately 7.7-nautical mile (nm, 14.2-km)-long submarine export cable corridor from the boundary of New York State waters 3 nm (5.6 km) offshore to the cable landfall;
- A cable landfall in the City of Long Beach, New York;
- Two 345-kV onshore export cable circuits, each with three single-core HVAC onshore export cables within an approximately 1.6-mi (2.5-km)-long onshore export cable corridor from the cable landfall to the onshore substation;
- An onshore substation in the Village of Island Park, within the Town of Hempstead, New York, which will house major control components for the electrical system and perform functions such as voltage regulation, reactive power compensation, and harmonic filtering;
- Two 345-kV interconnection cable circuits, each with three single-core HVAC interconnection cables within an approximately 1.7-mi (2.8-km)-long interconnection cable corridor from the onshore substation to the Hampton Road substation;
- The new Hampton Road substation in Oceanside in the Town in Hempstead, New York which will include substation facilities that will provide the necessary breaker arrays and 345-kV/138-kV transformers; and
- Four 138-kV loop-in / loop-out line cable circuits, located within an approximately 0.1-mi (0.2-km) long cable corridor from the Hampton Road substation to existing Long Island Power Authority (LIPA) transmission lines located under Lawson Boulevard in Oceanside, New York.

Within this consistency statement, the transmission facilities are defined to include the submarine export cables, the EW 2 onshore export cables between the export cable landfall and the new onshore substation, the onshore substation, the interconnection cables between the new onshore substation and the Hampton Road substation, and the loop-in / loop-out lines from the Hampton Road substation to existing LIPA 138-kV transmission lines under Lawson Boulevard. When the consistency review requires analysis of individual segments, they will be called out separately, but otherwise, "transmission facilities" refers to all segments. For the purposes of this Application, "EW 2 Project" is used to refer to the offshore wind farm and transmission facilities together, inclusive of components in federal waters outside of New York State. "NY Project" is used to refer specifically to the Article VII transmission facilities in New York State that are the subject of this Application.

The purpose and need for the Project is to develop a commercial-scale offshore wind energy facility in Lease Area OCS-A 0512 with wind turbine generators, an offshore substation, and electric transmission cables making landfall in the City of Long Beach, New York to support the achievement of New York's renewable energy mandates.

In August 2016, the New York State Public Service Commission (NYSPSC) adopted the Clean Energy Standard.[1] Under this standard, 50 percent of New York State's electricity must come from renewable sources of energy by 2030, with 2.4 gigawatts (GW) of electricity generated by offshore wind. In January 2019, a plan

[1] Case 15-E-0302 & Case 16-E-0270, (NYSERDA, n.d.)

was proposed that would require 70 percent of New York's electricity to come from renewable sources by 2030 and 100 percent renewable by 2040. As part of this plan, 9 GW of electricity must come from offshore wind by 2035. In July 2019, the Climate Leadership and Community Project Act (CLCPA) was signed into law; the CLCPA adopts a comprehensive climate and clean energy legislation and requires 9 GW of offshore energy by 2035. On July 21, 2020, New York's second offshore wind procurement was announced, under which procurement the New York State Energy Research and Development Authority (NYSERDA) sought up to 2,500 megawatts (MW) of offshore wind. On January 13, 2021, Empire's 1,260-MW EW 2 Project was announced as a winning bidder in the State's competitive solicitation for Offshore Wind Renewable Energy Certificates. Governor Hochul announced that Empire Offshore Wind LLC and NYSERDA entered into the Offshore Wind Renewable Energy Certificate Purchase and Sale Agreement (PSA) on January 14, 2022. The PSA requires Empire to design, obtain permits and approvals for, build and operate the Project and to sell the Offshore Renewable Energy Certificates generated to NYSERDA.

The Project is needed to meet Empire's obligation to NYSERDA to generate approximately 1,260 MW of clean, renewable electricity from an offshore wind farm located in the Lease Area for delivery into the New York State power grid in Oceanside, New York. The Project is an essential element in addressing the need identified by the New York Legislature and the NYSPSC for renewable energy and will help the State achieve its CLCPA mandate and other renewable energy goals.

