Consistency with Delaware State Coastal Zone Management Policies

November 2021
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Maryland Offshore Wind Project
Lease OCS-A 0490

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1.0 Introduction

US Wind, Inc. (US Wind) has prepared this Consistency Certification to demonstrate that its proposed development of the Maryland Offshore Wind Project within Bureau of Ocean Energy Management (BOEM) Lease OCS-A 0490 is consistent with the provisions identified as enforceable by the Coastal Management Programs (CMPs) of the State of Delaware. As described herein and in the Construction and Operations Plan (COP), the proposed activity complies with the enforceable policies of the approved management programs and will be conducted in a manner consistent with such programs. This document is provided pursuant to the requirements of 15 CFR 930.57 (Subpart D) and 15 CFR 930.74 (Subpart E) of the Coastal Zone Management Act (CZMA) Federal Consistency regulations.

Section 307(c) (1) of the CZMA, as amended, requires that each federal agency activity within or outside the coastal zone affecting any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent with the enforceable policies of federally-approved state management programs.

As described in the COP, the Project has significant environmental benefits. The electricity generated by the Project will displace electricity generated by higher-polluting fossil fuel-powered plants and result in a significant net reduction in emissions over the lifespan of the Project. The Project is also expected to bring significant employment and other economic benefits to the region and contribute to the development of a utility scale, domestic offshore wind industry.

2.0 Project Location and Description

US Wind is developing the Maryland Offshore Wind Project[1] (the Project), an offshore wind project of up to 2 gigawatts of generating capacity within OCS-A 0490 (the Lease), an area off the coast of Maryland on the Outer Continental Shelf. US Wind obtained the Lease in 2014 when the company won an auction for two leases from BOEM, which in 2018 were combined into the Lease. US Wind submitted a COP to BOEM in August 2020, and on June 8, 2022, BOEM published a Notice of Intent to prepare an Environmental Impact Statement (EIS), beginning review under the National Environmental Policy Act. BOEM review of the COP is pending with a decision to approve, disapprove, or approve with modifications expected in Q3 of 2024.

In addition to BOEM's review, US Wind is required to obtain permits from other agencies. US Wind submitted an Individual Permit Application under Section 10 of the Rivers and Harbors Act/Section 404 of the Clean Water Act to the U.S. Army Corps of Engineers (USACE) on August 30, 2023. The USACE Section 10/404 Individual Permit Application includes the "Proposed Project" which is a subset of the Project Design Envelope in the COP. The Proposed Project is also included in US Wind's DNREC Wetlands Permit, Subaqueous Permit and Lease, Water Quality Certification and Coastal Construction applications.

[1] The Maryland Offshore Wind Project includes MarWin, a wind farm of approximately 300 MW for which US Wind was awarded Offshore Renewable Energy Credits (ORECs) in 2017 by the state of Maryland; Momentum Wind, consisting of approximately 808 MW for which the State of Maryland awarded additional ORECs in 2021; and build out of the remainder of the Lease area to fulfill ongoing, government-sanctioned demands for offshore wind energy.

2.1 For the Purposes of Subpart E

The Project's COP will be reviewed for consistency with DNREC's Coastal Management Program under CZMA in accordance with 15 CFR 930 Subpart E. The Project Design Envelope (see COP Volume I Section 1.1.3) includes as many as 121 wind turbine generators (WTG), up to four (4) offshore substations (OSS), and one (1) met tower in the approximately 80,000-acre Lease area. The Project would be interconnected to the onshore electric grid by up to four new 230 kV export subsea electric transmission cables that will ultimately connect with a substation near Millsboro, Delaware. Interconnection Facilities are proposed in the vicinity of the Indian River Substation.

Infrastructure related to the connection of the wind farm to the regional electric grid would be installed on the OCS, in Delaware state waters, and in Delaware. The offshore export cables would be buried on the OCS and Delaware state waters until reaching the 3R's Beach or Tower Road landfall in Delaware. From there the onshore export cables would connect to the Interconnection Facilities.

The proposed Interconnection Facilities would consist of new substations (US Wind substations) and an interconnection expansion to the Delmarva Power and Light (DPL) Indian River 230 kV substation (Indian River Substation) located adjacent to NRG's Indian River Power Station near Millsboro, Delaware. The proposed US Wind substations and the interconnection expansion would be located generally southwest of the Indian River Substation. Up to four onshore export cables are planned to enter the US Wind substations underground and transition to an overhead configuration. A short overhead line would make the connection from each Project substation to the Indian River Substation.

Regarding export cable routes, the Project includes Onshore Export Cable Corridor 1 and optional terrestrial cable routes.

