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- (10) If at any time during the project Ocean Wind becomes aware of any issue or issues which may (to any reasonable subject-matter expert, including the persons performing the measurements and analysis) call into question the validity of any measured Level A harassment or Level B harassment isopleths to a significant degree, which were previously transmitted or communicated to NMFS Office of Protected Resources, Ocean Wind must inform NMFS Office of Protected Resources within 1 business day of becoming aware of this issue or before the next pile is driven (or UXO/MEC is detonated), whichever comes first.
- (11) If a North Atlantic right whale is acoustic detected at any time by a project-related PAM system, Ocean Wind must ensure the detection is reported as soon as possible to NMFS, but no longer than 24 hours after the detection via the *24-hour North Atlantic right whale Detection Template* (<https://www.fisheries.noaa.gov/resource/document/passive-acoustic-reporting-system-templates>). Calling the hotline is not necessary when reporting PAM detections via the template;

- (12) Full detection data, metadata, and location of recorders (or GPS tracks, if applicable) from all real-time hydrophones used for monitoring during construction must be submitted within 90 calendar days following completion of activities requiring PAM for mitigation via the ISO standard metadata forms available on the NMFS Passive Acoustic Reporting System website (<https://www.fisheries.noaa.gov/resource/document/passive-acoustic-reporting-system-templates>). Submit the completed data templates to [nmfs.nec.pacmdata@noaa.gov](mailto:nmfs.nec.pacmdata@noaa.gov). The full acoustic recordings from real-time systems must also be sent to the National Centers for Environmental Information (NCEI) for archiving within 90 days following completion of activities requiring PAM for mitigation. Submission details can be found at: <https://www.ncei.noaa.gov/products/passive-acoustic-data>;
- (13) Ocean Wind must submit situational reports if the following circumstances occur (including all instances wherein an exemption is taken must be reported to NMFS Office of Protected Resources within 24 hours):
- (i) If a North Atlantic right whale is observed at any time by PSOs or project personnel, Ocean Wind must ensure the sighting is immediately (if not feasible, as soon as possible and no longer than 24 hours after the sighting) reported to NMFS and the Right Whale Sightings Advisory System (RWSAS). If in the Northeast Region (Maine to Virginia/North Carolina border) call (866-755-6622). If in the Southeast Region (North Carolina to Florida) call (877-WHALE-HELP or 877-942-5343). If calling NMFS is not possible, reports can also be made to the U.S. Coast Guard via channel 16 or through the WhaleAlert app (<http://www.whalealert.org/>). The sighting report must include the time, date, and location of the sighting, number of whales, animal description/certainty of sighting (provide photos/video if taken), Lease Area/project name, PSO/personnel name, PSO provider company (if applicable), and reporter's contact information.
  - (ii) If a North Atlantic right whale is observed at any time by PSOs or project personnel, Ocean Wind must submit a summary report to NMFS Greater Atlantic Regional Fisheries (GARFO; [nmfs.gar.incidental-take@noaa.gov](mailto:nmfs.gar.incidental-take@noaa.gov)), NMFS Office of Protected Resources, and NMFS Northeast Fisheries Science Center (NEFSC; [ne.rw.survey@noaa.gov](mailto:ne.rw.survey@noaa.gov)) within 24 hours with the above information and the vessel/platform from which the sighting was made, activity the vessel/platform was engaged in at time of sighting, project construction and/or survey activity at the time of the sighting (e.g., pile driving, cable installation, HRG survey), distance from vessel/platform to sighting at time of detection, and any mitigation actions taken in response to the sighting.
  - (iii) If an observation of a large whale occurs during vessel transit, Ocean Wind must report the time, date, and location of the sighting; the vessel's activity, heading, and speed (knots); Beaufort sea state, water depth (meters), and visibility conditions; marine mammal species identification to the best of the observer's ability and any distinguishing characteristics;



initial distance and bearing to marine mammal from vessel and closest point of approach; and any avoidance measures taken in response to the marine mammal sighting.