F.3 NEW YORK STATE COASTAL MANAGEMENT PROGRAMCONSISTENCY CERTIFICATION REVIEW

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 2:

The transmission facilities comply with this policy to the extent applicable. Although the transmission facilities are not located in a deteriorated and underutilized waterfront area, the Barnum Island/Oceanside/The Village of Island Park/Harbor Isle NY Rising Community Reconstruction Plan (NYRCRP 2014[2]) identified a redevelopment opportunity area overlapping with the location of the onshore substation site, although the subsequent Island Park Downtown Revitalization & Transit-Oriented Development Plan[3] did not discuss or propose any constraints on the use of the location of the onshore substation site. The redevelopment of this site for the EW 2 onshore substation would be consistent with this policy because such activity would constitute a redevelopment of waterfront areas for industrial use.

Policy 2: Facilitate the siting of water dependent uses and facilities on or adjacent to coastal waters.

Response to Policy for EW 2:

The transmission facilities comply with this policy to the extent applicable. Construction and maintenance of the buried cables both onshore and offshore will not limit or impede current or future water-dependent uses and facilities on or adjacent to coastal waters. By supporting the development of clean energy, the Project supports broad climate-related goals that support the protection of existing water-dependent uses that are threatened by climate change.

[2] NYRCR Barnum Island/Oceanside/the Village of Island Park/Harbor Isle Planning Committee. 2014. Barnum Island/Oceanside/the Village of Island Park/Harbor Isle NY Risking Community Reconstruction Plan. Available online at: https://stormrecovery.ny.gov/sites/default/files/crp/community/documents/bi-o-vip-hi_final-20140701_high.pdf
[3] https://www.nassaucountyny.gov/DocumentCenter/View/21343/2017-07-18-Island-Park-Final-Report?bidId=

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 2:

This policy is not applicable to the EW 2 Project because the transmission facilities are not within or abutting New York State's major ports; however, the offshore construction of the EW 2 Project will make use of at least one of these major ports.

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 2:

This policy is not applicable to the EW 2 Project because it is not located near or adjacent to a smaller harbor.

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 2:

The transmission facilities comply with this policy to the extent applicable. Empire evaluated several POIs and associated landfalls and submarine export cable, onshore export cable, interconnection cable and loop-in / loop-out line routes. The EW 2 onshore substation parcel and Hampton Road substation parcel have been identified as viable options to support the EW 2 Project, and the facilities are located in an area where infrastructure and public services are adequate.

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

Response to Policy for EW 2:

The transmission facilities 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.

F.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 2:

The activities associated with the EW 2 Project comply with this policy to the extent applicable. The transmission facilities were sited to avoid protected coastal, estuarine, and marine habitats. While not located within Significant Coastal Fish and Wildlife Habitat, the transmission facilities are located near Significant

Coastal Fish and Wildlife Habitats. Surface disturbance of coastal habitats at the export cable landfall and at the Reynolds Channel crossing will be avoided by the use of a trenchless installation method, if feasible; likewise, disturbance at the Barnums Channel crossing will be minimized by using a cable bridge instead of trenching, if feasible. Disturbance associated with the bulkhead upgrades at the onshore substation site will be minimized through the use of best management practices, such as silt curtains. Transmission facilities have been sited to follow existing roadways, rights-of-way, and previously developed lands, where practicable.

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 2:

The transmission facilities 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 EW 2 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 Applicant's OSRP. 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. 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 New York State Department of Environmental Conservation (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 submarine export cable route. The sampling stations had a predominance of sand, which precludes the need to perform sediment chemistry analyses. Empire will develop and implement a sampling and analysis plan in consultation with the NYSDEC and U.S. Army Corps of Engineers if the ongoing refinement of construction methods indicate dredging will be required to install the submarine 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 EW 2 Project. During normal operations, the export cables do not create the potential for the release of hazardous wastes or pollutants.

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 2:

This policy is not applicable since the EW 2 Project design and operation do not provide opportunities to increase access, supplement stocks, or develop new resources.

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 2:

This policy is not applicable because the EW 2 Project does not provide opportunities to further develop commercial finfish, shellfish, and crustacean resources.

F.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 2:

The transmission facilities comply with this policy to the extent applicable. 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.

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 2:

The transmission facilities comply with this policy to the extent applicable. The construction and installation methodology proposed will comply with local and state regulations and guidelines, to the extent practicable, and will be conducted in compliance with the permits and approvals obtained for the EW 2 Project. 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 cable, interconnection cable, and loop-in / loop-out line route, and construction of the onshore substation and Hampton Road 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).