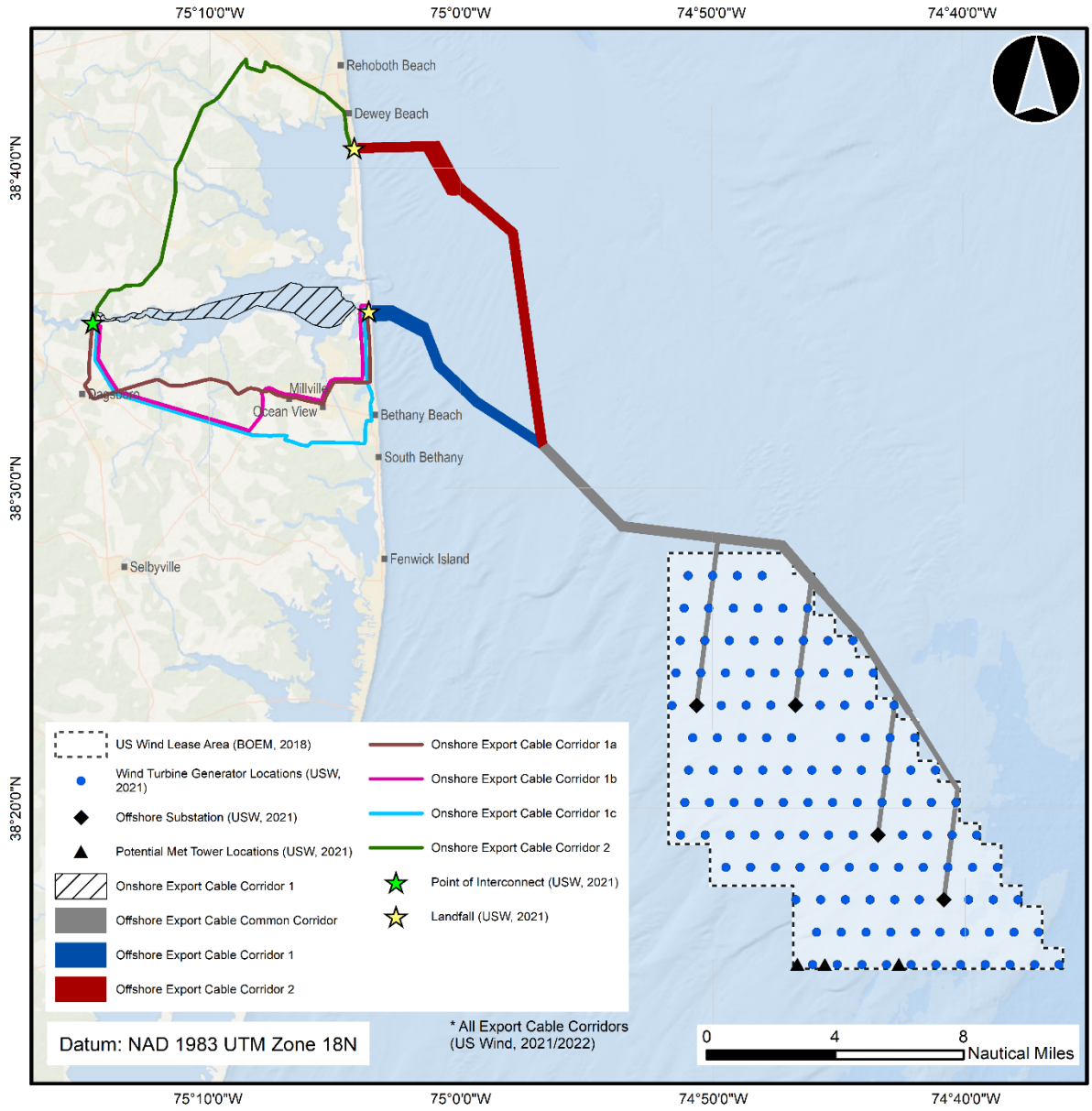

Figure 1. The Project (Project Design Envelope)

Below is a description of each onshore cable corridor (see Figure 1), and the landfall and point of interconnection associated with each.

- Onshore Export Cable Corridor 1: Onshore Export Cable Corridor 1 is associated with landfall at 3R's Beach. Onshore Export Cable Corridor 1 would bring up to four export cables through cable ducts that route the cables under existing coastal wetlands into Indian River Bay. Onshore Export Cable Corridor 1 extends 17 km (10 mi) from the transition vaults within a corridor within Indian River Bay to Indian River at the landfall location to the US Wind substations. When the cables reach US Wind's substations' cable ducts, they would be pulled

into the cable ducts and into the substations' transition bays. The landfall in Indian River for US Wind's proposed substations is adjacent to the existing DPL Indian River substation.

    - Within Onshore Export Cable Corridor 1, US Wind designated Onshore Export Cable South Corridor as the practicable route for up to 4 cables in Indian River Bay. See Section 2.2 for further detail regarding the proposed route, which is the subject of US Wind's USACE Section 10/404 and DNREC Wetlands, Subaqueous Permit and Lease, Water Quality Certification and Coastal Construction applications.

- Onshore Export Cable Corridor 1a: Approximately 26 km (16 mi) from the landfall at 3R's Beach along existing DelDOT ROWs to Indian River POI via a southern route around Indian River Bay. The cables would exit the transition vaults at 3R's Beach, traverse south along Coastal Highway (Route 1), turning west on Fred Hudson Road, south on Central Avenue then along Route 26/Atlantic Avenue to Dagsboro, continuing north on Route 26/Main Street through Dagsboro, and then generally north along Iron Branch Road/Road 332 to the US Wind substation.

- Onshore Export Cable Corridor 1b: Approximately 26 km (16 mi) along existing DelDOT and Sussex County ROWs from landfall at 3R's Beach to Indian River POI. Cables would exit the transition vaults at 3R's Beach along same route as Onshore Export Cable Corridor 1a until west of Millville then south on Route 17 until turning west/northwest along a Sussex County water line ROW, currently under development, across Route 26 then north in parallel with Iron Branch Road/Road 332 to the US Wind substation.

- Onshore Export Cable Corridor 1c: Approximately 27 km (17 miles) along existing DelDOT and Exelon overhead power line ROWs from landfall at 3R's Beach to Indian River POI. The cables would exit transition vaults at 3R's Beach, traverse south along Route 1 through Bethany Beach turning west on Wellington Avenue, south on Kent Avenue to an Exelon substation then turning generally west along an Exelon ROW, picking up the Sussex County ROW after crossing Route 17 and then traversing the same remaining route to the Indian River POI as Onshore Export Cable Corridor 1b.

- Onshore Export Cable Corridor 2: Approximately 28 km (17 miles) along existing DelDOT ROWs from landfall at Tower Road to Indian River POI via a northern route around Indian River Bay. Cables would exit transition vaults at the Tower Road landfall, traverse north along Coastal Highway/Route 1 through Dewey Beach and Rehoboth, turning west along Airport Road, continuing south along Road 274, west along Route 1D, connecting to Route 24 south/ John J Williams Highway to an Exelon overhead power line ROW, and then crossing Indian River via horizontal directional drill and continuing underground to the POI.

Horizontal Directional Drilling (HDD) operations would be employed for the Project to install cable ducts that allow for the installation of the export cables at the transition points between water and land. The Project includes HDD's at up to three locations: between the Atlantic and Barrier Beach Landfall (3R's Beach Parking Lot or Tower Road Parking Lot, depending on cable routing); and, for Onshore Export Cable South Corridor, from 3R's Beach into Indian River Bay; and, from Indian River to the US Wind onshore substations. The HDD work may be conducted simultaneously or in stages depending on the final design of the Project. Temporary gravity cells, if necessary, are anticipated to be installed at the Atlantic Ocean, Indian River Bay,

and Indian River landfall HDD locations. The gravity cells would be removed upon completion of the HDD duct installation.

US Wind evaluated options for beneficial reuse for potential dredge materials for Onshore Export Cable South Corridor. Assessment of the 2023 sediment testing results indicates that sediments are not sufficiently sandy for beach placement of material (see COP Appendix II-A8). US Wind also evaluated potential upland disposal facilities for dredged material, and all of the dredged material for the Project would be dewatered and disposed of in an upland landfill within 100 miles of the dredging activities. Additional detail about dredging anticipated can be found in Section 2.2.

