



United States Department of the Interior

BUREAU OF OCEAN ENERGY MANAGEMENT
WASHINGTON, DC 20240-0001

Ms. Rachel Pachter
Vineyard Wind LLC
700 Pleasant Street
Suite 510
New Bedford, Massachusetts 02740

Dear Ms. Pachter:

I am writing on behalf of the Bureau of Ocean Energy Management (BOEM) regarding both the buoy decommissioning request that Vineyard Wind LLC (Vineyard Wind) submitted pursuant to 30 C.F.R. § 585.902(b) on June 15, 2020 – with subsequent August 10, 2020, and September 2, 2020, submissions – and the regulatory departure requests it submitted pursuant to 30 C.F.R. § 585.103 on June 17, 2020. Through this letter, BOEM approves Vineyard Wind's decommissioning request, subject to the enclosed conditions of approval, in accordance with 30 C.F.R. § 585.907(d).

With regard to the regulatory departures, BOEM approves Vineyard Wind's request to depart from 30 C.F.R. § 585.908(a), which requires: 1) the submittal and approval of a decommissioning application before the submittal of a decommissioning notice; and 2) the submittal of a decommissioning notice at least 60 days before commencing decommissioning activities. Vineyard Wind requested that its decommissioning notice be deemed submitted along with its decommissioning application as part of its decommissioning request, and asserted that the above-cited regulations are duplicative and unduly burdensome when applied to its proposed buoy decommissioning.

In approving this request to depart from 585.908(a), BOEM has determined that Vineyard Wind's decommissioning request contains the requisite information for both a decommissioning application and notice, pursuant to 30 C.F.R. §§ 585.906 and 585.908, respectively. Accordingly, Vineyard Wind need not submit a separate decommissioning notice, nor must it wait 60 days following the decommissioning application approval granted herein to decommission its floating Fugro SEAWATCH Wind Light Detection and Ranging (LiDAR) metocean buoy.

The purpose behind the 60-day notice is to allow BOEM to assess if Vineyard Wind's decommissioning activities (including removal procedures and methods, as well as changes in vessel types or equipment) would differ from those BOEM approved in the decommissioning application, which describes Vineyard Wind's plan for decommissioning. Given that Vineyard Wind intends to begin decommissioning as soon as it receives BOEM's approval of the decommissioning application, it would be duplicative and unduly burdensome to require the filing of a decommissioning notice when the information included in that notice would not differ from that included in the approved decommissioning application.

In the interest of time, Vineyard Wind also requested to depart from 30 C.F.R. §§ 585.905 through 585.907, which govern BOEM's specifications for, and review of, decommissioning applications. This departure is not necessary, however, since BOEM has already evaluated the information in the decommissioning application and is hereby approving it pursuant to 30 C.F.R. §§ 585.905 through 585.907.

In accordance with 30 C.F.R. § 585.103(a)(1), BOEM has determined that granting the departure from 30 C.F.R. § 585.908(a) facilitates appropriate lease activities by streamlining the decommissioning process and allowing Vineyard Wind's decommissioning activities to proceed as soon as practicable, while still conforming to the underlying purpose of the 60-day notice. BOEM also concurs with Vineyard Wind's assertion that this departure complies with 30 C.F.R. § 585.103(b) in that it: is consistent with subsection 8(p) of the Outer Continental Shelf Lands Act; protects the environment and the public health and safety to the same degree as if there were no approved departures; and does not impair the rights of third parties.

Therefore, as of the date of this letter, Vineyard Wind may commence decommissioning activities in accordance with its decommissioning application. In the event that Vineyard Wind has not commenced its authorized decommissioning activities within 60 days of receiving this notification, or intends to make any changes to those activities, Vineyard Wind must submit a decommissioning notice in keeping with 30 C.F.R. § 585.908.

