

Appendix A. Required Environmental Permits and Consultations

A.1. Required Environmental Permits

Table A-1 includes a summary of federal, state, and local permits or approvals that are required for Project implementation.

Table A-1 Required Environmental Permits for the Proposed Project

Agency/Regulatory Authority	Permit/Approval	Status
Federal (Portions of the Project within Federal Jurisdiction)		
BOEM	COP Approval	COP filed with BOEM on December 17, 2020. Updates to the COP were submitted on June 29, 2021, October 29, 2021, December 3, 2021, May 6, 2022, February 28, 2023, and July 31, 2023. BOEM's decision to approve, approve with modifications, or disapprove the COP is anticipated by January 29, 2024.
BSEE	Oil Spill Response Plan	Planned.
BSEE	Safety Management System	Planned.
BSEE	Facility Design Report and Fabrication and Installation Report non-objection	Planned.
FAA	FAA Form 7460-1, Notice of Proposed Construction or Alteration (for Hazard to Air Navigation Determination)	Submitted on April 5, 2022, and determinations received on May 10, 2022.
NMFS	MMPA Section 101(a)(5) Letter of Authorization	Dominion Energy submitted a Letter of Authorization application to NMFS on February 16, 2022. The application was reviewed and considered complete on August 12, 2022. NMFS published a Notice of Receipt in the <i>Federal Register</i> on September 15, 2022. NMFS published the proposed Incidental Take Regulations in the <i>Federal Register</i> on May 4, 2023. Issuance of the Letter of Authorization is anticipated by February 5, 2024.
USACE - Norfolk District	CWA Section 404 Permit and RHA Section 10 Permit	The initial RHA Section 10 and CWA Section 404 application was submitted on May 17, 2022. The complete application was received on August 31, 2022 and USACE published a Public Notice on September 15, 2022. Issuance of the permit decision is anticipated by January 29, 2024.

Agency/Regulatory Authority	Permit/Approval	Status
USACE - Norfolk District	CWA Section 408 Permit	The initial application was submitted on May 17, 2022. A revised application was submitted on July 15, 2022 and USACE determined it was complete on August 1, 2022. Issuance of the permit decision is anticipated by January 29, 2024.
USCG	PATON authorization	Planned.
USCG	Local Notice to Mariners per Ports and Waterways Safety Act	Planned.
USEPA	CAA OCS Air Permit	The initial air permit application was submitted on January 12, 2023. The air permit application was determined to be complete on February 7, 2023. Issuance of the permit decision is anticipated by February 7, 2024.
State (Portions of the Project within State Jurisdiction)		
VMRC	Submerged Land Permit	Planned.
SCC	Certificate of Public Convenience and Necessity	Application submitted on November 5, 2021 and approved on August 5, 2022.
VDEQ, NCDEQ	CZMA Section 307 Consistency Certification	VDEQ review was started December 12, 2021. A decision is anticipated on July 16, 2023 (four stays agreed upon from March 24, 2022, to May 1, 2023).
VDEQ	Virginia Water Protection Individual Permit	Planned.
VDEQ	CWA Section 401 Water Quality Certification	Planned.
VDEQ	Conformity Determination	Formal determination of applicability will result from further discussion with USEPA and VDEQ.
VDEQ	Emergency Generator General Permit	Planned.
VDEQ	Construction Stormwater General Permit Authorization	Planned.
VDEQ	Stormwater Pollution Prevention Plan	Planned.
VDEQ	Erosion and Sediment Control Plan	Planned.
VDCR	Virginia Scenic Rivers and invasive species consultation; invasive species management plan	Planned.
VDWR	Natural heritage/protected species consultation	Planned.
VDHR	Historic properties consultation	Planned.
VDMA-VaARNG	Consultation for SMR activities	Planned.
VDACS	Consultation	Planned.
VDOF	Consultation	Planned.

Agency/Regulatory Authority	Permit/Approval	Status
Local (Portions of the Project within Local Jurisdiction)		
City of Virginia Beach	Floodplain Development Permit	Planned.
City of Virginia Beach	Land Disturbance Permit	Planned.
City of Virginia Beach	Conditional Use Permit/Site Plan Review	Planned.
Chesapeake	Floodplain Development Permit	Planned.
Chesapeake	Conditional Use Permit/Site Plan Review	Planned.
Local Wetlands Board Virginia Beach	Local Wetlands Approvals	Planned.
Various Virginia Counties / Municipalities, and Virginia Department of Transportation	Transportation permits (use of wide load and similar vehicles on public roads)	Planned.