- (iv) Ocean Wind must provide NMFS Office of Protected Resources with notification of planned UXO/MEC detonation as soon as possible but at least 48 hours prior to the planned detonation, unless this 48-hour notification would create delays to the detonation that would result in imminent risk of human life or safety. This notification must include the coordinates of the planned detonation, the estimated charge size, and any other information available on the characteristics of the UXO/MEC. If an UXO/MEC detonation occurs, within 72 hours after a detonation but before the next detonation, whichever is sooner, Ocean Wind must report to NMFS Office of Protected Resources the time, date, location (latitude/longitude Decimal Degrees), charge weight size, justification on why detonation was necessary and other means of removal or avoidance could not occur, all detections of marine mammals within the UXO/MEC zones, and any mitigative action taken.
- (v) In the event that personnel involved in the Project discover a stranded, entangled, injured, or dead marine mammal, Ocean Wind must immediately report the observation to NMFS. If in the Greater Atlantic Region (Maine to Virginia) call the NMFS Greater Atlantic Stranding Hotline (866-755-6622); if in the Southeast Region (North Carolina to Florida), call the NMFS Southeast Stranding Hotline (877-942-5343). Separately, Ocean Wind must report the incident to NMFS Office of Protected Resources (*PR.ITP.MonitoringReports@noaa.gov*) and, if in the Greater Atlantic region (Maine to Virginia), NMFS Greater Atlantic Regional Fisheries Office (GARFO; *nmfs.gar.incidental-take@noaa.gov*, *nmfs.gar.stranding@noaa.gov*) or, if in the Southeast region (North Carolina to Florida), NMFS Southeast Regional Office (SERO; *secmammalreports@noaa.gov*) as soon as feasible. The report (via phone or email) must include contact (name, phone number, *etc.*), the time, date, and location of the first discovery (and updated location information if known and applicable); Species identification (if known) or description of the animal(s) involved; condition of the animal(s) (including carcass condition if the animal is dead); observed behaviors of the animal(s), if alive; if available, photographs or video footage of the animal(s); and general circumstances under which the animal was discovered.
- (vi) In the event of a vessel strike of a marine mammal by any vessel associated with the Project or if project activities cause a non-auditory injury or death of a marine mammal, Ocean Wind must immediately report the incident to NMFS. If in the Greater Atlantic Region (Maine to Virginia) call the NMFS Greater Atlantic Stranding Hotline (866-755-6622) and if in the Southeast Region (North Carolina to Florida) call the NMFS Southeast Stranding Hotline (877-942-5343). Separately, Ocean

Wind must immediately report the incident to NMFS Office of Protected Resources (*PR.ITP.MonitoringReports@noaa.gov*) and, if in the Greater Atlantic region (Maine to Virginia), NMFS GARFO (*nmfs.gar.incidental-take@noaa.gov*, *nmfs.gar.stranding@noaa.gov*) or, if in the Southeast region (North Carolina to Florida), NMFS SERO (*secmammalreports@noaa.gov*). The report must include the time, date, and location of the incident; species identification (if known) or description of the animal(s) involved; vessel size and motor configuration (inboard, outboard, jet propulsion); vessel's speed leading up to and during the incident; vessel's course/heading and what operations were being conducted (if applicable); status of all sound sources in use; description of avoidance measures/requirements that were in place at the time of the strike and what additional measures were taken, if any, to avoid strike; environmental conditions (*e.g.*, wind speed and direction, Beaufort sea state, cloud cover, visibility) immediately preceding the strike; estimated size and length of animal that was struck; description of the behavior of the marine mammal immediately preceding and following the strike; if available, description of the presence and behavior of any other marine mammals immediately preceding the strike; estimated fate of the animal (*e.g.*, dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared); and to the extent practicable, photographs or video footage of the animal(s). Ocean Wind must immediately cease all on-water activities until the NMFS Office of Protected Resources is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of the LOA. NMFS Office of Protected Resources may impose additional measures to minimize the likelihood of further prohibited take and ensure MMPA compliance. Ocean Wind may not resume their activities until notified by NMFS Office of Protected Resources.

- (14) Ocean Wind must report any lost gear associated with the fishery surveys to the NMFS GARFO Protected Resources Division (*nmfs.gar.incidental-take@noaa.gov*) as soon as possible or within 24 hours of the documented time of missing or lost gear. This report must include information on any markings on the gear and any efforts undertaken or planned to recover the gear.