As a reminder, pursuant to 30 C.F.R. § 585.910(b), Vineyard Wind must verify to BOEM that it has cleared the site within 60 days of removing the LiDAR buoy. As specified in 30 C.F.R. § 585.912, Vineyard Wind must submit this verification in the form of a written report that includes: a summary of the removal activities, including the date(s) they were completed; and a description of any mitigation measures employed.

Please contact Meredith Lilley at meredith.lilley@boem.gov or (703) 787-1037, should you have any questions.

Sincerely,

James F. Bennett
Program Manager
Office of Renewable Energy Programs

Enclosure

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF OCEAN ENERGY MANAGEMENT

Conditions of Decommissioning Application Approval

Lease Number OCS-A 0501

The Lessee's rights to conduct activities under the approved decommissioning application for the removal of two site assessment facilities are subject to the following conditions. The Lessor reserves the right to impose additional conditions incident to the approval of any future modifications to the decommissioning application.

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2. CULTURAL RESOURCE PROTECTION
3. AVIAN AND BAT PROTECTION
4. MARINE MAMMALS AND SEA TURTLES
5. MARINE TRASH AND DEBRIS PREVENTION

Attachments:

1. Addendum A: Contact Information for Reporting Requirements
2. Addendum B: Incident Report: Protected Species Injury or Mortality

1. Site Clearance

- 1.1 The Lessee must provide evidence that the area used for site assessment facilities has been returned to its original state 60 days after removal of the facilities. The Lessee must remove any trash or bottom debris introduced as a result of the Lessee's operations. Such evidence must consist of either a high-resolution side-scan or sector-scanning sonar survey that confirms that the seabed is clear of obstructions or debris from site assessment activities.

2. Cultural Resource Protection

- 2.1 No Impact without Approval. The Lessee must not knowingly impact a potential archaeological resource without the Lessor's prior approval.
- 2.2 Post-Review Discovery Clauses. If, while conducting decommissioning or site clearance activities, the Lessee discovers a potential archaeological resource, such as the presence of a shipwreck (e.g., a sonar image or visual confirmation of an iron, steel, or wooden hull; wooden timbers; anchors; concentrations of historic objects; or piles of ballast rock), or pre-contact archaeological site (e.g., stone tools; pottery) within the project area, the Lessee must:
- 2.2.1 Immediately halt seafloor/bottom-disturbing activities within the area of discovery;
- 2.2.2 Notify the Lessor within 24 hours of discovery;
- 2.2.3 Notify the Lessor in writing via report to the Lessor within 72 hours of discovery;
- 2.2.4 Keep the location of the discovery confidential and take no action that may adversely affect the archaeological resource until the Lessor has made an evaluation and instructs the applicant on how to proceed; and
- 2.2.5 Conduct any additional investigations as directed by the Lessor to determine if the resource is eligible for listing in the National Register of Historic Places (NRHP) (30 CFR §585.802(b)). The Lessor will direct the Lessee to conduct such investigations if: (1) the site has been impacted by the Lessee's project activities; or (2) impacts to the site or to the area of potential effect cannot be avoided. If investigations indicate that the resource is potentially eligible for listing in the NRHP, the Lessor will instruct the Lessee as to how to protect the resource, or how to mitigate adverse effects to the site. If the Lessor incurs costs in protecting the resource, under Section 110(g) of the National Historic Preservation Act, the Lessor may charge the Lessee reasonable costs for carrying out preservation responsibilities under the Outer Continental Shelf Lands Act (30 CFR § 585.802(c-d)).

3. Conditions for Avian and Bat Protection

3.1 Reporting Requirement for Avian and Bat Species. The Lessee must provide a final report to the Lessor and United States (U.S.) Fish and Wildlife Service using the contact information in Addendum A, or updated contact information as provided by the Lessor, by January 31, 2021. This report must document dead or injured birds or bats found on vessels and the meteorological buoy during operations and decommissioning of the meteorological buoy. The report must contain the following information: the species name, date found, location, a picture to confirm species identity (if possible), and any other relevant information. In addition to submitting this final report, the Lessee must report carcasses with Federal or research bands to the U.S. Geological Survey Bird Band Laboratory within 30 calendar days of discovery, using the following website: <https://www.pwrc.usgs.gov/bbl/>, or updated contact information as provided by the Lessor.