BOEM = Bureau of Energy Management; BSEE = Bureau of Safety and Environmental Enforcement; COP = Construction and Operations Plan; FAA = Federal Aviation Administration; MMPA = Marine Mammal Protection Act; CWA = Clean Water Act; NCDEQ = North Carolina Department of Environmental Quality; Q = quarter; RHA = Rivers and Harbors Act; SCC = State Corporation Commission; SMR = State Military Reservation; USACE = U.S. Army Corps of Engineers; USCG = U.S. Coast Guard; USEPA = U.S. Environmental Protection Agency; VCADS = Virginia Department of Agriculture and Consumer Services; VDEQ = Virginia Department of Environmental Quality; VDHR = Virginia Department of Historic Resources; VDMA-VaARNG = Virginia Department of Military Affairs-Virginia Army National Guard; VDOF = Virginia Department of Forestry; VDOR = Virginia Department of Forestry; VMRC = Virginia Marine Resources Commission

A.2. Consultation and Coordination

A.2.1 Introduction

This section discusses public and agency involvement leading up to the preparation and publication of the Final Environmental Impact Statement (EIS), including formal consultations, cooperating agency exchanges, the public scoping comment period, and correspondence. This section discusses public involvement in the preparation of this EIS, including BOEM’s responses to public comments, formal consultations, and cooperating agency exchanges. Interagency consultation, coordination, and correspondence throughout the development of this Final EIS occurred primarily through virtual meetings, teleconferences, and written communications (including email). BOEM coordinated with numerous agencies throughout the development of this document, as listed in Section A.2.3.2, *Cooperating Agencies*.

A.2.2 Consultations

The following sections provide summaries and status of each consultation. BSEE is a co-action agency for the ESA and EFH consultations.

A.2.2.1 Coastal Zone Management Act

The Coastal Zone Management Act (CZMA) requires that any applicant for a required federal license or permit to conduct an activity, within the coastal zone or within the geographic location descriptions (i.e., areas outside the coastal zone in which an activity would have reasonably foreseeable coastal effects), affecting any land or water use or natural resource of the coastal zone be consistent with the enforceable policies of a state's federally approved coastal management program. The Virginia Coastal Zone Management Program (CZMP) was established in 1986 and is administered by VDEQ, which serves as the lead agency for the network of Virginia state agencies and local governments that administer the CZMP. The North Carolina CZMP was established in 1978 and is administered by the North Carolina Division of Coastal Management, which serves as the lead agency for the network of North Carolina state agencies and local governments that administer the CZMP. Dominion Energy submitted a Coastal Zone consistency certification in the Coastal Virginia Offshore Wind Project (CVOW-C) COP. Appendix P (Dominion Energy 2023) provides the data and information necessary to certify that the construction, operations and maintenance (O&M), and decommissioning of the Project will be consistent with the CZMP, in accordance with CZMA § 307(c)(3)(A) and 15 Code of Federal Regulations (CFR) § 930, subpart D. VDEQ and the North Carolina DCM will review the reasonably foreseeable effects of the Project on coastal use or resources for consistency with the enforceable policies of the Virginia and North Carolina CZMPs. The state's concurrence is required before BOEM may approve or approve with conditions the CVOW-C COP per 30 CFR 585.628(f) and 15 CFR 930.130(1).

A.2.2.2 Endangered Species Act

Section 7(a)(2) of the Endangered Species Act (ESA) of 1973, as amended (16 United States Code [U.S.C.] 1531 et seq.), requires that each federal agency ensure that any action authorized, funded, or carried out by the agency is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat of those species. When the action of a federal agency may affect a protected species or its critical habitat, that agency is required to consult with either the National Marine Fisheries Service (NMFS) or U.S. Fish and Wildlife Service (USFWS), depending upon the jurisdiction. Pursuant to 50 CFR 402.07, BOEM has accepted designation as the lead federal agency for the purposes of fulfilling interagency consultation under Section 7 of the ESA for listed species under the jurisdiction of NMFS and USFWS. BOEM is consulting on the proposed activities considered in this Final EIS with both NMFS and USFWS and has prepared biological assessments for listed species under their respective jurisdictions. BOEM transmitted the draft biological assessment to NMFS on September 21, 2022, and NMFS received the complete consultation package and initiated consultation on April 4, 2023. BOEM transmitted the draft biological assessment to FWS on August 31, 2022, and USFWS received the complete consultation package and initiated the consultation on March 31, 2023. NMFS's and USFWS's biological opinions were issued on September 1, 2023.