## **5. Modifications to Letter of Authorization:**

- (a) This LOA may be modified, upon request by Ocean Wind, provided that:
  - (1) NMFS Office of Protected Resources determines that the specified activities, mitigation, monitoring, and reporting measures, as well as the anticipated impacts, required by the previous LOA under this subpart were implemented successfully. This excludes changes made pursuant to the adaptive management provision found in Section 5(c).

- (b) Any LOA modification request by Ocean Wind that includes changes to the activity or the mitigation, monitoring, or reporting measures (excluding changes made pursuant to the adaptive management provision found in Section 5(c)), may be approved, provided that:
- (1) NMFS Office of Protected Resources determines that the changes to the activity or the mitigation, monitoring, or reporting do not change the findings made for the regulations in this subpart and do not result in an increase in the maximum annual or five-year total estimated number of takes for any species; and
  - (2) NMFS Office of Protected Resources may, if appropriate, publish a notice of proposed LOA in the *Federal Register*, including the associated analysis of the change, and solicit public comment before issuing the LOA.
- (c) *Adaptive Management*: After consulting with Ocean Wind regarding the practicability of the modifications, NMFS Office of Protected Resources may modify (including delete, modify, or add to) the existing mitigation, monitoring, or reporting measures (after consulting with Ocean Wind regarding the practicability of the modifications), if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring. These could include:
- (1) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA include, but are not limited to:
    - (i) Results from Ocean Wind's monitoring(s);
    - (ii) Results from other marine mammals and/or sound research or studies; and/or
    - (iii) Any information that reveals marine mammals may have been taken in a manner, extent, or number not authorized by the regulations in this subpart or subsequent LOA.
  - (2) If the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS Office of Protected Resources shall publish a notice of proposed LOA in the *Federal Register* and solicit public comment.
  - (3) If the NMFS Office of Protected Resources determines that an emergency exists that poses a significant risk to the well-being of species or stocks of marine mammals, this LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the *Federal Register* within 30 days of the action.

Should you have questions regarding this LOA or the required conditions found herein, please contact NMFS Office of Protected Resources staff, Jaclyn Daly ([jaclyn.daly@noaa.gov](mailto:jaclyn.daly@noaa.gov)) and Kelsey Potlock ([kelsey.potlock@noaa.gov](mailto:kelsey.potlock@noaa.gov)).

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Kimberly Damon-Randall,  
Director, Office of Protected Resources,  
National Marine Fisheries Service.

