



INCIDENTAL HARASSMENT AUTHORIZATION

Bluepoint Wind, LLC (BPW) and its designees are hereby authorized under section 101(a)(5)(D) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1371(a)(5)(D)) to incidentally harass marine mammals, under the following conditions:

1. This incidental harassment authorization (IHA) is valid from March 1, 2024 through February 28, 2025.
2. This IHA authorizes take incidental to marine site characterization surveys, as specified in BPW's IHA application, in Bureau of Ocean Energy Management Lease Area OCS-A 0537 and associated export cable routes.
3. General Conditions
 - (a) A copy of this IHA must be in the possession of the BPW, vessel operator, other relevant personnel, lead protected species observers (PSOs), and any other relevant designees operating under the authority of this IHA.
 - (b) The species and/or stocks authorized for taking are listed in Table 1. Authorized take, by Level B harassment only, is limited to the species and numbers listed in Table 1.
 - (c) The taking by serious injury or death of any of the species listed in Table 1 or any taking of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA. Any taking exceeding the authorized amounts listed in Table 1 is prohibited and may result in the modification, suspension, or revocation of this IHA.
 - (d) BPW must instruct relevant vessel personnel with regard to the authority of the protected species monitoring team (PSO team), and must ensure that relevant vessel personnel and the PSO team participate in a joint onboard briefing, led by the vessel operator and lead PSO, prior to beginning survey activities to ensure that responsibilities, communication procedures, marine mammal monitoring protocols, safety and operational procedures, and IHA requirements are clearly understood. This PSO briefing must be repeated when relevant new personnel join the survey operations before work involving those personnel commences.
 - (e) The acoustic source must be deactivated when not acquiring data or preparing to acquire data, except as necessary for testing. Unnecessary use of the acoustic source shall be avoided.
 - (f) BPW must abide by the relevant Project Design Criteria (PDCs 4, 5 and 7) of the programmatic consultation completed by NMFS' Greater Atlantic Regional Fisheries Office on June 29, 2021 (revised September 2021), pursuant to section 7 of the Endangered Species Act (ESA).



4. Mitigation Requirements

- (a) BPW must use independent, dedicated, qualified protected species observers (PSOs), meaning that the PSOs must be employed by a third-party observer provider, must have no tasks other than to conduct observational effort, collect data, and communicate with and instruct relevant vessel crew with regard to the presence of protected species and mitigation requirements (including brief alerts regarding maritime hazards), and must be qualified pursuant to section 5(a) of this IHA.
- (b) The operator must establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the acoustic source to ensure that mitigation commands are conveyed swiftly while allowing PSOs to maintain watch.
- (c) During survey operations involving use of the sparker (e.g., any day on which use of the sparker source is planned to occur, and whenever the sparker source is in the water, whether activated or not), a minimum of one PSO must be on duty and conducting visual observations at all times during daylight hours (i.e., from 30 minutes prior to sunrise through 30 minutes following sunset), and a minimum of two PSOs must be on duty and conducting visual observations at all times during nighttime hours.
- (d) Visual monitoring must begin no less than 30 minutes prior to ramp-up and must continue until one hour after use of the acoustic source ceases.
- (e) Visual PSOs shall conduct visual observations from the most appropriate observation posts using appropriate equipment and the naked eye while free from distractions and in a consistent, systematic, and diligent manner. When two PSOs are required, the PSOs must coordinate to ensure 360° visual coverage around the vessel.
- (f) Any observations of marine mammals by crew members aboard any vessel associated with the survey must be relayed to the PSO team.
- (g) PSOs may be on watch for a maximum of four consecutive hours followed by a break of at least one hour between watches and may conduct a maximum of 12 hours of observation per 24-hour period.
- (h) PSOs shall establish and monitor applicable shutdown zones during use of the sparker source (see below). These zones shall be based upon the radial distance from the acoustic source (rather than being based around the vessel itself).
- (i) Shutdown Zones must be as follows:
 - (i) A 500-meter (m) shutdown zone for North Atlantic right whales.