A.2.2.3 Government-to-Government Tribal Consultation

Executive Order 13175 commits federal agencies to engage in government-to-government consultation with tribes when federal actions have tribal implications. A June 29, 2018, memorandum outlines BOEM's current tribal consultation policy (BOEM 2018). This memorandum states that "consultation is a deliberative process that aims to create effective collaboration and informed federal decision-making" and is in keeping with the spirit and intent of Executive Order 13175 (BOEM 2018). BOEM implements tribal consultation policies through formal government-to-government consultation, informal dialogue, collaboration, and other engagement.

BOEM hosted a government-to-government consultation meeting with the Rappahannock Indian Tribe, Pamunkey Indian Tribe, Nansemond Indian Nation, Chickahominy Indian Tribe, Upper Mattaponi Indian

Tribe, Monacan Indian Nation, Delaware Nation, Delaware Tribe of Indians, Mashpee Wampanoag Tribe, Eastern Band Cherokee Indians, Passamaquoddy Tribe, Mashantucket (Western) Pequot Tribal Nation, and Cultural Heritage Partners (who represent several tribes) on September 27, 2021. During the meeting, BOEM presented information about both the CVOW-C and Kitty Hawk Wind projects and discuss scoping comments received from federally recognized tribes for both projects.

BOEM presented on the Project at the USEPA’s Region 3 Regional Tribal Operations Committee meeting on January 10, 2023. Representatives from Nansemond Indian Nation, Chickahominy Indian Tribe, Chickahominy Indian Tribe - Eastern Division, Monacan Indian Nation, Rappahannock Tribe, Pamunkey Indian Tribe, and Upper Mattaponi Indian Tribe were in attendance.

BOEM hosted a government-to-government meeting on January 30, 2023, with representatives from Delaware Tribe of Indians, Nansemond Indian Nation, Chickahominy Indian Tribe, Chickahominy Indian Tribe - Eastern Division, Monacan Indian Nation, Rappahannock Tribe, and Upper Mattaponi Indian Tribe. Multiple tribal representatives expressed concerns related to potential Project impacts on fish, including types of sturgeon, shad, and herring. Multiple tribal representatives wanted more information regarding impacts on historic properties, and requested a complete terrestrial archaeological report and more information on visual impacts.

In response to feedback in the January 30 meeting, BOEM hosted an informal meeting for tribal representatives to discuss potential Project impacts on fisheries on April 10, 2023 (see Table A-2 for a list of attendees). At the meeting, BOEM presented on shortnose and Atlantic sturgeon in the CVOW-C Project area, including results of recent studies on sturgeon populations and habitat use, as well as anticipated types of impacts; all information presented was incorporated into the Final EIS and the NMFS ESA Section 7 Biological Assessment (BOEM 2022). BOEM also presented on other anadromous fish, mollusks, eels, and fish habitat in the CVOW-C Project area; information on potential impacts on these species, as well as shad, river herring, and sea bass, were incorporated into the Final EIS and NMFS ESA Section 7 Biological Assessment. Following the meeting, BOEM provided attendees with the briefing materials used by BOEM and a link to the draft NMFS Section 7 Biological Assessment on BOEM’s website.

Table A-2 Tribal Fisheries Meeting Attendees

Name	Role	Organization
Leigh Mitchell	Natural Resources & Environmental Protection Coordinator	Upper Mattaponi Indian Tribe
Reggie Tupponce	Tribal Administrator	Upper Mattaponi Indian Tribe
Kyle McLemore	Environmental Technician	Upper Mattaponi Indian Tribe
Susan Bachor	Deputy Tribal Historic Preservation Officer	Delaware Tribe of Indians
William Cook	Partner	Cultural Heritage Partners
Olga Symeonoglou	Attorney at Law	Cultural Heritage Partners
Jessica Phillips	Environmental Director	Chickahominy Indian Tribe, Eastern Division
Jack Ryan	Environmental Director	Rappahannock Tribe
Bonnie Houghton	NEPA Coordinator	BOEM
Laura (LK) Schnitzer	Archaeologist	BOEM
Brian Hooker	Lead Biologist	BOEM
Brandon Jensen	Fish Biologist	BOEM
Liz Oliver	Renewable Energy Tribal Liaison	BOEM