10/13/2023

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Date

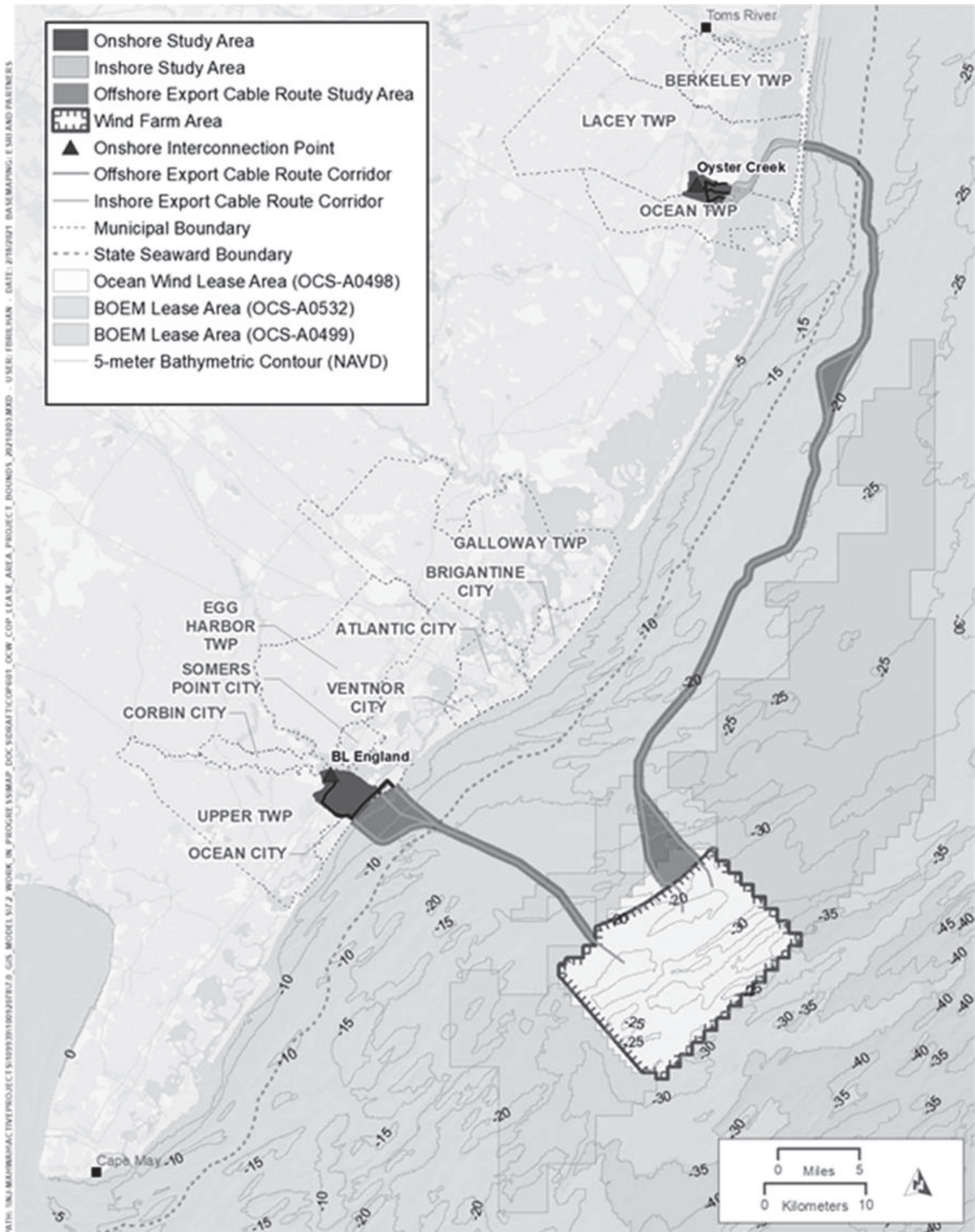


Figure 1 — Project Location

**Table 1 – Annual and 5-year Total Take Authorized For Ocean Wind 1 Incidental to All Specified Activities**

Species	Scientific Name	Stock	Maximum Annual Take		5-year Total Take	
			Level A harassment	Level B harassment	Level A harassment	Level B harassment
<i>Order Artiodactyla – Cetacea – Superfamily Mysticeti (baleen whales)</i>						
<i>Family Balaenidae</i>						
North Atlantic right whale*	<i>Eubalaena glacialis</i>	Western Atlantic	0	7	0	14
<i>Family Balaenopteridae (rorquals)</i>						
Blue whale*	<i>Balaenoptera musculus</i>	Western North Atlantic	0	4	0	4
Fin whale*	<i>Balaenoptera physalus</i>	Western North Atlantic	4	13	4	26
Humpback whale	<i>Megaptera novaeangliae</i>	Gulf of Maine	8	66	7	81
Minke whale	<i>Balaenoptera acutorostrata</i>	Canadian Eastern Coastal	22	74	24	117
Sei whale*	<i>Balaenoptera borealis</i>	Nova Scotia	1	3	1	6
<i>Superfamily Odontoceti (toothed whales, dolphins, and porpoises)</i>						
<i>Family Physeteridae</i>						
Sperm whale*	<i>Physeter macrocephalus</i>	North Atlantic	0	9	0	24
<i>Family Delphinidae</i>						
Atlantic spotted dolphin	<i>Stenella frontalis</i>	Western North Atlantic	0	135	0	405
Atlantic white-sided dolphin	<i>Lagenorhynchus acutus</i>	Western North Atlantic	0	100	0	140
Bottlenose dolphin	<i>Tursiops truncatus</i>	Western North	11	1,360	11	2,618