- (ii) A 100-m shutdown zone for (1) all other ESA-listed marine mammals (excluding NARWs) and (2) during use of the sparker, for non-ESA listed marine mammals.
 - (iii) A 50-m shutdown zone for non-ESA listed marine mammals during use of the boomer.
- (j) Pre-start clearance and ramp-up – A ramp-up procedure, involving a gradual increase in source level output, is required at all times as part of the activation of the acoustic source when technically feasible. Operators should ramp up sources to half power for 5 minutes and then proceed to full power. A 30-minute pre-start clearance observation period of the shutdown zones must occur prior to the start of ramp-up. All operators must adhere to the following pre-start clearance and ramp-up requirements:
- (i) The operator must notify a designated PSO of the planned start of ramp-up as agreed upon with the lead PSO; the notification time should not be less than 60 minutes prior to the planned ramp-up in order to allow the PSOs time to monitor the Shutdown Zones for 30 minutes prior to the initiation of ramp-up (pre-start clearance). During this 30 minute pre-start clearance period, the entire applicable Shutdown Zones must be visible, except as indicated in (viii) below.
 - (ii) Ramp-ups shall be scheduled so as to minimize the time spent with the source activated.
 - (iii) A visual PSO conducting pre-start clearance observations must be notified again immediately prior to initiating ramp-up procedures and the operator must receive confirmation from the PSO to proceed.
 - (iv) Any PSO on duty has the authority to delay the start of survey operations if a marine mammal is detected within the applicable pre-start clearance zone.
 - (v) Ramp-up may not be initiated if any marine mammal to which the pre-start clearance requirement applies is within the applicable shutdown zone. If a marine mammal is observed within the applicable shutdown zone during the 30 minute pre-start clearance period, ramp-up may not begin until the animal(s) has been observed exiting the zones or until an additional time period has elapsed with no further sightings (30 minutes for all baleen whale species and sperm whales and 15 minutes for all other species).
 - A. The pre-start clearance requirement is waived for small delphinids (individuals belonging to the following genera of the Family Delphinidae: Steno, Delphinus, Lagenorhynchus, Stenella, and Tursiops) and pinnipeds. Detection of a small delphinid or pinniped within the shutdown zone does not

preclude beginning of ramp-up, unless the PSO confirms the individual to be of a genus other than those listed, in which case normal pre-clearance requirements apply.

B. If there is uncertainty regarding identification of a marine mammal species (i.e., whether the observed marine mammal(s) belongs to one of the delphinid genera for which the pre-clearance requirement is waived), PSOs must use best professional judgment in making the decision to call for a shutdown.

- (vi) PSOs must monitor the shutdown zones 30 minutes before and during ramp-up, and ramp-up must cease and the source must be shut down upon observation of a marine mammal within the applicable shutdown zone.
 - (vii) Ramp-up may occur at times of poor visibility, including nighttime, if appropriate visual monitoring has occurred with no detections of marine mammals in the 30 minutes prior to beginning ramp-up. Sparker activation may only occur at night where operational planning cannot reasonably avoid such circumstances.
 - (viii) If the acoustic source is shut down for brief periods (*i.e.*, less than 30 minutes) for reasons other than implementation of prescribed mitigation (*e.g.*, mechanical difficulty), it may be activated again without ramp-up if PSOs have maintained constant visual observation and no detections of marine mammals have occurred within the applicable shutdown zone. For any longer shutdown, pre-start clearance observation and ramp-up are required.
- (k) Shutdown requirements
- (i) Any PSO on duty has the authority to call for shutdown of the acoustic source if a marine mammal is detected within the applicable shutdown zone.
 - (ii) When the acoustic source is active and a marine mammal appears within or enters the applicable shutdown zone (see condition 4(i)), the acoustic source must be shut down. When shutdown is instructed by a PSO, the acoustic source must be immediately deactivated and any dispute resolved only following deactivation.
 - (iii) The shutdown requirement is waived for small delphinids (individual belonging to the following genera of the Family Delphinidae: *Steno*, *Delphinus*, *Lagenorhynchus*, *Stenella*, and *Tursiops*) and pinnipeds. If a small delphinid or pinniped is visually detected within the shutdown zone, no shutdown is required unless the PSO confirms the individual to be of a genus other than those listed, in which case a shutdown is required.