Name	Role	Organization
Greg Fulling	Marine Biologist	BOEM
Bettina Washington	Tribal Historic Preservation Officer	Wampanoag Tribe of Gayhead (Aquinnah)
Judith Shapiro	<i>Attending on behalf of:</i>	Shinnecock Nation
Quinn Buchwald	Policy Lead	National Congress of American Indians
Cultural Heritage Partners, PLLC	<i>Attending on behalf of:</i>	Nansemond Indian Nation, Chickahominy Indian Tribe, Chickahominy Indian Tribe-Eastern Division, Monacan Indian Nation, Rappahannock Tribe, and Upper Mattaponi Indian Tribe

A.2.2.4 National Historic Preservation Act

Section 106 of the NHPA (54 U.S.C. 306108) and its implementing regulations (36 CFR 800) require federal agencies to consider the effects of their undertakings on historic properties and afford the Advisory Council on Historic Preservation (ACHP) an opportunity to comment. BOEM has determined that the proposed Project is an undertaking subject to Section 106 review. The construction of WTGs and OSS, installation of inter-array cables, and development of staging areas are ground- or seabed-disturbing activities that may adversely affect archaeological resources. The presence of WTGs may also introduce visual elements out of character with the historic setting of historic structures or landscapes; in cases where historic setting is a contributing element of historic properties’ eligibility for the NRHP, the Project may adversely affect those historic properties.

The Section 106 regulations at 36 CFR 800.8 provide for use of the NEPA substitution process to fulfill a federal agency’s NHPA Section 106 review obligations in lieu of the procedures set forth in 36 CFR 800.3 through 800.6. This process is commonly known as “NEPA substitution for Section 106”, and BOEM is using this process and documentation required for the preparation of this EIS and the Record of Decision (ROD) to comply with Section 106. Appendix O, *Finding of Adverse Effect for the Coastal Virginia Offshore Wind Commercial Construction and Operations Plan*, of this Final EIS contains BOEM’s Finding of Adverse Effect, which includes a description and summary of BOEM’s consultation. BOEM has consulted with the Virginia State Historic Preservation Office (SHPO), North Carolina SHPO, Advisory Council on Historic Preservation (ACHP), federally recognized tribes, and consulting parties regarding the identification of historic properties, assessment of effects, and avoidance, minimization, and mitigation measures to resolve of adverse effects. BOEM has conducted Section 106 consultation meetings on the Project, the results of historic property identification, the Finding of Adverse Effect, and resolution of adverse effects. Consistent with use of the NEPA substitution process to fulfill Section 106 requirements, BOEM has codified the resolution of adverse effects through a Memorandum of Agreement (MOA) pursuant to 36 CFR 800.6(c). See Appendix O, Attachment A for the MOA.

BOEM fulfilled public involvement requirements for Section 106 of the NHPA through the NEPA public scoping and public meetings process, pursuant to 36 CFR 800.2(d)(3). The Scoping Summary Report (BOEM 2021), available on BOEM’s Project-specific website, summarizes comments related to cultural, historical, and archaeological resources. On June 28, 2021, BOEM contacted ACHP, Virginia SHPO, and North Carolina SHPO to provide Project information, notify of BOEM’s intention to use the NEPA process to fulfill Section 106 obligations in lieu of the procedures set forth in 36 CFR 800.3 through 800.6, and invite these organizations to be consulting parties.

On June 28, 2021, BOEM corresponded with 59 points of contact from governments, non-governmental and preservation organizations, and non-federally recognized tribes by mail and email. The correspondence included information about the Project, an invitation to be a consulting party to the NHPA Section 106 review of the COP, and the Notice of Intent to prepare an EIS. BOEM also used this correspondence to notify of its intention to use the NEPA process for Section 106 purposes, as described in 36 CFR 800.8(c), during its review. To aid those consulting parties not familiar with the NEPA substitution process, BOEM developed a *National Environmental Policy Act (NEPA) Substitution for Section 106 Consulting Party Guide* (available at <https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/NEPA-Substitution-Consulting-Party-Guide.pdf>).

On July 2, 2021, BOEM contacted the following federally recognized tribes by email and mail with information about the Project, an invitation to be a consulting party to the NHPA Section 106 review of the COP, and the Notice of Intent to prepare an EIS: the Eastern Shawnee Tribe of Oklahoma, Shawnee Tribe, Cherokee Nation, Eastern Band of Cherokee Indians, United Keetoowah Band of Cherokee Indians in Oklahoma, Absentee-Shawnee Tribe of Indians of Oklahoma, Delaware Nation, Delaware Tribe of Indians, Shinnecock Indian Nation, Narragansett Indian Tribe, Pamunkey Indian Tribe, Chickahominy Indian Tribe, Chickahominy Indian Tribe – Eastern Division, Upper Mattaponi Indian Tribe, Rappahannock Tribe, Nansemond Indian Nation, Tuscarora Nation, and Monacan Indian Nation. BOEM also used this correspondence to notify of its intention to use the NEPA process for Section 106 purposes, as described in 36 CFR 800.8(c), during its review.