		Atlantic - Offshore				
		Northern Migratory Coastal	22	1,394	22	4,286
Common dolphin	<i>Delphinus delphis</i>	Western North Atlantic	0	1,584	0	1,766
Long-finned pilot whale	<i>Globicephala melas</i>	Western North Atlantic	0	30	0	90
Short-finned pilot whale	<i>Globicephala macrorhynchus</i>	Western North Atlantic	0	30	0	90
Risso's dolphin	<i>Grampus griseus</i>	Western North Atlantic	0	90	0	270
<i>Family Phocoenidae (porpoises)</i>						
Harbor porpoise	<i>Phocoena phocoena</i>	Gulf of Maine/Bay of Fundy	69	350	79	529
<i>Order Carnivora – Superfamily Pinnipedia</i>						
<i>Family Phocidae (earless seals)</i>						
Gray seal	<i>Halichoerus grypus</i>	Western North Atlantic	31	305	35	614
Harbor seal	<i>Phoca vitulina</i>	Western North Atlantic	35	844	48	1,701

\* Endangered Species Act-listed species

**Table 2 – Minimum Visibility, Clearance, Shutdown, PAM, Level A Harassment, and Level B Harassment Zones During WTG and OSS Foundation Impact Pile Driving in Summer (and Winter)<sup>a</sup>**

WTG and OSS Foundation Impact Pile Driving Zone Sizes (meters)					
Designated Zones	North Atlantic Right Whales	Large whales	Delphinids	Harbor Porpoises	Seals
Minimum Visibility Zone	1,650 meters (2,500 meters)				
Clearance Zone <sup>b</sup>	Any distance	2,000 meters (3,000 meters)	100 meters	1,100 meters (1,750 meters)	100 meters
Shutdown Zone <sup>d</sup>	Any distance	1,800 meters (2,500 meters)	100 meters	1,000 meters (1,450 meters)	100 meters
PAM Monitoring Zone	10,000 meters				
Level A Harassment (Exposure Range, ER <sub>95%</sub> )	Monopiles: 1,650 meters (2,490 meters) Pin Piles: 590 meters (840 meters)				
Level B Harassment (Acoustic Range, R <sub>95%</sub> )	Monopiles: 3,253 meters (3,534 meters) Pin Piles: 2,155 meters (2,522 meters)				

*a – Winter (i.e., December) distances are presented in parentheses.*

*b – This zone applies to both visual and PAM detections. For North Atlantic right whales, the PAM shutdown zone is limited to the PAM Monitoring Zone (10 km).*

**Table 3 – Distances to Harassment Thresholds and Mitigation Zones During Vibratory Driving of Sheet Piles and/or Casing Pipe Piles For Cofferdams and Goal Posts**

Nearshore Cable Landfall (Cofferdams and Goal Posts) Vibratory Pile Driving Zones (meters)				
Marine Mammal Hearing Groups	Level A harassment (SEL <sub>cum</sub> ) (meters)	Level B harassment (meters)	Clearance Zone (meters)	Shutdown Zone (meters)
Low-frequency cetaceans	86.7	10,000	150	100
Mid-frequency cetaceans	7.7	10,000	150	100
High-frequency cetaceans	128.2	10,000	150	150
Phocid pinnipeds	52.7	10,000	150	60

*Note: SEL<sub>cum</sub> = cumulative sound exposure level.*





	Level B harassment (meters)	11,900	2,550	14,100	7,020
	Clearance Zone (meters)	10,000	2,000	10,000	5,000

**Table 5 – Level B Harassment and Clearance And Shutdown Zones During HRG Surveys**

HRG Survey Zones (meters)				
Marine Mammal Species	Level B harassment Zone (meters)		Clearance Zone (meters)	Shutdown Zone (meters)
	Boomer/Sparker	CHIRPs		
Low-frequency cetacean (North Atlantic right whale)	141	48	500	500
Other low-frequency cetaceans (non-North Atlantic right whale species)			100	100
Mid-frequency cetaceans	141	48	100	100 (with an exception noted for bow-riding delphinids of the following genera: <i>Delphinus</i> , <i>Stenella</i> , <i>Lagenorhynchus</i> , and <i>Tursiops</i> )
High-frequency cetaceans	141	48	100	100 <sup>b</sup>
Phocid Pinnipeds	141	48	100	100

**Table 6 – Vessel Separation Distances**

Vessel Separation Distances (meters)	
North Atlantic right whale	500 m
Sperm whales and other non-North Atlantic right whale baleen whales	100 m
Delphinids and pinnipeds	50 m