- A. If there is uncertainty regarding identification of a marine mammal species (*i.e.*, whether the observed marine mammal(s) belongs to one of the delphinid genera for which shutdown is waived or one of the species with a larger Shutdown Zone), PSOs must use best professional judgment in making the decision to call for a shutdown.
- (iv) Upon implementation of shutdown, the source may be reactivated after the marine mammal has been observed exiting the applicable Shutdown Zone or following a clearance period (30 minutes for all baleen whale species and sperm whales and 15 minutes for all other species) with no further detection of the marine mammal.
- (v) If a species for which authorization has not been granted, or a species for which authorization has been granted but the authorized number of takes have been met, approaches or is observed within the Level B harassment zone, shutdown must occur.
- (l) Vessel Strike Avoidance - Vessel operators must comply with the below measures except under extraordinary circumstances when the safety of the vessel or crew is in doubt or the safety of life at sea is in question. These requirements do not apply in any case where compliance would create an imminent and serious threat to a person or vessel or to the extent that a vessel is restricted in its ability to maneuver and, because of the restriction, cannot comply.
 - (i) Vessel operators and crews must maintain a vigilant watch for all marine mammals and slow down, stop their vessel, or alter course, as appropriate and regardless of vessel size, to avoid striking any marine mammal. A single marine mammal at the surface may indicate the presence of submerged animals in the vicinity of the vessel; therefore, precautionary measures should always be exercised. A visual observer aboard the vessel must monitor a vessel strike avoidance zone around the vessel (species-specific distances detailed below). Visual observers monitoring the vessel strike avoidance zone may be third-party observers (*i.e.*, PSOs) or crew members, but crew members responsible for these duties must be provided sufficient training to 1) distinguish marine mammal from other phenomena and 2) broadly to identify a marine mammal as a right whale, other whale (defined in this context as sperm whales or baleen whales other than right whales), or other marine mammals.
 - (ii) All vessels, regardless of size, must observe a 10-knot speed restriction in specific areas designated by NMFS for the protection of North Atlantic right whales from vessel strikes. These include all Seasonal Management Areas (SMA) (when in effect), any Dynamic Management Areas (DMA) (when in effect), and Slow Zones. See www.fisheries.noaa.gov/national/endangered-species-

conservation/reducing-ship-strikes-north-atlantic-right-whales for specific detail regarding these areas. It is BPW's responsibility to maintain awareness of the establishment and location of any such areas and to abide by these requirements accordingly

- (iii) Vessel speeds must be reduced to 10 knots or less when mother/calf pairs, pods, or large assemblages of cetaceans are observed near a vessel.
- (iv) All vessels must maintain a minimum separation distance of 500-m from right whales. If a right whale is sighted within the relevant separation distance, the vessel must steer a course away at 10-knots or less until the 500-m separation distance has been established. If a whale is observed but cannot be confirmed as a species other than a right whale, the vessel operator must assume that it is a right whale and take appropriate action.
- (v) All vessels must maintain a minimum separation distance of 100-m from sperm whales and all other baleen whales.
- (vi) All vessels must, to the maximum extent practicable, attempt to maintain a minimum separation distance of 50-m from all other marine mammals, with an understanding that at times this may not be possible (*e.g.*, for animals that approach the vessel).
- (vii) When marine mammals are sighted while a vessel is underway, the vessel shall take action as necessary to avoid violating the relevant separation distance (*e.g.*, attempt to remain parallel to the animal's course, avoid excessive speed or abrupt changes in direction until the animal has left the area, reduce speed and shift the engine to neutral). This does not apply to any vessel towing gear or any vessel that is navigationally constrained.

