



# United States Department of the Interior

BUREAU OF OCEAN ENERGY MANAGEMENT

WASHINGTON, DC 20240-0001

**JUL 18 2019**

Mr. Thomas Brostrøm  
Bay State Wind LLC  
One International Place  
100 Oliver Street, Suite 2610  
Boston, Massachusetts 02110

Dear Mr. Brostrøm:

I am writing on behalf of the Bureau of Ocean Energy Management (BOEM), Office of Renewable Energy Programs regarding Bay State Wind LLC's (Bay State Wind) decommissioning request submitted pursuant to 30 C.F.R. § 585.902(d) and regulatory departure requests submitted on May 3, 2019, pursuant to 30 C.F.R. § 585.103. BOEM has determined that the decommissioning request submitted on May 3, 2019, includes information sufficient to meet the requirements of both a decommissioning application and a decommissioning notice in accordance with 30 C.F.R. §§ 585.906 and 585.908. As such, BOEM has determined that Bay State Wind's requested regulatory departure from the requirements of 30 C.F.R. § 585.902(b) is not necessary. Through this letter, BOEM approves the decommissioning application provided by Bay State Wind within its decommissioning request.

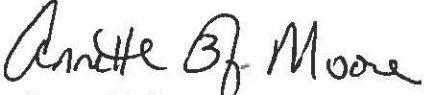
BOEM also approves Bay State Wind's request for a regulatory departure from the requirement 30 C.F.R. § 585.902(d) and § 585.908(a) to submit its decommissioning notice at least 60 days in advance of commencing decommissioning activities and only after the decommissioning application is approved. Bay State Wind has requested that its decommissioning notice be deemed submitted along with its decommissioning application as part of its decommissioning request, and has asserted that the above-cited regulations are duplicative and administratively over burdensome when applied to its proposed buoy decommissioning. BOEM finds that the requested departure would facilitate appropriate lease activities in accordance with 30 C.F.R. § 585.103(a)(1) by streamlining the decommissioning process and allowing Bay State 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 Bay State 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. Bay State Wind may thus commence decommissioning activities pursuant to its decommissioning application as of the date of this letter.

In accordance with 30 C.F.R. § 585.912 and consistent with Section 6.2 of the approved site assessment plan, within 60 days of removal of the WindSentinel™ buoys, you must submit to BOEM 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 you took. Pursuant to 30 C.F.R. § 585.910(b), you must verify to BOEM that you have cleared the site within 60 days

after you remove the WindSentinel™ buoys. Additional conditions of approval are enclosed with this letter.

Please contact Ms. Meredith Lilley at [meredith.lilley@boem.gov](mailto:meredith.lilley@boem.gov) or (703) 787-1037 should you have any questions.

Sincerely,

  
602 James F. Bennett  
Program Manager  
Office of Renewable Energy Programs

Enclosure: Conditions of Decommissioning Application Approval

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

Conditions of Decommissioning Application Approval

Lease Number OCS-A 0500

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. MARINE MAMMALS AND SEA TURTLES

Attachments:

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2. 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 may consist of one or more of the following: a photographic bottom survey, site-clearance trawling, or high-resolution sidescan or sector-scanning sonar survey.

## **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 OCS Lands Act (30 CFR § 585.802(c-d)).

## **3. Marine Mammals and Sea Turtles**

- 3.1 Prior to conducting activities pursuant to the decommissioning application, 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.

- 3.2 The Lessee must ensure that all vessel operators and crew members are familiar with, and understand, the requirements specified in Section 3 of these conditions.
- 3.3 The Lessee must ensure that a copy of Section 3 of these conditions is made available on every project-related vessel.
- 3.4 Marine Debris Prevention. The Lessee must ensure that vessel operators, employees, and contractors engaged in activities pursuant to the decommissioning application are briefed on marine trash and debris awareness elimination, as described in the Bureau of Safety and Environmental Enforcement Notice to Lessee (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 aware of the environmental and socioeconomic impacts associated with marine trash and debris, and their responsibilities for ensuring that trash and debris are not intentionally or accidentally discharged into the marine environment.
- 3.5 Requirements for Vessel Strike Avoidance. The Lessee must ensure that all vessels conducting activities pursuant to the decommissioning application, 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.
  - 3.5.1 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.
  - 3.5.2 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.
  - 3.5.3 The Lessee must ensure that between November 1 and July 31 vessel operators monitor 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.
  - 3.5.4 The Lessee must ensure that all vessel operators comply with 10 knot (18.5 km/hr) speed restrictions in any Dynamic Management Area.
  - 3.5.5 North Atlantic right whales.
    - 3.5.5.1 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.
    - 3.5.5.2 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:

- 3.5.5.2.1 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 3.5.5.2.2 below applies).
- 3.5.5.2.2 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 3.5.5.2.1 above.
- 3.5.5.2.3 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 3.5.5.2.1 above.
- 3.5.6 Non-delphinoid cetaceans (whales) other than the North Atlantic right whale.
- 3.5.6.1 The Lessee must ensure all vessels maintain a separation distance of 100 m (328 ft) or greater from any sighted non-delphinoid cetacean.
- 3.5.6.2 The Lessee must ensure that all vessel operators reduce vessel speed to 10 knots or less when mother/calf pairs, pods, or large assemblages of non-delphinoid cetaceans are observed near an underway vessel.
- 3.5.6.3 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:
- 3.5.6.3.1 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).
- 3.5.6.3.2 If stationary, the vessel must not engage engines until the non-delphinoid cetacean has moved beyond 100 m (328 ft).
- 3.5.7 Delphinoid cetaceans and Pinnipeds (dolphins, porpoises, and seals).
- 3.5.7.1 The Lessee must ensure that all vessels underway do not divert to approach any delphinoid cetacean and/or pinniped.
- 3.5.7.2 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 3.5.7.3 below.
- 3.5.7.3 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.
- 3.5.8 Sea Turtles. The Lessee must ensure all vessels maintain a separation distance of 50 m (164 ft) or greater from any sighted sea turtle.

- 3.6 Reporting Requirements for Protected Species. The Lessee must ensure compliance with the reporting requirements in this Section for activities conducted pursuant to the decommissioning plan.
- 3.6.1 The Lessee must use the contact information provided as Addendum A, or updated contact information as provided by the Lessor, to fulfill these reporting requirements.
- 3.6.2 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, 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.
- 3.6.3 The Lessee must ensure that the observer report any observed takes, other than injury or mortality, of ESA-listed marine mammals, sea turtles, or sturgeon to the Lessor and NMFS Northeast Regional Stranding Hotline within 48 hours.

## **Addendum A**

### **Contact Information for Reporting Requirements**

The following contact information must be used for the reporting requirements in Section 3.6.1 of the Conditions for Site Assessment Plan approval:

#### **Reporting Injured or Dead Protected Species**

NOAA Fisheries Northeast Region's Stranding Hotline  
866-755-6622

#### **All other reporting requirements in Section 4**

Bureau of Ocean Energy Management  
Environment Branch for Renewable Energy  
Phone: 703-787-1340  
Email: [renewable\\_reporting@boem.gov](mailto:renewable_reporting@boem.gov)

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

Vessel operators may send a blank email to [ne.rw.sightings@noaa.gov](mailto:ne.rw.sightings@noaa.gov) for an automatic response listing all current DMAs.



**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 cm/m or inches and kg or 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 \_\_\_\_ / \_\_\_\_ /201 \_\_\_\_

**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 \_\_\_\_ / \_\_\_\_ /201 \_\_\_\_

Fate of marine mammal: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Description of Injuries Observed: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Other Remarks/Drawings: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_