4. Conditions Relating to Marine Mammals and Sea Turtles

4.1 Prior to conducting activities pursuant to the decommissioning request, the Lessee must hold a briefing to establish responsibilities of each involved party, define the chains of command, discuss communication procedures, provide an overview of monitoring procedures, and review operational procedures. This briefing must include all relevant personnel and crew members. New personnel must be briefed as they join the work in progress.

4.2 The Lessee must ensure that all vessel operators and crew members are familiar with, and understand, the requirements specified in Sections 3 (Conditions for Avian and Bat Protection) and 4 (Conditions Relating to Marine Mammals and Sea Turtles) of these conditions.

4.3 The Lessee must ensure that a copy of Sections 3 (Conditions for Avian and Bat Protection) and 4 (Conditions Relating to Marine Mammals and Sea Turtles) of these conditions is made available on every project-related vessel.

4.4 Requirements for Vessel Strike Avoidance. The Lessee must ensure that all vessels conducting activities pursuant to the decommissioning request, including those transiting to and from local ports and the sites of decommissioning activities, comply with the vessel strike avoidance measures specified below, except when the safety of the vessel and crew permits.

4.4.1 The Lessee must ensure that vessel operators and crews maintain a vigilant watch for marine mammals and sea turtles, and slow down or stop their vessel to avoid striking protected species.

- 4.4.2 The Lessee must ensure that vessels 19.8 meters (m) (65 feet [ft]) in length or greater that operate between November 1 through July 31 operate at speeds of 10 knots (18.5 kilometer per hour [km/hr]) or less.
- 4.4.3 The Lessee must ensure that between November 1 and July 31 vessel operators monitor National Marine Fisheries Service (NMFS) North Atlantic Right Whale reporting systems (e.g., the Early Warning System, Sighting Advisory System, and Mandatory Ship Reporting System) for presence of North Atlantic right whales.
- 4.4.4 The Lessee must ensure that all vessel operators comply with 10 knot (18.5 km/hr) speed restrictions in any Dynamic Management Area.
- 4.4.5 North Atlantic Right Whales.
 - 4.4.5.1 The Lessee must ensure all vessels maintain a separation distance of 500 m (1,640 ft) or greater from any sighted North Atlantic right whale.
 - 4.4.5.2 The Lessee must ensure that the following avoidance measures are taken if a vessel comes within 500 m (1,640 ft) of any North Atlantic right whale:
 - 4.4.5.2.1 If underway, any vessel must steer a course away from the North Atlantic right whale at 10 knots (18.5 km/h) or less, until the 500 m (1,640 ft) minimum separation distance has been established (unless 4.4.5.2.2 below applies).
 - 4.4.5.2.2 If a North Atlantic right whale is sighted within 100 m (328 ft) of an underway vessel, the vessel operator must immediately reduce speed and promptly shift the engine to neutral. The vessel operator must not engage the engines until the North Atlantic right whale has moved beyond 100 m (328 ft), at which point the Lessee must comply with 4.4.5.2.1 above.
 - 4.4.5.2.3 If a vessel is stationary, the vessel operator must not engage engines until the North Atlantic right whale has moved beyond 100 m (328 ft), at which point the Lessee must comply with 4.4.5.2.1 above.

4.4.6 Non-delphinoid Cetaceans (Whales) other than the North Atlantic Right Whale.

4.4.6.1 The Lessee must ensure all vessels maintain a separation distance of 100 m (328 ft) or greater from any sighted non-delphinoid cetacean.

4.4.6.2 The Lessee must ensure that all vessel operators reduce vessel speed to 10 knots (18.5 km/hr) or less when mother/calf pairs, pods, or large assemblages of non-delphinoid cetaceans are observed near an underway vessel.

