

**FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

*SEDAR address:* 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

**FOR FURTHER INFORMATION CONTACT:** Julie A. Neer, SEDAR Coordinator; phone: (843) 571-4366; email: [Julie.neer@safmc.net](mailto:Julie.neer@safmc.net).

**SUPPLEMENTARY INFORMATION:** The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop; (2) Assessment Process utilizing webinars; and (3) Review Workshop. The product of the Data Workshop is a data report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion for the webinar are as follows:

Participants will discuss modeling approaches for use in the assessment of Gulf of Mexico red snapper.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal

action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

#### Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 10 business days prior to each workshop.

**Note:** The times and sequence specified in this agenda are subject to change.

*Authority:* 16 U.S.C. 1801 *et seq.*

Dated: May 8, 2023.

#### Key Israel Marquez,

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XC892]

#### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Marine Site Characterization Surveys Off the Coast of Delaware

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; issuance of incidental harassment authorization.

**SUMMARY:** NMFS has received a request from Ørsted Wind Power North America, LLC (Ørsted) and its designees, Garden State Offshore Energy, LLC (Garden State) and Skipjack Offshore Energy, LLC (Skipjack), for the re-issuance of a previously issued incidental harassment authorization (IHA) with the only change being effective dates. The initial IHA authorized take of marine mammals incidental to marine site characterization surveys in coastal waters off of Delaware and New Jersey. The project has been delayed and none of the work covered in the initial IHA has been conducted. The scope of the activities and anticipated effects remain the same, authorized take numbers are

not changed, and the required mitigation, monitoring, and reporting remains the same as included in the initial IHA. NMFS is, therefore, issuing a second identical IHA to cover the incidental take analyzed and authorized in the initial IHA.

**DATES:** This authorization is effective from May 10, 2023, through May 9, 2024. The initial IHA was effective from May 10, 2022, through May 9, 2023. Ørsted has requested issuance with new effective dates of May 10, 2023, through May 9, 2024.

**ADDRESSES:** An electronic copy of the final 2022 IHA previously issued to Ørsted, Ørsted's application, and the **Federal Register** notices proposing and issuing the initial IHA may be obtained by visiting <https://www.fisheries.noaa.gov/action/incidental-take-authorization-orsted-wind-power-north-america-llc-marine-site>. In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

**FOR FURTHER INFORMATION CONTACT:** Alyssa Clevestine, Office of Protected Resources, NMFS, (301) 427-8401.

#### SUPPLEMENTARY INFORMATION:

##### Background

Sections 101(a)(5)(A) and (D) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring, and reporting of such takings are set forth.

NMFS has defined "negligible impact" in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term “take” means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

### Summary of Request

On September 16, 2021, NMFS published final notice of our issuance of an IHA authorizing take of 16 species of marine mammals incidental to marine site characterization surveys in coastal waters off of Delaware in the areas of the Bureau of Ocean Energy Management (BOEM) Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS)-A 0482 and 0519 and along potential export cable routes to landfall locations in Delaware and New Jersey (87 FR 30182). The effective dates of that IHA were May 10, 2022, through May 9, 2023. On February 23, 2023, Ørsted informed NMFS that the project was delayed. None of the work identified in the initial IHA (*i.e.*, geophysical, geotechnical, and geohazard data collection) has occurred. Ørsted submitted a request to re-issue the IHA, which would be effective from May 10, 2023, through May 9, 2024, in order to conduct the marine site characterization survey work that was analyzed and authorized through the previously issued IHA.

### Summary of Specified Activity and Anticipated Impacts

The planned activities (including mitigation, monitoring, and reporting), authorized incidental take, and anticipated impacts on the affected stocks are the same as those analyzed and authorized through the previously issued IHA.