2.2 For the Purposes of Subpart D

The Project's USACE Section 10/404 Individual Permit Application will be reviewed for consistency with DNREC's Coastal Management Program under CZMA in accordance with 15 930 Subpart D. The Proposed Project is a subset of the Project Design Envelope, and the subject of US Wind's USACE Section 10/404 Individual Permit Application and DNREC Wetlands Permit, Subaqueous Lands Permit and Lease, Water Quality Certification and Coastal Construction applications. The Proposed Project identifies the alternative terrestrial cable corridors only as alternatives evaluated and not proposed for construction.

The Proposed Project includes up to 114 WTGs in the Lease area, with 7 WTG locations removed to accommodate a 1 nautical mile (NM) setback from the Traffic Separation Scheme routing vessels into and out of Delaware Bay.

Infrastructure related to the connection of the wind farm to the regional electric grid would be installed on the OCS, in Delaware state waters, and in Delaware. The offshore export cables would be buried on the OCS and Delaware state waters until reaching the 3R's Beach landfall in Delaware. From there the onshore export cables would connect to the Interconnection Facilities.

The Proposed Project includes the only practicable route for the onshore export cables, Onshore Export Cable South Corridor. Onshore Export Cable South Corridor through Indian River Bay to connect the offshore wind turbines and infrastructure to the Point of Interconnection to the regional electric grid. See COP Volume I Section 2.5.3.3 for an evaluation of the onshore cable routes and a summary of the practicability and impacts of the routes, based on the inclusion of avoidance and minimization measures.

Onshore Export Cable South Corridor is approximately 16 km (10 mi) from the landfall at 3R's Beach through Indian River Bay. The cables would exit the transition vaults at 3R's Beach and enter Indian River Bay near Old Basin Cove via horizontal directional drill. The cables would then follow the shoreline south until turning west north of Pasture Point and continue to move west along the shoreline past Holts Landing State Park until the Indian River. The cables would proceed up the Indian River, avoiding the federal channel where possible, before making landfall at the POI via HDD. Cables would be installed using a jet sled (also called a jet plow).

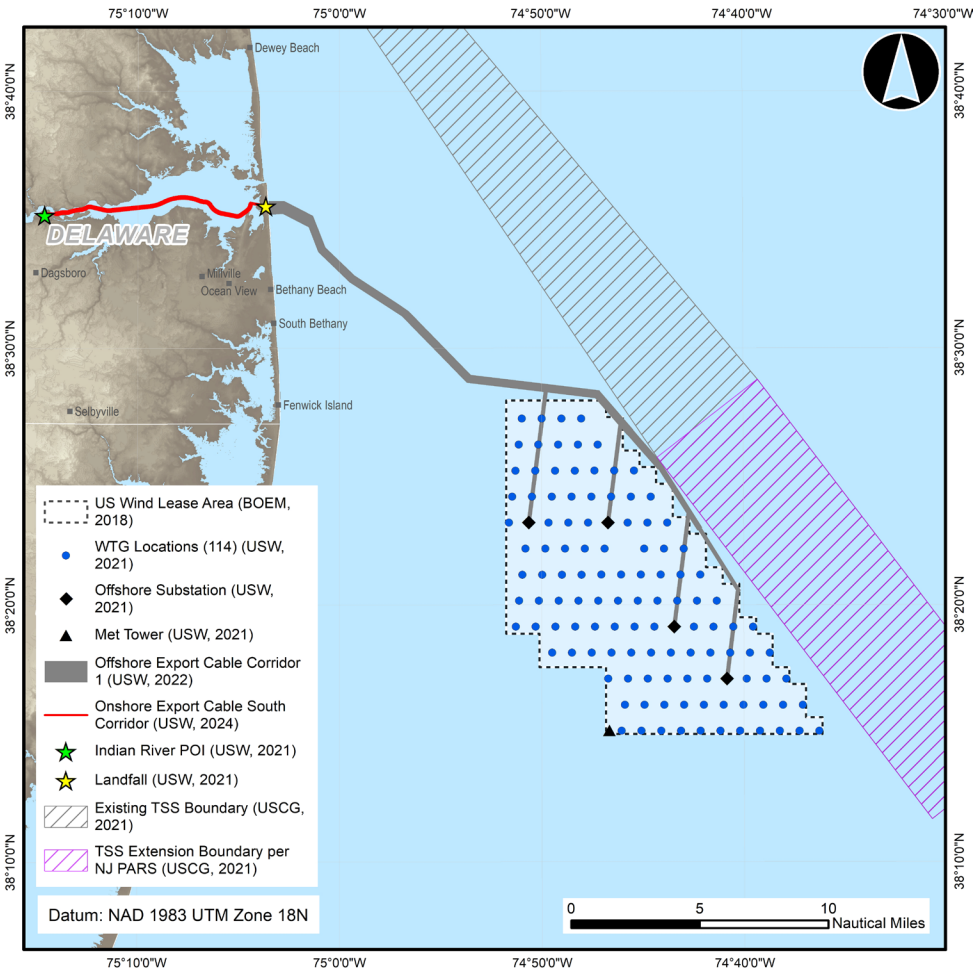

Figure 2. Proposed Project

The installation of the export cables within Onshore Export Cable South Corridor is planned over two construction seasons (Campaign 1 and 2), within a construction window considered to be October 1-Febuary 28 based on feedback from DNREC's Environmental Review received December 21, 2023, and prior dredging projects in Indian River Bay. Cable installation operations would be planned, to the greatest extent practicable, during periods of higher water in the shallow portions of Indian River Bay. Construction operations would be paused during low water conditions. By increasing the size of the cable lay barge to distribute the weight of the cable and by accepting downtime during construction, US Wind would avoid the need for dredging for barge access in the shallow, southern portions of Indian River Bay.

To achieve the target burial depth for the Proposed Project within the Onshore Export Cable South Corridor through Indian River Bay, US Wind anticipates dredging would be necessary in locations along the cable route to achieve the required cable burial depth. The maximum dredging disturbance is assumed to be within a 76 m (249 ft)-wide corridor along defined portions of the route. The dredging area footprint is within the 183-m (600 ft) area of temporary construction disturbance shown in Figure 3.