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 2:

Bulkhead upgrades or reconstruction activities associated with the onshore substation will comply with this policy. This policy is not applicable to the submarine export cables, onshore export cables, interconnection cables, Hampton Road substation, or loop-in / loop-out lines, because they do not require and do not include construction or reconstruction of erosion protection structures in the New York Coastal Area.

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 2:

Bulkhead upgrades or reconstruction activities associated with the onshore substation will comply with this policy. This policy is not applicable to the submarine export cables, onshore export cables, interconnection cables, Hampton Road substation, or loop-in / loop-out lines because they do not require and do not include construction or reconstruction of erosion protection structures in the New York Coastal Area.

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 2:

The transmission facilities comply with this policy to the extent applicable. Construction activities associated with installing the submarine export cables 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 export cable landfall 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 points. Empire does not propose to backfill such excavation but rather will allow the seabed to return naturally. Construction and operation of the onshore substation will not require excavation or dredging in coastal waters, although bulkhead modification during construction of the onshore substation may include up to 395 cubic yards (301 m^3) of clean or flowable fill below Spring High Water within Reynolds Channel. Considering the existing armored nature of the shoreline, such modifications will not interfere with natural coastal processes or cause an increase in erosion. Construction and operation of the Hampton Road substation will not require excavation or dredging in coastal waters.

The EW 2 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 the Applicant will work with the agencies to incorporate measures that help avoid or minimize potential impacts from dredging and fill activities.

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 2:

This policy is not applicable because the EW 2 Project does not require public funds for construction or reconstruction of erosion protective structures.

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 2:

Since the submarine export cables, onshore export cables, interconnection cables, and loop-in / loop-out lines will be buried, with the exception of a cable bridge along the interconnection cable route across Barnums Channel, they will not alter flooding or erosion and, therefore, do not require additional measures to minimize damage to natural resources and property. The onshore substation 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. The Hampton Road substation is located in an area of minimal flood hazard. Facilities constructed within flood zones will be designed to minimize potential impacts to property. Damage-minimizing measures are not relevant and therefore not proposed.

F.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 2:

The activities for the EW 2 Project comply with this policy to the extent applicable. The siting, design, construction, and operations activities for the transmission facilities have taken into account the safeguarding of vital economic, social, and environmental interests of the State and of its citizens. Impacts during construction will be temporary and limited to the immediate vicinity of construction activity. Siting of the transmission facilities in developed, industrialized areas and existing rights-of-way minimizes long-term impacts and helps safeguard vital economic, social and environmental interests during the life of the EW 2 Project. Additionally, Empire's comprehensive outreach strategy, as evidenced by engagement with regulators, local officials, and other stakeholders, has informed the siting and design of EW 2 Project components.

F.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 2:

This policy is not applicable for the submarine export cables, onshore export cables, interconnection cables and loop-in / loop-out lines as they will not permanently impact recreational access to the waterfront. Construction at the proposed cable landfall and along the onshore export cable route may temporarily affect public access to the shoreline at the cable landfall site. However, the cable routes will not reduce water-dependent and water-enhanced recreation. No changes to navigation are expected along the export cable routes.

The onshore substation will be located within an existing developed site. A portion of the land where this onshore substation is located, in the Village of Island Park, New York, provides access to a small marina that contains slips for small boats. While the construction and operations of the onshore substation would eliminate the waterfront access provided by this marina, there are other marinas in the Village of Island Park area, including two (Boathouse Marina and Harbor Isle Marina) that are within one mile, that provide access to water-related recreation resources. Furthermore, by supporting the development of clean energy, the Project supports broad climate-related goals that support the protection of water-related recreation resources and facilities that are threatened by climate change.

The Hampton Road substation will be located within an existing developed industrial site and will not affect access to water-related recreation resources or facilities.

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 2:

The transmission facilities comply with this policy to the extent applicable. Once installed, the buried submarine export cables, onshore export cables, interconnection cables and loop-in / loop-out lines will not impede access to the publicly owned foreshore or other publicly owned lands. The onshore substation and Hampton Road substation are on previously developed sites that do not provide access to publicly owned land.

F.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 2:

The construction and operations of the transmission facilities 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 submarine export cables, onshore export cables, interconnection cables, and loop-in / loop-out lines will allow for the same level of recreation at any of the sites involved. While the construction and operations of the onshore substation would eliminate an existing private marina, Empire will evaluate minimizing impacts to public access in the EW 2 onshore substation design, as feasible. The Hampton Road substation will be located within an existing developed industrial site and will not affect water-dependent or water-enhanced recreation.

