



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
GREATER ATLANTIC REGIONAL FISHERIES OFFICE
55 Great Republic Drive
Gloucester, MA 01930

November 1, 2021

James F. Bennett
Program Manager, Office of Renewable Energy Programs
U.S. Department of the Interior
Bureau of Ocean Energy Management
Washington, D.C. 20240-0001

Re: Correction of Endangered Species Act section 7 consultations for the South Fork project and the Vineyard Wind 1 project

Dear Mr. Bennett:

In a letter dated October 1, 2021, we transmitted to you our Biological Opinion on the South Fork Wind Farm project, and in a letter dated October 18, 2021, we transmitted our Biological Opinion on the Vineyard Wind 1 project. The issuance of each Opinion marked the end of the Endangered Species Act section 7 consultation between the Bureau of Ocean Energy Management (BOEM), as lead action agency, and the National Marine Fisheries Service's Greater Atlantic Regional Fisheries Office (NMFS GARFO), as consulting agency.

Following the issuance of the Opinions and letters, we identified several non-substantive errors in the Opinions and letters. To avoid any confusion, we have corrected the two Opinions and associated cover letters. Below, we describe what corrections were made for each document. In addition, on October 14, 2021, an environmental manager with Orsted, the developer of the South Fork project, asked whether we would amend a term and condition of the Incidental Take Statement (ITS) in the South Fork Biological Opinion. After conferring with your staff, we amended that ITS as described below.

Corrections to the South Fork Biological Opinion

We identified and corrected a number of minor typographical errors, including corrections to several table numbers. We also added a few references to the Literature Cited that were cited in the Opinion but missed in the list of literature cited. Additionally, we made the following corrections:

- Added text to Table 3.2.13 to clarify that the proposed take described in this table is inclusive of MMPA Level B harassment from exposure to HRG surveys. We also added a footnote regarding the erroneous inclusion of blue whales in the proposed IHA; this issue is fully addressed in section 7.1 of the Opinion.
- Deleted the section (5.1.5) that provided information on the status of blue whales. As described in section 4.0 of the Opinion, we concluded that the proposed action is not likely to adversely affect blue whales; we included the species in section 5 in error.



- Replaced text in the section that describes the status of sei whales (5.1.3) where the recovery plan and 5-year review for fin whales had been described. This text was replaced with descriptions of the recovery plan and 5-year review for sei whales.
- In the section describing the status of Atlantic sturgeon (5.3), we corrected a paragraph that describes the distribution of Atlantic sturgeon from the various distinct population segments that occur in the action area. The information in section 5.3 now matches the information presented in section 7.5 of the Opinion where we used information from Kazyak et al. (2021) to estimate take of Atlantic sturgeon by DPS.
- In section 9.1, we corrected a sentence that incorrectly described the number of Atlantic sturgeon expected to be captured in trawl surveys and the number of Atlantic sturgeon expected to be killed in gillnet surveys. The numbers now are consistent with the analysis presented in section 7.5.
- In section 9.3, we corrected a sentence that incorrectly described the number of sea turtles anticipated to be killed by project vessels to reflect the estimates described in section 7.2 of the Opinion.
- In section 11.0, we replaced an incorrect reference to “Vineyard Wind” with “South Fork.”
- In section 11.1, we added a sentence to clarify that the total number of mortalities of Atlantic sturgeon anticipated was five in the gillnet surveys.

Corrections to the October 1, 2021, Cover Letter for South Fork

In the cover letter, we corrected the reference to Gulf of Mexico Bryde’s whales to Rice’s whales to reflect the recent name change. We also added the Gulf of Maine DPS of Atlantic sturgeon to the list of resources that we determined would not be affected by the proposed action.

Corrections to the Vineyard Wind 1 Biological Opinion

We identified and corrected a number of minor typographical errors and corrections to figure numbers. We also added a few references to the Literature Cited that were cited in the Opinion but missed in the list of literature cited. Additionally we made the following corrections:

- In section 5.2.3, we added text to clarify that critical habitat for the Northwest Atlantic DPS of loggerhead sea turtles is outside the action area.
- In section 5.3, we added text to clarify that critical habitat for the five DPSs of Atlantic sturgeon is outside the action area.
- In section 9.3.2, we corrected a sentence describing the anticipated number of green sea turtles to be struck by project vessels from one to two; the correct number (two) is described throughout the rest of that section.

Corrections to the October 18, 2021, Cover Letter for Vineyard Wind 1

In the cover letter, we added the giant manta ray, hawksbill sea turtle, and Gulf of Maine DPS of Atlantic sturgeon to the list of resources that we determined would not be affected by the proposed action. We also replaced two incorrect references to South Fork with Vineyard Wind.