As part of their overall marine site characterization survey operations, Ørsted plans to conduct high-resolution geophysical (HRG) and geotechnical surveys in Lease Areas OCS-A 0482 and 0519, and the associated export cable route areas. The purpose of the marine site characterization surveys is to collect data concerning seabed (geophysical, geotechnical, and geohazard), ecological, and archeological conditions

within the footprint of offshore wind facility development. Surveys are also conducted to support engineering design and to map Unexploded Ordnance (UXO).

The location, timing, and nature of the activities, including the types of equipment planned for use, are identical to those described for the initial IHA. The mitigation and monitoring are also as prescribed in the initial IHA.

Species that have the potential to be taken by the planned activities can be found in the initial 2022 **Federal Register** notices (87 FR 15922; 87 FR 30182). A description of the methods and inputs used to estimate take anticipated to occur and, ultimately, the take that was authorized is found in the previous documents referenced above. NMFS has reviewed recent Stock Assessment Reports, information on relevant Unusual Mortality Events, and recent scientific literature, and determined that no new information affects our original analysis of impacts under the initial IHA.

We refer to the documents related to the previously issued IHA, which include the **Federal Register** notice of the issuance of the initial 2022 IHA for Ørsted’s construction work (87 FR 30182), Ørsted’s application, the **Federal Register** notice of the proposed IHA (87 FR 15922), and all associated references and documents.

On August 1, 2022, NMFS announced proposed changes to the existing NARW vessel speed regulations to further reduce the likelihood of mortalities and serious injuries to endangered NARWs from vessel collisions, which are a leading cause of the species’ decline and a primary factor in an ongoing Unusual Mortality Event (87 FR 46921). Should a final vessel speed rule be issued and become effective during the effective period of this IHA (or any other MMPA incidental take authorization), the authorization holder would be required to comply with any and all applicable requirements contained within the final rule. Specifically, where measures in any final vessel speed rule are more protective or restrictive than those in this or any other MMPA authorization, authorization holders would be required to comply with the requirements of the rule. Alternatively, where measures in this or any other MMPA authorization are more restrictive or protective than those in any final vessel speed rule, the measures in the MMPA authorization would remain in place. The responsibility to comply with the applicable requirements of any vessel speed rule would become effective immediately upon the effective date of any final vessel speed rule and, when

notice is published of the effective date, NMFS would also notify COSW if the measures in the speed rule were to supersede any of the measures in the MMPA authorization such that they were no longer applicable.

### Determinations

Ørsted will conduct activities as analyzed in the initial 2022 IHA. As described above, the number of authorized takes of the same species and stocks of marine mammals are identical to the numbers that were found to meet the negligible impact and small numbers standards and authorized under the initial IHA and no new information has emerged that would change those findings. The issued 2023 IHA includes identical required mitigation, monitoring, and reporting measures as the initial IHA, and there is no new information suggesting that our analysis or findings should change.

Based on the information contained here and in the referenced documents, NMFS has determined the following: (1) the required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; and (4) Ørsted’s activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action.

### National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216-6A, NMFS must review our proposed action with respect to environmental consequences on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental take authorizations with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216-6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS determined that the issuance of the initial IHA qualified to be categorically excluded from further NEPA review.

NMFS has determined that the application of this categorical exclusion remains appropriate for this IHA.

### Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

NMFS Office of Protected Resources previously determined that issuance of the initial 2022 IHA falls within the scope of activities analyzed in NMFS Greater Atlantic Regional Fisheries Office's programmatic consultation regarding geophysical surveys along the U.S. Atlantic coast in the three Atlantic Renewable Energy Regions (completed June 29, 2021; revised September 2021).

### Authorization

NMFS has issued an IHA to Ørsted for marine site characterization survey activities associated with the specified activity from May 10, 2023, through May 9, 2024. All previously described mitigation, monitoring, and reporting requirements from the initial 2022 IHA are incorporated.

Dated: May 5, 2023.