Figure 3. Cable Burial Dredging Areas within Indian River Bay

US Wind significantly reduced the need for potential dredging through optimization and planning, which would increase costs and construction time, to avoid and minimize potential impacts to sensitive resources. The initial worst-case dredging estimate for the southern corridor, now Onshore Export Cable South Corridor, was 1,368,000 cubic yards, which would have implemented dredging along the entirety of the cable corridor in Indian River Bay. US Wind was able to significantly reduce dredging through the planned use of a cable lay barge with a smaller draft. In February 2024, US Wind identified dredging needed in Onshore Export Cable South Corridor as 309,574 cubic yards over an anticipated two installation campaigns.

US Wind is now able to confirm that dredging volumes can be further reduced to a total of 73,676 cubic yards over two construction campaigns (see Section 2.1.3.3). US Wind worked with its engineers and potential installation contractors to confirm feasible installation processes to realize the dredging reductions. The refined installation process is similar to prior plans, however, downtime during installation would potentially increase during periods of low water, another splice in each cable may be necessary, and a larger barge to optimize weight distribution of the heavy export cables will be required, among other optimizations. The installation cost to US Wind and the time of cable installation could increase, however, the dredging reductions made to the Project plan in March 2024 allow US Wind to reduce dredging overall and to avoid dredging entirely along the southern portion of Onshore Export Cable South Corridor, a location DNREC, USACE, and NMFS identified as potentially biologically sensitive. Dredging, if needed, is now planned only in the vicinity of prior dredging projects.

US Wind would conduct turbidity monitoring along the entirety of Onshore Export Cable South Corridor while performing dredging and cable installation activities within Indian River Bay, in accordance with the requirements expected to be included in the Project's USACE and DNREC permits. US Wind anticipates that the permit conditions would include monitoring for specified analytes (e.g., TSS, turbidity, metals, PAHs, etc.), exceedance thresholds, monitoring distances, frequency/timing of the required sampling and the depth at which samples will be taken.

Dredged material would be piped via temporary dredge pipeline to a dewatering staging area at the US Wind Substations, within the planned limits of construction disturbance, before being transported to a landfill. The proposed dewatering area is located on the US Wind Substations property.

After the completion of dewatering, dredged materials would be placed in trucks for disposal/placement at an upland landfill location within 161 km (100 mi) of the US Wind Substations area. The proposed disposal site is the Jones Crossroads Landfill, approximately 20.9 km (13 mi) from the dewatering site. This site has confirmed capacity for over 74,000 cubic yards of material.

2.3 Recommended Time of Year Restrictions

The following time of year restrictions are based on feedback from DNREC in its Environmental Review (D.o.N.R.a.E.C.D.o.F.a.W. DNREC 2023) and apply to the Project and the Proposed Project .The avoidance and minimization measures below have been included in the applicant-proposed mitigation measures in the COP as summarized in Volume II Section 1.5.

Water Quality

- No in-water work (e.g., cable installation, HDDs, dredging) in Indian River Bay March 1 through September 30. To the greatest extent practicable, select areas with suitable seabed conditions for cable installation during cable route planning.

- No HDD activities at the Atlantic beach landfall from April 15 through September 15 (inclusive of recreational period avoidance May 15 through September 15) to avoid impacts to spawning horseshoe crabs.

Coastal Habitat and Birds

- Installation of cables underneath tidal marshes will not be conducted during nesting season between April 1 through July 31.
- Restrict nighttime artificial lighting restriction from June 1 through September 1 at Barrier Beach Landfall.
- Avoid colonial waterbird nesting sites. Avoid construction at the Barrier Beach Landfall and in-water work in Indian River Bay during the nesting season.
- US Wind would implement best practices such as diver surveys in Indian River for work between November 15 and March 1 to protect hibernating terrapins.
- US Wind plans to install cables and conduct associated maintenance and monitoring outside of breeding season, April 1 to July 31, which would minimize impacts to marsh nesting birds.
- Complete the Northeast Bald Eagle Project Screening Form. The known bald eagle nest is over 660 ft from the Project area, the maximum USFWS-recommended buffer.

Benthic Resources

- No in-water work (e.g., cable installation, HDDs, dredging) in Indian River Bay and beach landfall March 1 through September 30.
- No onshore HDD activities or in-water work in Indian River Bay from April 15 through September 30 to avoid impacts to spawning horseshoe crabs.

Finfish

- No in-water work (cables, HDD, etc.) in Indian River Bay from March 1 through September 30 to avoid impacts to young of year summer flounder.
- No in-water work in Indian River from March 1 to May 15 to protect the American eel and allow passage of elvers upstream.
- Landing Offshore Export Cables at 3R's Beach landfall location to avoid habitat of sandbar and sand tiger sharks.

Upland Habitat

- Tree clearing activities at the US Wind substations required for Project construction are not planned between April 1 through July 31 to avoid or minimize impacts to potentially mature forest and the northern long-eared bat summer maternity period.

Turtles

- Limited offshore site preparation, specifically hopper dredging to avoid impacts to sea turtles, at offshore substation locations June 1 through October 31.

Additionally, US Wind would not conduct construction activities within the beach parking lots during the recreation season, May 15 through September 15.

3.0 Consistency with Delaware State Coastal Zone Management Policies

The entire state of Delaware is considered a Coastal Management Area for the purposes of the federally approved Coastal Management Program 7 Del. C. c. 5104 § 1.3. The Project has been sited and designed, and will be constructed and operated, in a manner that is consistent with the applicable Delaware Department of Natural Resources and Environmental Control (DNREC) Coastal Management Program (CMP) policies (updated November 2018). The policies that are relevant to the Project are listed below and accompanied by a brief description of the manner in which the Project is consistent with them. US Wind's primary objective throughout the siting, design, and development of the Project, has been to avoid or minimize impacts to environmental and coastal resources.

3.1 Energy Facilities

Delaware Policy 5.15.2.1: The CMP supports OCS development of alternate energy facilities due to the compelling national interest provided such activities do not result in the degradation of Delaware's natural resources.

For the purposes of Subpart E:

Delaware's Coastal Management Program under Policy 5.15.2.1 recognizes the compelling national interest for construction of alternate energy facilities, such as offshore wind projects, on the Outer Continental Shelf. The Project would be the first such facility to fit the description off the coast of Delaware and would provide significant air emissions benefits through the avoidance of up to 139 million tons of carbon dioxide in the atmosphere every year from electricity generation in the Mid-Atlantic region, including upwind of the entire state of Delaware.