BOEM held NHPA Section 106 consultation meetings with consulting parties on September 9, 2022; December 15, 2022; April 13, 2023; and June 12, 2023; and August 28, 2023. Additional details on the subject of these meetings as well as other milestones in BOEM’s consultation on the Project are summarized in Appendix O, Section O.2.2, *NHPA Section 106 Consultations*.

Participants that have accepted consulting party status for the NHPA Section 106 Consultation are listed in Table A-3. BOEM considers federally recognized tribes to be consulting parties until they request in writing to not consult on the Project. The Absentee-Shawnee Tribe of Indians of Oklahoma and Shawnee Tribe informed BOEM that the Project is outside their respective areas of interest. The Mashantucket (Western) Pequot Tribal Nation informed BOEM they only wish to consult on projects off the coast of New England.

Table A-3 NHPA Section 106 Consulting Parties

Participants in the Section 106 Process	Participating Consulting Parties
SHPOs and state agencies	North Carolina State Historic Preservation Office Virginia Department of Historic Resources
Federal agencies or facilities	Advisory Council on Historic Preservation Bureau of Safety and Environmental Enforcement Colonial National Historic Park NASA Wallops Flight Facility Naval History and Heritage Command (Underwater Archaeology Branch) U.S. Army Corps of Engineers, Eastern Virginia Regulatory Section U.S. Coast Guard U.S. Fish and Wildlife Service U.S. Fleet Forces Command U.S. National Park Service U.S. Navy Region Mid-Atlantic Virginia Army National Guard

Participants in the Section 106 Process	Participating Consulting Parties
Federally recognized tribes	Chickahominy Indian Tribe (represented by Cultural Heritage Partners) Chickahominy Indian Tribe – Eastern Division (represented by Cultural Heritage Partners) Delaware Tribe of Indians Monacan Indian Nation (represented by Cultural Heritage Partners) Nansemond Indian Nation (represented by Cultural Heritage Partners) Pamunkey Indian Tribe Rappahannock Indian Tribe (represented by Cultural Heritage Partners) The Delaware Nation Upper Mattaponi Indian Tribe (represented by Cultural Heritage Partners)
Non-federally recognized tribes	Lumbee Tribe of North Carolina Nottoway Indian Tribe of Virginia Patawomeck Indian Tribe of Virginia The Coharie Tribe
Local governments	Accomack County City of Norfolk City of Virginia Beach Town of Chincoteague Town of Eastville
Nongovernmental organizations or groups	Atlantic Wildfowl Heritage Museum Cavalier Associates, LLC Chesapeake Bay Bridge and Tunnel District Council of Virginia Archaeologists Eastern Shore of Virginia Historical Society Nansemond River Preservation Alliance Outer Banks Conservationists Preservation Virginia Property Owner for House at 4910 Ocean Front Avenue Ruffin 86, LLC Sandbridge Beach Civic League Sandswept, LLC The Historic Cavalier Shores Civic League Virginia African American Cultural Center
Lessee	Dominion Energy

A.2.2.5 Magnuson-Stevens Fishery Conservation and Management Act

Pursuant to Section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), federal agencies are required to consult with NMFS on any action that may result in adverse effects on Essential Fish Habitat (EFH). NMFS regulations implementing the EFH provisions of the MSA can be found at 50 CFR 600. As provided for in 50 CFR 600.920(b), BOEM has accepted designation as the lead agency for the purposes of fulfilling EFH consultation obligations under Section 305(b) of the MSA. Certain OCS activities authorized by BOEM may result in adverse effects on EFH and, therefore, require consultation with NMFS. BOEM developed an EFH Assessment concurrent with the Draft EIS and transmitted the EFH Assessment to NMFS on August 31, 2022. NMFS received the complete EFH Assessment from BOEM and initiated the EFH consultation on April 10, 2023. NMFS issued EFH

conservation recommendations on July 21, 2023. BOEM will respond to NMFS on how it will proceed with the Action, and relevant terms and conditions will be incorporated into the ROD.