The submarine export cables pass adjacent to recreational diving areas, and an artificial reef. Empire will notify recreational mariners about proposed EW 2 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).

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 2:

The transmission facilities comply with this policy to the extent applicable. The onshore substation and Hampton Road substation are on 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 the onshore substation is located, in the Village of Island Park, New York, provides access to a small marina that provides slips for small boats. While the construction and operations of the onshore substation would eliminate the waterfront access provided by this marina, there are other marinas in the Village of 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 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.

F.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 2:

The transmission facilities comply with this policy to the extent applicable. The onshore substation will be visible from the National Register of Historic Places (NRHP) -listed Cobble Villa, however, an adverse effect is not anticipated. The three historic properties (NRHP-listed and NRHP-eligible) located within 2 mi (3.2 km) of the Hampton Road substation site would have no views of the Project. Six unevaluated, architectural properties with potential views of the Hampton Road substation will not be adversely affected by the Project view.

Preliminary archeological surveys and desktop assessment of the onshore export cable, interconnection cable, and loop-in / loop-out line routes, the onshore substation and the Hampton Road substation conclude that archaeological sensitivity is judged to be low across the full extent of the NY Project route, with the exception of a section along the EW 2 interconnection cable route.

Based on the site files review, cartographic analysis, and pedestrian reconnaissance, impacts to terrestrial archaeological resources are not anticipated because EW 2 Project components will be sited in previously disturbed rights-of-way. An archaeological monitor will be present within the area of identified sensitivity during excavation of the cable trench to identify potential archaeological finds, should the New York State Historic Preservation Office (NY SHPO) deem this necessary. 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 the Bureau of Ocean Energy Management, the National Park Service, NY SHPO, New Jersey Historic Preservation Office, New Jersey Department of Environmental Protection, 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 and Hampton Road 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 the Bureau of Ocean Energy Management, NY SHPO, and New Jersey Historic Preservation Office. Targets resembling potential submerged cultural resources have been identified within the submarine export cable 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.

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

Response to Policy for EW 2:

The EW 2 Project activities comply with this policy to the extent applicable. The EW 2 Project components do not pass through areas identified as scenic resources of statewide significance.

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 2:

The EW 2 Project activities comply with this policy to the extent applicable. The submarine export cables, onshore export cables, interconnection cables and loop-in / loop-out lines will be located underwater or underground, with the exception of a cable bridge across Barnums Channel along the interconnection cable route. The cable bridge, onshore substation and Hampton Road substation design building types and roof elevations will be commensurate with the existing local built environment. Therefore, these activities will not directly impact the natural and anthropogenic resources that contribute to the overall scenic quality of the coastal area.

F.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 2:

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

F.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 2:

The activities associated with the EW 2 Project comply with this policy to the extent applicable. The purpose of the EW 2 Project is to generate renewable electricity from an offshore wind farm located in the Lease Area. The EW 2 Project addresses the need identified by New York for renewable energy. In August 2016, the NYSPSC adopted the Clean Energy Standard.[4] Under this standard, 50 percent of New York State's electricity must come from renewable sources of energy by 2030, with 2.4 GW of electricity generated by offshore wind. In January 2019, a plan was proposed that would require 70 percent of New York's electricity to come from renewable sources by 2030 and 100 percent renewable by 2040. As part of this plan, 9 GW of electricity must come from offshore wind by 2035. In July 2019, the Climate Leadership and Community Project Act (CLCPA) was signed into law; the CLCPA is comprehensive climate and clean energy legislation that requires 9 GW of offshore energy by 2035. On July 21, 2020, New York's second offshore wind procurement was announced, under which procurement the New York State Energy Research and Development Authority (NYSERDA) sought up to 2,500 MW of offshore wind. On January 13, 2021, Empire's 1,260-MW EW 2 Project was announced as a winning bidder in the State's competitive solicitation for Offshore Wind Renewable Energy Certificates. Governor Hochul announced that Empire Wind LLC and NYSERDA entered into the Offshore

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

Wind Renewable Energy Certificate Purchase and Sale Agreement (PSA) on January 14, 2022. The PSA requires Empire to design, obtain permits and approvals for, build and operate the Project and to sell the Offshore Renewable Energy Certificates generated to NYSERDA.