The Project will utilize various avoidance, minimization and mitigation measures that would not cause the degradation of Delaware natural resources (i.e., wetlands, ERES waters, fisheries, birds, threatened and endangered species, recreational activities). In addition, the Project would aid in the reduction of air emissions from fossil fuels, create new economic opportunities, and benefit wetlands and wetland-dependent species through restoration efforts.

The Project is consistent with Policy 5.15.2.1.

For the purposes of Subpart D:

The Proposed Project would be the first alternate energy facility on the OCS off Delaware and would provide significant air emissions benefits through the avoidance of up to 107 million tons of carbon dioxide each year.

The Proposed Project is consistent with Policy 5.15.2.1.

3.2 Wetlands Management

Delaware Policy 5.1.1: The productive public and private wetlands in the State shall be preserved and protected to prevent their despoliation and destruction consistent with the historic right of private ownership of lands. [7 Del.C. §6602]

For the purposes of Subpart E:

The Project has been sited and designed to avoid and minimize potential impacts to wetlands by utilizing previously disturbed areas, such as existing rights-of-way or rights-of-way under development, as practicable, and the use of HDD technology to install the onshore export cables under wetland areas.

The alternative terrestrial cable routes traverse wetlands along any of the routes and complete avoidance of wetlands is not possible. The alternative land routes have the potential to impact wetlands.

- Onshore Export Cable Corridor 1a is adjacent to wetlands for 4.8 km (3 mi) of its 26-km (16-mi) corridor.
- Onshore Export Cable Corridor 1b is adjacent to wetlands for 7.6 (4.7 mi) of its 26-km (16-mi) corridor.
- Onshore Export Cable Corridor 1c is adjacent to wetlands for 9.3 km (5.8 mi) of its 27-km (17-mi) corridor.
- Onshore Export Cable Corridor 2 is adjacent to wetlands 4.3 km (2.4 mi) of its 28-km (17-mi) corridor.

The Project proposes to minimize wetland impacts during construction by maintaining buffers around wetlands, implementing best management practices (BMP) for erosion and sediment control, and maintaining natural surface draining patterns, as practicable.

The Project is consistent with Policy 5.1.1.

For the purposes of Subpart D:

The Proposed Project has been sited and designed to avoid and minimize potential impacts to wetlands by utilizing previously disturbed areas, such as the 3R's Beach Parking Lot for export cable landfall, and the use of HDD technology to install the onshore export cables under potentially sensitive wetland areas.

The Proposed Project is consistent with Policy 5.1.1.

Delaware Policy 5.1.2: Activities in or adjacent to wetlands shall be conducted so as to minimize wetlands destruction or degradation, to preserve the natural and beneficial values of wetlands, and to protect the public interest therein. [7 Del.C. §§6602, 6603(a)(2), 6119, 4001]

For the purposes of Subpart E:

As discussed above in response to Policy 5.1.1, the Project has been sited and designed to avoid and minimize potential impacts to wetland resources.

The Project is consistent with Policy 5.1.2.

For the purposes of Subpart D:

As discussed above in response to Policy 5.1.1, the Proposed Project has been sited and designed to avoid and minimize potential impacts to wetland resources.

The Proposed Project is consistent with Policy 5.1.2.

Delaware Policy 5.1.9: Activities which may adversely affect wetlands shall require State approval pursuant to the policy statements below. The CMP, however, requires no such approval for the following activities: construction of foot bridges, duck blinds, wildlife nesting structures, boundary markers, or aids to navigation that do not prevent the ebb and flow of the tide; mosquito control activities authorized by the DNREC; and hunting, fishing, haying, trapping, and grazing of domestic animals. [7 Del.C. §§6604, 6606; 7 DE Admin. Code 7502 subsection 6.1.4]

For the purposes of Subpart E:

The Project has the potential to adversely affect wetlands if one of the optional land-based cable corridors is selected through the NEPA process. The Project would minimize wetland impacts during construction by maintaining buffers around wetlands, implementing BMPs for erosion and sediment control, and maintaining natural surface draining patterns, as practicable.

If any of the optional land-based cable routes is selected through the NEPA process, US Wind would seek approval under the CMP for work under wetlands and on, over, under, and in subaqueous lands. US Wind would also consult with DNREC and obtain all necessary approvals for this Project.

The Project is consistent with Policy 5.1.9.

For the purposes of Subpart D:

The Proposed Project has been sited and designed to avoid and minimize potential impacts to wetlands by utilizing HDD technology to install the onshore export cables under wetland areas. US Wind seeks approval under the CMP for work under wetlands and on, over, under, and in subaqueous lands. US Wind submitted a Wetlands and Subaqueous Lands Permit application to DNREC on February 15, 2024.

The Proposed Project is consistent with Policy 5.1.9.

Delaware Policy 5.1.10: In order to assure that any activity in the wetlands is appropriate, State approval shall be required prior to the initiation of such activities, except no such approval shall be required for the activities identified in policy statement number 5.1.9. The following factors shall be considered prior to such approval: the environmental impact of the proposed use; the number and type of supporting facilities required and their impact; the effect of the activity on neighboring land uses; the appropriate State and local comprehensive plans for the general area; the economic impact of the activity in terms of jobs, taxes generated, and land area required; and the aesthetic impact of the proposed activity. Alternative methods of construction shall also be considered prior to permit approval. [7 Del.C. §6604, 7 DE Admin. Code 7502]

For the purposes of Subpart E:

If any of the optional land-based cable routes is selected through the NEPA process, US Wind would seek approval under the CMP for work under wetlands and on, over, under, and in subaqueous lands. US Wind would also consult with DNREC and obtain all necessary approvals for this Project.

The Project is consistent with Policy 5.1.10.

For the purposes of Subpart D:

State wetlands approval will be sought prior to the start of the Proposed Project. US Wind applied for a Wetlands Permit, Subaqueous Lands Permit and Lease, Water Quality Certification and Coastal Construction on February 15, 2024, for the Proposed Project. A revised Coastal Construction Permit Application was submitted February 27, 2024, and revised applications for a Wetlands Permit, Subaqueous Lands Permit and Lease, and Water Quality Certification were submitted to DNREC on March 29, 2024.

The Proposed Project is consistent with Policy 5.1.10.