A.2.2.6 Marine Mammal Protection Act

Section 101(a) of the MMPA (16 U.S.C. 1361) prohibits persons or vessels subject to the jurisdiction of the United States from taking any marine mammal in waters or on lands under the jurisdiction of the United States or on the high seas (16 U.S.C. 1372(a)(1), (a)(2)). Sections 101(a)(5)(A) and (D) of the MMPA provide exceptions to the prohibition on take, which give NMFS the authority to authorize the incidental but not intentional take of small numbers of marine mammals, provided certain findings are made and statutory and regulatory procedures are met. Incidental Take Authorizations may be issued as either (1) regulations and associated Letters of Authorization, or (2) an Incidental Harassment Authorization. Letters of Authorization may be issued for up to a maximum period of 5 years, and Incidental Harassment Authorizations may be issued for a maximum period of 1 year. NMFS has also promulgated regulations to implement the provisions of the MMPA governing the taking and importing of marine mammals (50 CFR 216) and has published application instructions that prescribe the procedures necessary to apply for an Incidental Take Authorization. Applicants seeking to obtain authorization for the incidental take of marine mammals under NMFS' jurisdiction must comply with these regulations and application instructions in addition to the provisions of the MMPA.

Once NMFS determines an application is adequate and complete, NMFS has a corresponding duty to determine whether and how to authorize take of marine mammals incidental to the activities described in the application. To authorize the incidental take of marine mammals, NMFS evaluates the best available scientific information to determine whether the take would have a negligible impact on the affected marine mammal species or stocks and an immitigable impact on their availability for taking for subsistence uses. NMFS must also prescribe the "means of effecting the least practicable adverse impact" on the affected species or stocks and their habitat, and on the availability of those species or stocks for subsistence uses, as well as monitoring and reporting requirements.

Dominion Energy submitted a Letter of Authorization application to NMFS on February 16, 2022. The application was reviewed and considered complete on August 12, 2022. NMFS published a Notice of Receipt in the *Federal Register* on September 15, 2022. NMFS published the proposed Incidental Take Regulations in the *Federal Register* on May 4, 2023. NMFS plans to publish the final Incidental Take Authorization Regulations in the *Federal Register* by January 5, 2024, and to render the Incidental Take Authorization decision by February 5, 2024.

A.2.3 Development of the Final Environmental Impact Statement

This section provides an overview of the development of the Final EIS, including public scoping, cooperating agency involvement, and distribution of the Final EIS for public review and comment.

A.2.3.1 Scoping

On July 2, 2021, BOEM issued a Notice of Intent (NOI) to prepare an EIS consistent with NEPA regulations (42 U.S.C. 4321 et seq.) to assess the potential impacts of the Proposed Action and alternatives (83 *Federal Register* 13777). The NOI commenced a public scoping process for identifying issues and potential alternatives for consideration in the EIS. The formal scoping period was from July 2, 2021 through August 2, 2021. BOEM held three virtual public scoping meetings to solicit feedback and identify issues and potential alternatives for consideration in the EIS. Throughout this timeframe, federal agencies, state and local governments, and the general public had the opportunity to help BOEM identify potential significant resources and issues, impact producing factors (IPFs), reasonable alternatives (e.g., size, geographic, seasonal, or other restrictions on construction and siting of facilities and activities), and

potential mitigation measures to analyze in the EIS, as well as provide additional information. BOEM also used the NEPA scoping process to initiate the Section 106 consultation process under the NHPA (54 U.S.C. 300101 et seq.), as permitted by 36 CFR 800.2(d)(3), which requires federal agencies to assess the effects of projects on historic properties. Additionally, BOEM informed its Section 106 consultation by seeking public comment and input through the NOI regarding the identification of historic properties or potential effects on historic properties from activities associated with approval of the COP (Dominion Energy 2023). The NOI requested comments from the public in written form, delivered by hand or by mail, or through the <http://regulations.gov> web portal.

BOEM held three virtual scoping meetings on July 12, 14, and 20, 2021. BOEM reviewed and considered all scoping comments in the development of the Draft EIS and used the comments to identify alternatives for analysis. A Scoping Summary Report (BOEM 2021) summarizing the submissions received and the methods for analyzing them is available on BOEM’s website at https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/20211116_Final_Scoping_Report_CVOW.pdf. In addition, all public scoping submissions received can be viewed online at <http://www.regulations.gov> by typing “BOEM-2021-0040” in the search field. As detailed in the Scoping Summary Report, the resource areas or NEPA topics most referenced in the scoping comments include the NEPA/public involvement process; recreation and tourism; mitigation and monitoring; commercial fisheries and for-hire recreational fishing; birds; demographics, employment and economics; and others.