4.4.6.3 The Lessee must ensure that the following avoidance measures are taken if a vessel comes within 100 m (328 ft) of any sighted non-delphinoid cetacean:

4.4.6.3.1 If underway, the vessel must reduce speed and shift the engine to neutral, and must not engage the engines until the non-delphinoid cetacean has moved beyond 100 m (328 ft).

4.4.6.3.2 If stationary, the vessel must not engage engines until the non-delphinoid cetacean has moved beyond 100 m (328 ft).

4.4.7 Delphinoid Cetaceans and Pinnipeds (Dolphins, Porpoises, and Seals).

4.4.7.1 The Lessee must ensure that all vessels underway do not divert to approach any delphinoid cetacean and/or pinniped.

4.4.7.2 The Lessee must ensure that all vessels maintain a separation distance of 50 m (164 ft) or greater from any sighted delphinoid cetacean or pinniped, except if the delphinoid cetacean and/or pinniped approaches the vessel, in which case, the Lessee must follow 4.4.7.3 below.

4.4.7.3 If a delphinoid cetacean and/or pinniped approaches any vessel underway, the vessel must avoid excessive speed or abrupt changes in direction to avoid injury to the delphinoid cetacean and/or pinniped.

4.4.8 Sea Turtles. The Lessee must ensure all vessels maintain a separation distance of 50 m (164 ft) or greater from any sighted sea turtle.

- 4.5 Reporting Requirements for Protected Species. The Lessee must ensure compliance with the reporting requirements in this Section for activities conducted pursuant to the approved decommissioning request.
- 4.5.1 The Lessee must use the contact information provided in Addendum A, or updated contact information as provided by the Lessor, to fulfill these reporting requirements.
- 4.5.2 The Lessee must ensure that sightings of any injured or dead protected species (i.e., marine mammals, sea turtles, or sturgeon) are reported to the Lessor, the Bureau of Safety and Environmental Enforcement (BSEE), NMFS, and the NMFS Northeast Region Stranding Hotline within 24 hours of sighting, regardless of how the injury or death was caused. The Lessee must use the form provided in Addendum B to report the sighting or incident. If the Lessee’s activity is responsible for the injury or death, the Lessee must ensure that the vessel assists in any salvage effort as requested by NMFS.
- 4.5.3 The Lessee must ensure that the observer report any observed takes, other than injury or mortality, of Endangered Species Act-listed marine mammals, sea turtles, or sturgeon to the Lessor, BSEE, and NMFS Northeast Regional Stranding Hotline within 48 hours.

5. Marine Trash and Debris Prevention

The Lessee must ensure that vessel operators, employees, and contractors engaged in activities pursuant to the approved decommissioning request are briefed on marine trash and debris awareness and elimination, as described in the Bureau of Safety and Environmental Enforcement Notice to Lessees and Operators (NTL) No. 2015-G03 (“Marine Trash and Debris Awareness and Elimination”) or any NTL that supersedes this NTL, except that the Lessor will not require the Lessee or its vessel operators, employees, and contractors to undergo formal training or post placards. The Lessee must ensure that its employees and contractors are made aware of the environmental and socioeconomic impacts associated with marine trash and debris, and of their responsibilities for ensuring that trash and debris are not intentionally or accidentally discharged into the marine environment. The above-referenced NTL provides information the Lessee may use for this awareness training.

- 5.1 Reporting. The Lessee must use the contact information provided in Addendum A, or updated contact information as provided by the Lessor, for reporting all marine trash and debris incidents that originate on your lease or in transit between your lease and shore when performing activities related to decommissioning.