Delaware Policy 5.1.11: The cumulative impact of individual projects shall be considered when evaluating the environmental impacts of a proposed activity in wetlands. [Delaware Executive Order 43, August 15, 1996]

For the purposes of Subpart E and Subpart D:

The cumulative impact of all individual components of the Project are being considered during the evaluation of the environmental impacts. Please refer to COP Volume II and BOEM's evaluation under NEPA.

The Project and Proposed Project are consistent with Policy 5.1.11.

Delaware Policy 5.1.12: No permit will be issued to:

5.1.12.4 Utilize wetlands for any activity unless it:

5.1.12.4.1 Requires water access for the central purpose of the activity; and

The Project involves bringing offshore wind energy to shore which will require water access.

The Project is consistent with this criterion.

5.1.12.4.2 Has no alternative on adjoining non-wetland property of the owner.

US Wind does not own any adjoining property.

The Project is consistent with this criterion.

For the purposes of Subpart E:

If any of the optional land-based cable routes is selected through the NEPA process, US Wind would seek approval under the CMP for work under wetlands and on, over, under, and in subaqueous lands. US Wind would also consult with DNREC and obtain all necessary approvals for this Project.

The Project is consistent with Policy 5.1.12.4.

For the purposes of Subpart D:

US Wind applied for a Wetlands Permit, Subaqueous Lands Permit and Lease, Water Quality Certification and Coastal Construction on February 15, 2024, for the Proposed Project. A revised Coastal Construction Permit Application was submitted February 27, 2024, and revised applications for a Wetlands Permit, Subaqueous Lands Permit and Lease, and Water Quality Certification were submitted to DNREC on March 29, 2024.

The Proposed Project is consistent with Policy 5.1.12.4.

3.3 Beach Management

Delaware Policy 5.2.1: The public and private beaches of the State shall be preserved, protected, and enhanced to mitigate beach erosion and to prevent their destruction and despoliation. [7 Del.C. §§6801, 6803, 6810]

For the purposes of Subpart E:

The public beaches will be preserved and protected throughout the Project. The Project would utilize HDD technology to protect the beaches at the Barrier Beach Landfalls. The HDD operations would disturb the ground at the bore entry and exit for each cable. By minimizing ground disturbance, the Project minimizes impacts to the beaches. The offshore export cables would be buried below the seafloor to reduce the risk of exposure at the 3R's Beach or Tower Road landfalls. There would be no conversion of land in Delaware Seashore State Park from its current recreational use. The parking lots would continue to function as a public access point to Delaware beaches. US Wind would consult with DNREC and the Division of Parks and Recreation for coordinating installation activities to reduce potential impacts to the beach areas.

The Project is not anticipated to have an impact on beach erosion.

The Project is consistent with Policy 5.2.1.

For the purposes of Subpart D:

The public beaches will be preserved and protected throughout the Proposed Project. The Proposed Project would utilize HDD technology to protect the beaches at the 3R's Beach landfall. The HDD operations would disturb the ground at the bore entry and exit for each cable. At 3R's Beach Parking Lot, installation of buried cable transition vaults, installation of HDDs and cables, and restoration of the existing parking lot would take place within the previously disturbed area outside of the existing protective dunes.

By avoiding ground disturbance in currently undisturbed areas, the Proposed Project minimizes impacts to the beaches. The offshore export cables would be buried below the seafloor to reduce the risk of exposure at the 3R's Beach landfalls. There would be no conversion of land in Delaware Seashore State Park from its current recreational use. The parking lots would continue to function as a public access point to Delaware beaches after the temporary construction activities.

The Proposed Project is consistent with Policy 5.2.1.

Delaware Policy 5.2.2: Publicly owned beaches and shorelines shall be managed and maintained to assure adequate and continued public access to these areas within the carrying capacity of the resource. [7 Del.C. §4701I]

For the purposes of Subpart E:

Access to beaches may be temporarily impacted, however Project construction activities would be scheduled to avoid peak beach usage periods. During installation activities at the 3R's Beach or Tower Road landfalls, the Project would likely require limiting public access around the construction area for safety purposes. Coordination with local and state officials will help facilitate the closures to be least impactful.

The Project is consistent with Policy 5.2.2.

For the purposes of Subpart D:

Access to beaches may be temporarily impacted, however Proposed Project construction activities would be scheduled to avoid the peak beach usage period of May 15 through September 15. During installation activities at the 3R's Beach landfall, the Proposed Project would likely require limiting public access around the construction area for safety purposes. Coordination with local and state officials will help facilitate the closures to be least impactful.

The Proposed Project is consistent with Policy 5.2.2.

Delaware Policy 5.2.3: Beaches are the areas from the Delaware/Maryland line at Fenwick Island to the Old Marina Canal north of Pickering Beach, which extend from the Mean High Water line of the Atlantic Ocean and Delaware Bay seaward 2,500 feet, and landward 1,000 feet. [7 Del.C. §6802(1)]

As discussed in response to Policies 5.2.1 and 5.2.2, construction activities will take place in these areas. US Wind applied for a Wetlands Permit, Subaqueous Lands Permit and Lease, Water Quality Certification and Coastal Construction on February 15, 2024, for the Proposed Project. A revised Coastal Construction Permit Application was submitted February 27, 2024, and revised applications for a Wetlands Permit, Subaqueous Lands Permit and Lease, and Water Quality Certification were submitted to DNREC on March 29, 2024.

The Proposed Project is consistent with Policy 5.2.3 for the purposes of Subpart D.

Delaware Policy 5.2.4: No person shall, without first having obtained a permit or letter of approval from the Department, undertake any activity:

> *5.2.4.1: To construct, modify, repair or reconstruct any structures or facility on any beach seaward of the building line.*
>
> *5.2.4.2: To alter, dig, mine, move, remove or deposit any substantial amount of beach or other materials, or cause the significant removal of vegetation, on any beach seaward of the building line which may affect the enhancement, preservation or protection of beaches. [7 Del. C. §6805(a)]*

For the purposes of Subpart E:

The installation of export cables via HDD underneath 3R's or Tower Beach in Delaware Seashore State Park would occur landward and seaward of the Building Line. These activities are primarily related to seabed alteration and would require moving some sediment for temporary gravity cell installation and jet plow embedment of the offshore export cables.

US Wind would consult with DNREC and apply for a Coastal Construction Permit at Tower Road if Onshore Export Cable Corridor 2 is selected through the NEPA process.