A.2.3.2 Cooperating Agencies

BOEM invited other federal agencies and state, tribal, and local governments to consider becoming cooperating agencies in the preparation of the Final EIS. According to Council on Environmental Quality (CEQ) guidelines, qualified agencies and governments are those with “jurisdiction by law or special expertise” (CEQ 1981). BOEM asked potential cooperating agencies to consider their authority and capacity to assume the responsibilities of a cooperating agency, and to be aware that an agency’s role in the environmental analysis neither enlarges nor diminishes the final decision-making authority of any other agency involved in the NEPA process. BOEM also asked agencies to consider the “Factors for Determining Cooperating Agency Status” in Attachment 1 to CEQ’s January 30, 2002 Memorandum for the Heads of Federal Agencies (CEQ 2002). BOEM held interagency meetings on August 19, 2021, October 18, 2021, and December 17, 2021, to discuss the environmental review process, schedule, responsibilities, consultation, and potential alternatives.

The following federal agencies and state, tribal, and local governments have supported preparation of the Final EIS as cooperating agencies:

- NMFS
- USACE
- Bureau of Safety and Environmental Enforcement (BSEE)
- USEPA
- USCG
- USFWS
- U.S. Department of Defense (DOD)
- Virginia Mines Minerals & Energy Department (VA DMME)

In response to BOEM’s invitation to be a cooperating agency, the National Park Service and the US Navy requested to support the environmental review as a participating agency instead.

NMFS is serving as a cooperating agency pursuant to 40 CFR 1501.8 because the scope of the Proposed Action and alternatives involves activities that have the potential to affect marine resources under its jurisdiction by law and special expertise. As applicable, permits and authorizations are issued pursuant to the MMPA, as amended (16 U.S.C. 1361 et seq.); the regulations governing the taking and importing of marine mammals (50 CFR 216); the ESA (16 U.S.C. 1531 et seq.); and the regulations governing the taking, importing, and exporting of threatened and endangered species (50 CFR 222–226). In accordance with 50 CFR 402, NMFS also serves as the Consulting Agency under Section 7 of the ESA for federal agencies proposing action that may affect marine resources listed as threatened or endangered. NMFS has additional responsibilities to conserve and manage fishery resources of the United States, which include the authority to engage in consultations with other federal agencies pursuant to the MSA and 50 CFR 600 when proposed actions may adversely affect EFH. The MMPA is the only authorization for NMFS that requires NEPA compliance, which may be met via adoption of BOEM’s EIS and issuance of the Record of Decision (ROD).

USACE is serving as a cooperating agency pursuant to 40 CFR 1501.8 because the scope of the Proposed Action and alternatives involves activities that could affect resources under its jurisdiction by law and special expertise. As applicable, permits and authorizations are issued pursuant to Sections 10 and 14 of the RHA and Section 404 of the CWA. As an offshore wind energy project, the Project needs to be situated offshore in the water. Consequently, the fill activities associated with the Project—which consist of the inter-array cables, armoring at the base of the WTG foundations, protective cable armoring for the export cables, and temporary cofferdams—are water dependent. Issuance of Section 10 or Section 404 permits requires NEPA compliance, which will be met via adoption of BOEM’s EIS and issuance of the ROD.

BSEE is serving as a cooperating agency pursuant to 40 CFR 1501.8 because the scope of the Proposed Action and alternatives involves activities that could affect marine resources under its jurisdiction by law and special expertise. The reorganization of the Renewable Energy rules (30 CFR Parts 285, 585, and 586) enacted on January 31, 2023) reassigned existing regulations governing safety and environmental oversight and enforcement of OCS renewable energy activities from BOEM to BSEE.

USEPA is serving as a cooperating agency pursuant to 40 CFR 1501.8 because the scope of the Proposed Action and alternatives involves activities that could affect resources under its jurisdiction by law and special expertise, including air quality and water quality.

USCG is serving as a cooperating agency pursuant to 40 CFR 1501.8 because the scope of the Proposed Action and alternatives involves activities that could affect navigation and safety issues that fall under its jurisdiction by law and special expertise.

USFWS is serving as a cooperating agency pursuant to 40 CFR 1501.8 because the scope of the Proposed Action and alternatives involves activities that could affect resources under its jurisdiction by law and special expertise. USFWS also serves as the Consulting Agency under Section 7 of the ESA for federal agencies proposing actions that may affect terrestrial resources listed as threatened or endangered.