Given that the electricity is produced offshore and needs to be delivered to the existing electric grid on land, EW 2 Project components do have to be sited, constructed and operated at a shorefront location, namely the submarine export cables in the ocean, a cable landfall location, and onshore export and interconnection cables onshore. The onshore substation needs to be sited between the cable landfall location and the intended POI.

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 2:

This policy does not apply because ice management practices are not a required feature of the EW 2 Project.

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 2:

The construction, operations, and decommissioning activities associated with the EW 2 Project comply with this policy to the extent applicable. The transmission facilities 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 U.S. Coast Guard (USCG) to issue an LNM and update the Project website. 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 cables will have negligible effects on long-standing ocean industries.

F.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 2:

The transmission facilities 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 EW 2 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 Applicant's OSRP and SPCC Plan, and the 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 Return 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.

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 2:

This policy is not applicable because the transmission facilities are not subject to an LWRP.

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 2:

This policy is not applicable because the transmission facilities 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.

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 2:

The transmission facilities comply to the extent applicable to this policy. Excavation, soil stockpile, and grading associated with installation of the onshore export cables, interconnection cables, and loop-in / loop-out lines, and the development of the onshore substation, Hampton Road substation, 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 at the cable 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 an Inadvertent Return Plan.

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 2:

The transmission facilities 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 Empire's SPCC Plan, the OSRP and the 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 an Inadvertent Return Plan and SWPPP as part of the EM&CP.

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 2:

The transmission facilities 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 in order to avoid potential impacts, such as erosion of the shoreline. Empire's Inadvertent Return Plan, which will be submitted as part of the EM&CP 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. The export cable landfall may also require dredging. 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.

Bulkhead upgrade or reconstruction activities, and the associated fill material, tied to onshore substation will comply with this policy.

The EW 2 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 Empire will work with the agencies to incorporate measures that help avoid or minimize potential impacts from dredging and fill activities.

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 2:

The transmission facilities 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, EW 2 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, vessels will take normal vessel procedures to close off Marine Sanitation Device-effluence discharge piping and redirect it to onboard "Zero-Discharge Tanks" for the appropriate disposal either at dock or outside of a No-Discharge Zone. Additionally, vessels under 79 ft (24.1 m) in length will comply with the Small Vessel General Permit issued by the U.S. Environmental Protection Agency (EPA) on September 10, 2014, for compliance with National Pollutant Discharge Elimination System 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 Empire's OSRP and SPCC Plan, and the 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 Return Plan and SWPPP as part of the EM&CP.

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 2:

Construction activities associated with the installation of the transmission facilities 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 EW 2 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.

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 2:

The transmission facilities 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.

No impacts to groundwater and surface water are anticipated during operations because the transmission facilities will not require the use of these resources. The onshore substation and Hampton Road substation will be designed to comply with applicable New York building codes, electrical standards, and environmental conditions to the extent practicable and will include precautions to prevent the contamination of water supplies in the event of an accidental release of oil or other potentially hazardous material, as detailed in the EM&CP and the OSRP. Depending on groundwater depths along the cable trench or foundations at the onshore substation and Hampton Road substation, groundwater may not be encountered.

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 2:

The transmission facilities 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.

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 2:

This policy is not applicable because the EW 2 Project is not a major steam electric generating or industrial facility.

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 2:

The transmission facilities 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 EW 2 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.

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 2:

This policy is not applicable, because activities associated with the construction, operations, and decommissioning of the EW 2 Project will not change the prevention of significant deterioration land classifications in coastal regions or adjacent areas.

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 2:

The transmission facilities comply to the extent applicable with this policy. Sources associated with the EW 2 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 EW 2 Project are not expected to generate significant amounts of nitrates and sulfates, in comparison to existing traffic densities.

F.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 2:

The EW 2 Project complies with this policy to the extent applicable. The EW 2 Project export cables are located within NYSDEC-mapped tidal wetlands. 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, potential impacts to tidal wetlands are expected to be temporary and associated with installation activities. Although potential impacts to wetlands will mostly be avoided and minimized by routing or by trenchless crossing methods, an open-cut methodology is being considered for installation of one of the EW 2 interconnection cable route segments that would cross Barnums Channel. 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 onshore substation and Hampton Road substation were sited to avoid and minimize siting within protected tidal and freshwater wetlands to the extent practicable. The remainder of the EW 2 onshore export and interconnection cable route segments are situated within rights-of-way to minimize potential impacts to tidal and freshwater wetlands.