5. Monitoring

- (a) BPW must submit PSO resumes for NMFS review and approval prior to commencement of the survey. Resumes should include dates of training and any prior NMFS approval, as well as dates and description of last experience, and must be accompanied by information documenting successful completion of an acceptable training course.
- (b) At least one PSO aboard each acoustic source vessel must have a minimum of 90 days at-sea experience working in the role, with no more than eighteen months elapsed since the conclusion of the at-sea experience. One PSO with such experience must be designated as the lead for the entire PSO team. The lead must coordinate duty schedules and roles for the PSO team and serve as the primary point of contact for the vessel operator. (Note that the responsibility of coordinating duty schedules and roles may instead be assigned to a shore-based, third-party monitoring coordinator.) To the maximum extent practicable, the lead PSO must devise the duty schedule such that experienced PSOs are on duty with

those PSOs with appropriate training but who have not yet gained relevant experience.

- (c) PSO qualifications:
- (i) PSOs must successfully complete relevant training, including completion of all required coursework and passing (80 percent or greater) a written and/or oral examination developed for the training program. 7
 - (ii) PSOs must have successfully attained a bachelor's degree from an accredited college or university with a major in one of the natural sciences, a minimum of 30 semester hours or equivalent in the biological sciences, and at least one undergraduate course in math or statistics. The educational requirements may be waived if the PSO has acquired the relevant skills through alternate experience. Requests for such a waiver shall be submitted to NMFS and must include written justification. Alternate experience that may be considered includes, but is not limited to: Secondary education and/or experience comparable to PSO duties; Previous work experience conducting academic, commercial, or government-sponsored marine mammal surveys; or Previous work experience as a PSO; the PSO should demonstrate good standing and consistently good performance of PSO duties.
- (d) *Equipment.* BPW is required to work with the selected third-party PSO provider to ensure PSOs have all equipment (including backup equipment) needed to adequately perform necessary tasks, including accurate determination of distance and bearing to observed marine mammals, and to ensure that PSOs are capable of calibrating equipment as necessary for accurate distance estimates and species identification. Such equipment, at a minimum, shall include:
- (i) At least one thermal (infrared) imaging device suited for the marine environment;
 - (ii) Reticle binoculars (*e.g.*, 7 x 50) of appropriate quality (at least one per PSO, plus backups);
 - (iii) Global Positioning Units (GPS) (at least one plus backups);
 - (iv) Digital camera with a telephoto lens (the camera or lens should also have an image stabilization system) that is at least 300 mm or equivalent on a full-frame single lens reflex (SLR) (plus backup);
 - (v) Equipment necessary for accurate measurement of distances to marine mammal;
 - (vi) Compass (plus backup);
 - (vii) Means of communication among vessel crew and PSOs; and

- (viii) Any other tools deemed necessary to adequately and effectively perform PSO tasks.
- (e) Equipment specified in (i) through (vii) above may be provided by an individual PSO, the third-party PSO provider, or the operator, but BPW is responsible for ensuring PSOs have the proper equipment required to perform the duties specified within this IHA.
- (f) During good conditions (*e.g.*, daylight hours; Beaufort sea state 3 or less), PSOs shall conduct observations when the specified acoustic sources are not operating for comparison of sighting rates and behavior with and without use of the specified acoustic sources and between acquisition periods, to the maximum extent practicable.
- (g) Members of the PSO team shall consult NMFS' North Atlantic right whale reporting system and Whale Alert, daily and as able, for the presence of North Atlantic right whales throughout survey operations