The Project is not anticipated to have an impact on the beach or surrounding vegetation.

The Project is consistent with Policy 5.2.4.

For the purposes of Subpart D:

The installation of export cables via HDD underneath 3R's Beach in Delaware Seashore State Park would occur landward and seaward of the Building Line. These activities are primarily related to seabed alteration and would require moving some sediment for temporary gravity cell installation and jet plow embedment of the offshore export cables. US Wind applied for a Wetlands Permit, Subaqueous Lands Permit and Lease, Water Quality Certification and Coastal Construction on February 15, 2024, for the Proposed Project. A revised Coastal Construction Permit Application was submitted February 27, 2024, and revised applications for a Wetlands Permit, Subaqueous Lands Permit and Lease, and Water Quality Certification were submitted to DNREC on March 29, 2024.

The Proposed Project is not anticipated to have an impact on the beach or surrounding vegetation.

The Proposed Project is consistent with Policy 5.2.4.

Delaware Policy 5.2.5: Construction activities landward of the building line on any beach, including construction of any structure or the alteration, digging, mining, moving, removal or deposition of any substantial amount of beach or other materials, shall be permitted only under a letter of approval from the Department of Natural Resources and Environmental Control. [7 Del. C. §6805(c)]

For the purposes of Subpart E:

The installation of export cables via HDD underneath 3R's or Tower Beach in Delaware Seashore State Park would occur landward and seaward of the Building Line. These activities are primarily related to

seabed alteration and would require moving some sediment for temporary gravity cell installation and jet plow embedment of the offshore export cables.

US Wind would consult with DNREC and apply for a Coastal Construction Permit at Tower Road if Onshore Export Cable Corridor 2 is selected through the NEPA process.

The Project is not anticipated to have an impact on the beach or surrounding vegetation.

The Project is consistent with Policy 5.2.5.

For the purposes of Subpart D:

The installation of export cables via HDD underneath 3R's Beach in Delaware Seashore State Park would occur landward and seaward of the Building Line. These activities are primarily related to seabed alteration and would require moving some sediment for temporary gravity cell installation and jet plow embedment of the offshore export cables. US Wind applied for a Wetlands Permit, Subaqueous Lands Permit and Lease, Water Quality Certification and Coastal Construction on February 15, 2024, for the Proposed Project. A revised Coastal Construction Permit Application was submitted February 27, 2024, and revised applications for a Wetlands Permit, Subaqueous Lands Permit and Lease, and Water Quality Certification were submitted to DNREC on March 29, 2024.

The Proposed Project is not anticipated to have an impact on the beach or surrounding vegetation.

The Proposed Project is consistent with Policy 5.2.5.The Project is consistent with this policy.

Delaware Policy 5.2.11: No person shall commence or conduct without a permit therefore from the DNREC, construction seaward of the Building Line, of any pipeline, dock, pier, wharf, ramp or other harbor work. [7 DE Admin Code 5102 subsection 4.4.1]

For the purposes of Subpart E and Subpart D:

US Wind applied for a Wetlands Permit, Subaqueous Lands Permit and Lease, Water Quality Certification and Coastal Construction on February 15, 2024, for the Proposed Project. A revised Coastal Construction Permit Application was submitted February 27, 2024, and revised applications for a Wetlands Permit, Subaqueous Lands Permit and Lease, and Water Quality Certification were submitted to DNREC on March 29, 2024.

The Project and Proposed Project are consistent with Policy 5.2.11.

Delaware Policy 5.2.13: The following activities are prohibited:

> *5.2.13.1: The operation of any motorized vehicle or machine on, over or across the primary dune on any State-owned beach except at those locations specified by the Department for such use;*

For the purposes of Subpart E:

The Project avoids the use of any machinery and pedestrian traffic on, over or across dune habitat at State-owned beaches. The transition vaults will be installed, and HDD operations will occur, in the existing 3 R's Beach or Tower Road parking lot, which are already disturbed. Limiting ground disturbance to the parking lot also avoids impacting the hydrology of the site since the parking lot is already a compacted surface.

The onshore export cables will be installed using HDD. The HDD operations will only disturb the ground at the bore entry and exit for each cable. By minimizing ground disturbance, the Project minimizes the area in which complex vegetation re-establishment may be needed.

The Project is consistent with Policy 5.2.13.

For the purposes of Subpart D:

Similar to the Project, the Proposed Project includes the same avoidance of dune habitat and installation of transition vaults and HDD operations in the previously disturbed area of 3R's Beach parking lot. Any construction support activity requiring beach access would use existing, designated motorized vehicle access points.

The Proposed Project is consistent with Policy 5.2.13.

> *5.2.13.2: Pedestrian traffic on, over or across the primary dune on any State-owned beach except at those locations specified by the Department for such use;*

For the purposes of Subpart E and Subpart D:

The Project and Proposed Project avoids pedestrian traffic on, over or across dune habitat at State-owned beaches. See response to Policy 5.2.13.1 above.

The Project and Proposed Project are consistent with Policy 5.2.13.2.

> *5.2.13.3: The alteration, moving or removal of any facility, improvement or structure installed or maintained by the DNREC for enhancement, preservation or protection of any beach; and*

For the purposes of Subpart E and Subpart D:

Neither the Project nor the Proposed Project proposes the alteration, movement or removal of any facility, improvement or structure installed or maintained by the DNREC for enhancement or protection of any beach.

Therefore, Policy 5.2.13.3 is not applicable to the Project or Proposed Project.

> *5.2.13.4: The damaging, destruction or removal of any trees, shrubbery, beach grass or other vegetation growing on any State-owned or maintained beach seaward of the Building Line. [Delaware Regulations Governing Beach Protection and the Use of Beaches, Section 2.08, revised December 27, 1983]*

For the purposes of Subpart E and Subpart D:

The Project and Proposed Project avoid damage, destruction, and removal of trees, shrubbery, beach grass or other vegetation seaward of the Building Line. The installation methods proposed are the least environmentally damaging and will minimize or avoid impacts where possible. Use of HDD at the landfalls will avoid and minimize the disturbance of trees, shrubbery, beach grass and other vegetation in the nearshore environment. The transition vaults will be installed, and HDD operations will occur, in the existing 3 R's Beach or Tower Road parking lot, which are already disturbed and outside of vegetated areas.