**Kimberley Damon-Randall,**

*Director, Office of Protected Resources,  
National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### ENVIRONMENTAL PROTECTION AGENCY

### Coastal Nonpoint Pollution Control Program: Proposal To Find That Michigan Has Satisfied Conditions on Earlier Approval

**AGENCY:** National Oceanic and Atmospheric Administration, Department of Commerce, Environmental Protection Agency.

**ACTION:** Notice of proposed finding; request for comments.

**SUMMARY:** The National Oceanic and Atmospheric Administration (NOAA)

and the U.S. Environmental Protection Agency (EPA) (the Federal agencies) invite public comment on the Federal agencies' proposed finding that Michigan has satisfied all conditions the agencies established as part of their 1997 approval of the state's coastal nonpoint pollution control program (coastal nonpoint program). The Coastal Zone Act Reauthorization Amendments (CZARA) directs states and territories with coastal zone management programs previously approved under section 306 of the Coastal Zone Management Act to develop and implement coastal nonpoint programs, which must be submitted to the Federal agencies for approval. Prior to making such a finding, NOAA and the EPA invite public input on the two Federal agencies' rationale for this proposed finding.

**DATES:** Comments are due by June 12, 2023.

**ADDRESSES:** Copies of the proposed findings document may be found on [www.regulations.gov](http://www.regulations.gov) (search for NOAA-NOS-2022-0017) and NOAA's Coastal Nonpoint Pollution Control Program website at <https://coast.noaa.gov/czm/pollutioncontrol/>.

Comments may be submitted by:

- **Electronic Submission:** Submit all electronic public comments via the Federal eRulemaking Portal. Go to [regulations.gov](http://www.regulations.gov) and enter NOAA-NOS-2022-0017 in the Search box, then click the "Comment" icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Joelle Gore, Chief, Stewardship Division (N/OCM6), Office for Coastal Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910; phone (240) 428-7096; ATTN: Michigan Coastal Nonpoint Program.

**Instructions:** All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personally identifiable information (for example, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the commenter will be publicly accessible. NOAA and EPA will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The Federal agencies will generally not consider comments or comment contents located outside of the

primary submission (*i.e.*, on the web, cloud, or other file sharing system).

### FOR FURTHER INFORMATION CONTACT:

Allison Castellan, Office for Coastal Management, NOS, NOAA, (202) 596-5039, [allison.castellan@noaa.gov](mailto:allison.castellan@noaa.gov); or Paul Thomas, U.S. EPA Region 5, Water Division, (312) 866-7742, [thomas.paul@epa.gov](mailto:thomas.paul@epa.gov).

**SUPPLEMENTARY INFORMATION:** Section 6217(a) of the Coastal Zone Act Reauthorization Amendments (CZARA), 16 U.S.C. 1455b(a), requires that each state (or territory) with a coastal zone management program previously approved under section 306 of the Coastal Zone Management Act must prepare and submit to the Federal agencies a coastal nonpoint pollution control program for approval. Because Michigan administers a federally approved coastal zone management program, Michigan originally submitted its coastal nonpoint program to the Federal agencies for approval in 1995. The Federal agencies provided public notice of and invited public comment on their proposal to approve, with conditions, the Michigan program (61 FR 57673). The Federal agencies approved the program by letter dated September 24, 1997, subject to the conditions specified in the letter (62 FR 58940). The Federal agencies propose to find, and invite public comment on the proposed findings, that Michigan has satisfied the conditions associated with the earlier approval of its coastal nonpoint program.

The proposed findings document for Michigan's program is available at [www.regulations.gov](http://www.regulations.gov) (search for NOAA-NOS-2022-0017) and information on the Coastal Nonpoint Program in general is available on the NOAA website at <https://coast.noaa.gov/czm/pollutioncontrol/>.

**Radhika Fox,**

*Assistant Administrator, Office of Water,  
Environmental Protection Agency.*

**Nicole R. LeBoeuf,**

*Assistant Administrator for Ocean Services  
and Coastal Zone Management, National  
Oceanic and Atmospheric Administration.*

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