6. Reporting

- (a) The BPW must submit a summary report to NMFS on all activities and monitoring results within 90 days of the completion of the survey or expiration of the IHA, whichever comes sooner, and must include all information described below under section 6(c) of this IHA.
- (b) The report must describe all activities conducted and sightings of marine mammals, must provide full documentation of methods, results, and interpretation pertaining to all monitoring, and must summarize the dates and locations of survey operations and all marine mammals sightings (dates, times, locations, activities, associated survey activities). The draft report shall also include georeferenced, time-stamped vessel tracklines for all time periods during which acoustic sources were operating. Tracklines should include points recording any change in acoustic source status (*e.g.*, when the sources began operating, when they were turned off, or when they changed operational status). GIS files shall be provided in ESRI shapefile format and include the UTC date and time, latitude in decimal degrees, and longitude in decimal degrees. All coordinates shall be referenced to the WGS84 geographic coordinate system. In addition to the report, all raw observational data shall be made available.
- (c) PSOs must use standardized electronic data forms to record data. PSOs shall record detailed information about any implementation of mitigation requirements, including the distance of marine mammal to the acoustic source and description of specific actions that ensued, the behavior of the animal(s), any observed changes in behavior before and after implementation of mitigation, and if shutdown was implemented, the length of time before any subsequent ramp-up of the acoustic source. If required mitigation was not implemented, PSOs should record a description of the circumstances. At a minimum, the following information must be recorded:

- (i) Vessel name (source vessel and other vessels associated with survey), vessel size and type, maximum speed capability of vessel;
- (ii) Dates of departures and returns to port with port name;
- (iii) PSO names and affiliations;
- (iv) Date and participants of PSO briefings;
- (v) Visual monitoring equipment used;
- (vi) PSO location on vessel and height of observation location above water surface;
- (vii) Dates and times (Greenwich Mean Time) of survey on/off effort and times corresponding with PSO on/off effort;
- (viii) Vessel location (decimal degrees) when survey effort begins and ends and vessel location at beginning and end of visual PSO duty shifts;
- (ix) Vessel location at 30-second intervals if obtainable from data collection software, otherwise at practical regular interval
- (x) Vessel heading and speed at beginning and end of visual PSO duty shifts and upon any change;
- (xi) Water depth (if obtainable from data collection software);
- (xii) Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions change significantly), including BSS and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon;
- (xiii) Factors that may contribute to impaired observations during each PSO shift change or as needed as environmental conditions change (*e.g.*, vessel traffic, equipment malfunctions); and
- (xiv) Survey activity information (and changes thereof), such as acoustic source power output while in operation, number and volume of airguns operating in an array, tow depth of an acoustic source, and any other notes of significance (*i.e.*, pre-start clearance, ramp-up, shutdown, testing, shooting, ramp-up completion, end of operations, streamers, etc.).
- (xv) Upon visual observation of any marine mammal, the following information must be recorded:
 - A. Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform);

- B. Vessel/survey activity at time of sighting (*e.g.*, deploying, recovering, testing, shooting, data acquisition, other);
- C. PSO who sighted the animal;
- D. Time of sighting;
- E. Initial detection method;
- F. Sightings cue;
- G. Vessel location at time of sighting (decimal degrees);
- H. Direction of vessel's travel (compass direction);
- I. Speed of the vessel(s) from which the observation was made;
- J. Identification of the animal (*e.g.*, genus/species, lowest possible taxonomic level or unidentified); also note the composition of the group if there is a mix of species;
- K. Species reliability (an indicator of confidence in identification);
- L. Estimated distance to the animal and method of estimating distance;
- M. Estimated number of animals (high/low/best);
- N. Estimated number of animals by cohort (adults, yearlings, juveniles, calves, group composition, etc.);
- O. Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars, or markings, shape and size of dorsal fin, shape of head, and blow characteristics);
- P. Detailed behavior observations (*e.g.*, number of blows/ breaths, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior before and after point of closest approach);
- Q. Mitigation actions; description of any actions implemented in response to the sighting (*e.g.*, delays, shutdowns, ramp-up, speed or course alteration, etc.) and time and location of the action;
- R. Equipment operating during sighting;
- S. Animal's closest point of approach and/or closest distance from the center point of the acoustic source; and