DOD is serving as a cooperating agency pursuant to 40 CFR 1501.8 because it has special expertise with respect to potential impacts that may occur as a result of the Proposed Action.

VA DMME is serving as a cooperating agency pursuant to 40 CFR 1501.8 because it has special expertise with respect to potential impacts that may occur as a result of the Proposed Action.

A.2.3.3 Distribution of the Draft Environmental Impact Statement for Review and Comment

On December 16, 2022, BOEM published a Notice of Availability for the Draft EIS. The Draft EIS was made available in electronic format for public viewing at <https://www.boem.gov/renewable-energy/state-activities/CVOW-C>. Notification was provided as indicated in Appendix K, *List of Agencies, Organizations, and Persons to Whom Copies of the Statement Are Sent*, of the Draft EIS. Hard copies and digital copies of the Draft EIS were delivered to entities as requested. The Notice of Availability commenced the 60-day public review and comment period of the Draft EIS. BOEM held three virtual public hearings to solicit feedback and identify issues for consideration in preparing the Final EIS. Throughout the public review and comment period, government agencies, members of the public, and interested stakeholders had the opportunity to provide comments on the Draft EIS in various ways, including the following:

- In hard copy form, delivered by mail, enclosed in an envelope labeled “CVOW-C EIS” and addressed to Program Manager, Office of Renewable Energy, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, Virginia 20166.
- Through the [regulations.gov](https://www.regulations.gov) web portal by navigating to <https://www.regulations.gov/>, searching for docket number “BOEM-2022-0069,” and submitting a comment.
- By attending one of the virtual public hearings held on Wednesday, January 25, 2023; Tuesday, January 31, 2023; and Thursday, February 2, 2023, and providing written or verbal comments.

BOEM reviewed and considered all comment submissions in the development of the Final EIS, except those from anonymous sources. BOEM’s evaluation of public submissions focused on those comments in the submissions that were identified as substantive. EIS Appendix N describes the public comment processing methodology and includes comment responses. All public comment submissions received on the Draft EIS can be viewed online at <https://www.regulations.gov> by typing “BOEM-2022-0069” in the search field.

A.2.3.4 Distribution of the Final Environmental Impact Statement

The EIS is available in electronic form for public viewing at <https://www.boem.gov/renewable-energy/state-activities/CVOW-C>. Hard copies and digital copies of the Final EIS can be requested by contacting the Program Manager, Office of Renewable Energy Programs in Sterling, Virginia. Publication of the Final EIS initiates a minimum 30-day mandatory waiting period, during which BOEM is required to pause before issuing a ROD. The ROD will state clearly whether BOEM intends to approve, approve with conditions, or disapprove the COP for construction, operation, and eventual decommissioning of the Project. Notification will be provided as indicated in Appendix K of the Final EIS.

A.3. References Cited

Bureau of Ocean Energy Management (BOEM). 2018. *Tribal Consultation Guidance*. June 29, 2018.

Available: <https://www.boem.gov/sites/default/files/about-boem/Public-Engagement/Tribal-Communities/BOEM-Tribal-Consultation-Guidance-with-Memo.pdf>.

Bureau of Ocean Energy Management (BOEM). 2021. *Coastal Virginia Offshore Wind Commercial Project Construction and Operations Plan Scoping Report*. Available:

https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/20211116_Final_Scoping_Report_CVOW.pdf.

- Bureau of Ocean Energy Management (BOEM). 2022. *Draft Coastal Virginia Offshore Wind Commercial Project Biological Assessment*. September 2022. 147 pp.
- Council on Environmental Quality (CEQ). 1981. *Memorandum to Agencies: Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulation*. Amended 1986. Available: <https://www.energy.gov/nepa/downloads/forty-most-asked-questions-concerning-ceqs-national-environmental-policy-act>. Accessed: August 2021.
- Council on Environmental Quality (CEQ). 2002. *Memorandum for the Heads of Federal Agencies: Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act*. Available: https://www.energy.gov/sites/prod/files/nepapub/nepa_documents/RedDont/G-CEQ-CoopAgenciesImplem.pdf. Accessed: September 11, 2020.
- Dominion Energy, Inc. (Dominion Energy). 2023. *Construction and Operations Plan, Coastal Virginia Offshore Wind Commercial Project*. Prepared by Tetra Tech, Inc. July.