Amendment of the South Fork ITS

As indicated above, on October 14, 2021, an environmental manager with Orsted, the developer of the South Fork project, asked whether we would amend a term and condition of the Incidental

Take Statement (ITS) in the South Fork Biological Opinion related to trained observers that must be positioned on vessels during fishery resource monitoring surveys. Specifically, Term and Condition 13 in Section 11.4 of the South Fork Opinion's ITS states:

"13. To implement the requirements of RPM 3, each survey vessel undertaking trawl, gillnet, or trap/pot surveys must carry at least one NEFOP-trained observer (i.e., someone who has completed observer training in the last 5 years)."

Orsted noted that the scientists involved in their fisheries surveys already have extensive knowledge of the gear, fish identification, and sampling protocols at sea, and they have undergone rigorous safety training. Orsted asked whether their scientists could take more targeted training that focused on the protected species, entanglement, resuscitation, and genetic sampling components of the NEFOP training to meet the requirements of the BiOp RPMs, rather than the full Northeast Fisheries Observer Program (NEFOP) curriculum. After conferring with your staff, we amended Term and Condition 13 of the South Fork ITS to allow additional flexibility without compromising training quality and the purpose of the requirement. We also included a requirement to submit a training plan to NMFS before the fisheries surveys begin. Revised Term and Condition 13 now reads,

13 (revised). To implement the requirements of RPM 3, at least one of the survey staff onboard the trawl surveys and ventless trap surveys must have completed NEFOP-observer training (within the last 5 years) or other training in protected species identification and safe handling (inclusive of taking genetic samples from Atlantic sturgeon). Reference materials for identification, disentanglement, safe handling, and genetic sampling procedures must be available on board each survey vessel. BOEM will ensure that South Fork prepares a training plan that addresses how this requirement will be met and that the plan is submitted to NMFS in advance of any trawl or trap surveys. This requirement is in place for any trips where gear is set or hauled.

The amended ITS is included in the corrected South Fork Opinion enclosed here.

Status of Corrected and Amended Documents

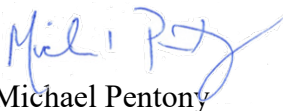
Enclosed with this letter are the corrected Vineyard Wind cover letter, the corrected Vineyard Wind 1 Biological Opinion, the corrected South Fork cover letter, and the corrected South Fork Biological Opinion, including its amended ITS. All of the corrections are non-substantive and address editorial mistakes and do not necessitate any changes to the substance of the analysis or the conclusions of each Opinion. Therefore, the enclosed corrected documents supersede those provided to you on October 1, 2021, for South Fork and on October 18, 2021, for Vineyard Wind 1, although the dates of issuance remain the same. To avoid confusion with regard to versions of the Opinions and cover letters, we have inserted the word "Corrected" in the subject lines of the cover letters and in titles of each Opinion. With regard to the South Fork ITS, we inserted the phrase, "Amended November 1, 2021" in the ITS section heading. We would appreciate it if you would replace the original versions of these documents with the corrected/amended versions on your website and distribute them to the project developers and other action agencies.

Comments Regarding the Biological Opinions and ESA Section 7 Regulations

External comments have addressed our Biological Opinions for offshore wind projects and the revisions to the ESA section 7 regulations at 50 CFR part 402 adopted on August 27, 2019 (84 FR 44976) (the 2019 Rule). Pursuant to Executive Order 13990, NMFS currently is reviewing those revisions. For purposes of the South Fork and Vineyard Wind consultations, we also considered whether the substantive analysis and its conclusions regarding the effects of the proposed actions articulated in each Opinion and its ITS would be any different under the 50 CFR part 402 regulations as they existed prior to the 2019 Rule. We want to take this opportunity to assure you that we determined they would not be any different.

We appreciate the cooperation of your staff throughout the consultation process, and I look forward to continuing to work with you as this project moves forward. Any questions regarding this letter or the Biological Opinions can be directed to Julie Crocker in our Protected Resources Division at (978) 282-8480 or by e-mail (Julie.Crocker@noaa.gov).

Sincerely,



Michael Pentony
Regional Administrator

cc: Crocker, Tuxbury, Anderson – F/GAR
Hooker, Morin – BOEM
Degnitz – BSEE
Timmermann – EPA
Harrison – F/OPR
LeBlanc – USCG
Jacek – USACE

Enclosures (4)

File Code: Section 7 BOEM Formal – South Fork
GARFO-2021-00353 and Section 7 BOEM Formal – Vineyard Wind 1
GARFO-2021-01265