- T. Description of any actions implemented in response to the sighting (e.g., delays, shutdown, ramp-up) and time and location of the action.
- (d) If a North Atlantic right whale is observed at any time by PSOs or personnel on any project vessels, during surveys or during vessel transit, BPW must report the sighting information to the NMFS North Atlantic Right Whale Sighting Advisory System (866-755-6622) within two hours of occurrence, when practicable, or no later than 24 hours after occurrence. North Atlantic right whale sightings in any location may also be reported to the U.S. Coast Guard via Channel 16 and through the WhaleAlert app (<http://www.whalealert.org/>).
- (e) Reporting injured or dead marine mammals:
- (i) Sightings of any injured or dead marine mammal must be reported to NMFS, regardless of the cause of injury or death. In the event that personnel involved in the survey activities discover an injured or dead marine mammal, BPW must report the incident to NMFS as soon as feasible by phone (866-755-6622) and by email (nmfs.gar.stranding@noaa.gov and PR.ITP.MonitoringReports@noaa.gov) as soon as feasible. The report must include the following information:
 - A. Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
 - B. Species identification (if known) or description of the animal(s) involved;
 - C. Condition of the animal(s) (including carcass condition if the animal is dead);
 - D. Observed behaviors of the animal(s), if alive;
 - E. If available, photographs or video footage of the animal(s); and
 - F. General circumstances under which the animal was discovered.
 - (ii) In the event of a ship strike of a marine mammal by any vessel involved in the survey activities, BPW must report the incident to NMFS by phone (866-755-6622) and by email (nmfs.gar.stranding@noaa.gov and PR.ITP.MonitoringReports@noaa.gov) as soon as feasible. The report must include the following information:
 - A. Time, date, and location (latitude/longitude) of the incident;

- B. Species identification (if known) or description of the animal(s) involved;
- C. Vessel's speed during and leading up to the incident;
- D. Vessel's course/heading and what operations were being conducted (if applicable);
- E. Status of all sound sources in use;
- F. 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;
- G. Environmental conditions (*e.g.*, wind speed and direction, Beaufort sea state, cloud cover, visibility) immediately preceding the strike;
- H. Estimated size and length of animal that was struck;
- I. Description of the behavior of the marine mammal immediately preceding and/or following the strike;
- J. If available, description of the presence and behavior of any other marine mammals immediately preceding the strike;
- K. 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
- L. To the extent practicable, photographs or video footage of the animal(s).

7. This Authorization may be modified, suspended or revoked if the BPW fails to abide by the conditions prescribed herein (including, but not limited to, failure to comply with monitoring or reporting requirements), or if NMFS determines: (1) the authorized taking is having or is likely to have more than a negligible impact on the species or stocks of affected marine mammals, or (2) the prescribed measures are likely not or are not effecting the least practicable adverse impact on the affected species or stocks and their habitat.

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

2/22/2024

Date

Table 1. Authorized Incidental Take

| Common name | Scientific name | Authorized Take |
|---|-----------------------------------|------------------------|
| North Atlantic right whale | <i>Eubalaena glacialis</i> | 11 |
| Fin whale | <i>Balaenoptera physalus</i> | 63 |
| Sei whale | <i>Balaenoptera borealis</i> | 15 |
| Minke whale | <i>Balaenoptera acutorostrata</i> | 149 |
| Humpback whale | <i>Megaptera novaeangliae</i> | 27 |
| Sperm whale | <i>Physeter macrocephalus</i> | 5 |
| Atlantic white-sided dolphin | <i>Lagenorhynchus acutus</i> | 316 |
| Atlantic spotted dolphin | <i>Stenella frontalis</i> | 162 |
| Bottlenose dolphin (W.N. Atlantic Offshore) | <i>Tursiops truncatus</i> | 204 |
| Bottlenose dolphin (Northern Migratory Coastal) | <i>Tursiops truncatus</i> | 730 |
| Long-finned pilot whale | <i>Globicephala melas</i> | 50 |
| Risso's dolphin | <i>Grampus griseus</i> | 38 |
| Common dolphin | <i>Delphinus delphis</i> | 3,456 |
| Harbor porpoise | <i>Phocoena phocoena</i> | 958 |
| Gray seal | <i>Halichoerus grypus</i> | 861 |
| Harbor seal | <i>Phoca vitulina</i> | 861 |