Addendum A

Contact Information for Reporting Requirements

- The following contact information must be used for the reporting and coordination requirements specified in Section 3.1 of the Conditions for Decommissioning Application approval:

U.S. Fish and Wildlife Service
Supervisor
New England Field Office
70 Commercial St., Suite 300
Concord, New Hampshire 03301

- The following contact information must be used for the reporting requirements in Section 4.5 of the Conditions for Decommissioning Application approval:

Bureau of Ocean Energy Management
Environment Branch for Renewable Energy
Phone: 703-787-1340
Email: renewable_reporting@boem.gov

Bureau of Safety and Environmental Enforcement
Email: OSWIncidentReporting@bsee.gov

National Marine Fisheries Service
Northeast Regional Office, Protected Resources Division
Section 7 Coordinator
Phone: 978-281-9328
Email: incidental.take@noaa.gov

National Oceanic and Atmospheric Administration (NOAA) Fisheries
Northeast Region's Stranding Hotline
866-755-6622

Vessel operators may send a blank email to ne.rw.sightings@noaa.gov for an automatic response listing all current Dynamic Management Areas.

- The following contact information must be used for the reporting requirements in Section 5.1 of the Conditions for Decommissioning Application approval:

Bureau of Safety and Environmental Enforcement
Email: OSWIncidentReporting@bsee.gov

Addendum B

Incident Report: Protected Species Injury or Mortality

Photographs/Video should be taken of all injured or dead animals.

Observer's full name: _____

Reporter's full name: _____

Species Identification: _____

Name and type of platform: _____

Date animal observed: _____ Time animal observed: _____

Date animal collected: _____ Time animal collected: _____

Environmental conditions at time of observation (*i.e., tidal stage, Beaufort Sea State, weather*):

Water temperature (°C) and depth (m/ft) at site: _____

Describe location of animal and events 24 hours leading up to, including and after, the incident (*incl. vessel speeds, vessel activity, and status of all sound source use*): _____

Photograph/Video taken: YES / NO If Yes, was the data provided to NMFS? YES / NO
(Please label species, date, geographic site, and vessel name when transmitting photo and/or video)

Date and Time reported to NMFS Stranding Hotline: _____

Sturgeon Information: (*please designate centimeters (cm)/m or inches and kilograms (kg) or pounds (lbs)*)

Species: _____

Fork length (*or total length*): _____ Weight: _____

Condition of specimen/description of animal: _____

Fish Decomposed: NO SLIGHTLY MODERATELY SEVERELY

Fish tagged: YES / NO If Yes, please record all tag numbers.

Tag #(s): _____

Genetic samples collected: YES / NO

Genetics samples transmitted to: _____ on ____/____/202__

Sea Turtle Species Information: (please designate cm/m or inches)

Species: _____ Weight (kg or lbs): _____

Sex: Male Female Unknown

How was sex determined? _____

Straight carapace length: _____ Straight carapace width: _____

Curved carapace length: _____ Curved carapace width: _____

Plastron length: _____ Plastron width: _____

Tail length: _____ Head width: _____

Condition of specimen/description of animal: _____

Existing Flipper Tag Information:

Left: _____ Right: _____

PIT Tag#: _____

Miscellaneous:

Genetic biopsy collected: YES NO Photographs taken: YES NO

Turtle Release Information:

Date: _____ Time: _____

Latitude: _____ Longitude: _____

State: _____ County: _____

Remarks: (note if turtle was involved with tar or oil, gear or debris entanglement, wounds, or mutilations, propeller damage, papillomas, old tag locations, etc.) _____

Marine Mammal information: (please designate cm/m or ft/inches)

Length of marine mammal (note direct or estimated): _____

Weight (if possible, kg or lbs): _____

Sex of marine mammal (if possible): _____

How was sex determined? _____

Confidence of Species Identification: SURE UNSURE BEST GUESS

Description of Identification characteristics of marine mammal: _____

Genetic samples collected: YES / NO

Genetic samples transmitted to: _____ on ____ / ____ /202__

Fate of marine mammal: _____

Description of Injuries Observed: _____

Other Remarks/Drawings: _____