For the Proposed Project, US Wind applied for a Wetlands Permit, Subaqueous Lands Permit and Lease, Water Quality Certification and Coastal Construction on February 15, 2024, for the Proposed Project. A revised Coastal Construction Permit Application was submitted February 27, 2024, and revised applications for a Wetlands Permit, Subaqueous Lands Permit and Lease, and Water Quality Certification were submitted to DNREC on March 29, 2024.The Project and Proposed Project are consistent with Policy 5.2.13.4.

Delaware Policy 5.2.17: Efforts shall be made to utilize shoreline erosion control methods that best provide for the conservation of aquatic nearshore habitat, maintain water quality, and avoid other adverse environmental effects. Non-structural erosion control methods are preferred. However, structural erosion control measures may be allowed where it can be shown, through a review of site conditions and generally accepted engineering standards, that nonstructural measures would be ineffective in controlling erosion. [Delaware Regulations Governing the Use of Subaqueous Lands, Section 3.04, amended September 2, 1992]

For the purposes of Subpart E and Subpart D:

The Project and Proposed Project avoid shoreline erosion via installation of export cables underneath the beach and dunes via horizontal directional drill.

The Project and Proposed Project are consistent with this Policy 5.2.17.

3.4 Coastal Waters Management

Delaware Policy 5.3.1.1: The development and utilization of the land and water resources of the state shall be regulated to ensure that water resources are employed for beneficial uses and not wasted, to protect beneficial uses of water resources, and to assure adequate water resources for the future. [7 Del. C. §6001 (a)(2)(3)]

The Project is a water-dependent use that will connect the WTGs in the Lease area to the Interconnection Facilities in Sussex County, Delaware. The Project has been sited and designed to minimize and avoid impacts to land and water resources of the state where practicable. All necessary permits will be acquired prior to commencement of Project construction. The Project is intended to reduce the region's reliance on fossil fuels.

The Project is consistent with Policy 5.3.1.1.

For the purposes of Subpart D:

The Proposed Project, consistent with the Project as described above, is water dependent and has been designed to avoid and minimize impacts to land and water resources of the state where practicable. The Proposed Project is intended to reduce the region's reliance on fossil fuels.

US Wind is consulting with DNREC and applied for a Coastal Construction Permit on February 15, 2024, for the Proposed Project and re-submitted the application via e-permitting on February 27, 2024.

The Proposed Project is consistent with Policy 5.3.1.1.

Delaware Policy 5.3.1.2: The water resources of the state shall be protected from pollution which may threaten the safety and health of the general public. [7 Del. C. §§6001 (a)(5), 6001 (c)(2)]

For the purposes of Subpart E and Subpart D:

During the course of Project or Proposed Project construction, pollutants may be discharged into the environment as part of routine activities, such as the operation of construction vessels and vehicles, or due to accidental spills. Pollutants may be discharged directly into a waterbody or discharged into the air and deposited on the surface of a waterbody. US Wind does not anticipate any ongoing source of water pollution, although specific activities during construction may be considered a regulated discharge. US Wind will seek the necessary permits for any such discharge.

Nearshore waters of the Atlantic, Indian River Bay, and the Indian River could be affected by localized release of HDD drilling fluids from deeper subsurface borehole drilling, if drilling fluids are released and not properly contained. However, HDD drilling fluids (bentonite, clay and water) are biologically inert and would not cause appreciable poor water quality conditions. The bentonite contained in the drilling fluid will gel or coagulate upon contact with saline or brackish water. In the event of a fluid release, the bentonite fluid density and composition will cause it to remain as a cohesive mass on the bay bottom, which can be quickly cleaned up and removed by diver-operated vacuum equipment. The HDD operation will include a drilling fluid fracture or overburden breakout monitoring program during borehole drilling operations to minimize environmental effects which at worst will be temporary and very localized. Given the small area covered and short-term duration of HDD operations, impacts to water quality are expected to be negligible.

Construction vehicles will also emit particulates into the air as they combust fuel. While these particles could settle on the surface of the Indian River, Indian River Bay, or the Atlantic Ocean, much of the pollution associated with vehicle emissions will settle over land. The operation of construction vehicles in the Project area will be short-term and temporary, and insignificant when compared to existing sources of atmospheric pollutants that impact the Inland Bays and the Atlantic Ocean. Therefore, water quality impacts due to routine and accidental releases are anticipated to be negligible in nearshore waters. Actions will be taken to avoid and minimize harm to the surrounding environment and avoid pollution entering water resources of the state.

It is anticipated that these releases will have a negligible impact on water quality. The Project and Proposed Project are consistent with Policy 5.3.1.2.

Delaware Policy 5.3.1.3: The coastal water resources of the state shall be protected and conserved to assure continued availability for public recreational purposes and for the conservation of aquatic life and wildlife. [7 Del. C. §6001(a)(4)]

For the purposes of Subpart E and Subpart D:

The Project and Proposed Project have been sited and designed to avoid or minimize impacts to the coastal water resource of the state. Impacts to coastal resources are anticipated to be temporary, localized, and minor to negligible as discussed more specifically throughout this consistency document.

The Project and Proposed Project are consistent with Policy 5.3.1.3.

Delaware Policy 5.3.1.4: It is the policy of the DNREC to maintain within its jurisdiction surface waters of the State of satisfactory quality consistent with public health and public recreation purposes, the

propagation and protection of fish and aquatic life, and other beneficial uses of the water. [DNREC Regulations, Delaware Surface Water Quality Standards, Section 1.1, amended July 11, 2004]

For the purposes of Subpart E:

US Wind designed the Project to avoid and minimize harm to the surrounding environment including public health and public recreation, propagation and protection of fish and aquatic life, and other beneficial uses of the water. Avoidance and minimization measures include restricting activities during certain times of year. Section 2.1 discusses recommended time of year restrictions from DNREC through its Environmental Review, which have been adopted by US Wind as applicant-proposed mitigation measures in the COP.

The Project is consistent with Policy 5.3.1.4.

For the purposes of Subpart D:

US Wind designed the Proposed Project to avoid and minimize harm to the surrounding environment including public health and public recreation, propagation and protection of fish and aquatic life, and other beneficial uses of the water. Avoidance and minimization measures include restricting activities during certain times of year. Section 2.1 discusses recommended time of year restrictions from DNREC through its Environmental Review, which have been adopted by US Wind as applicant-proposed mitigation measures in the COP and in US Wind's Wetlands, Subaqueous Lands and Lease, and Coastal Construction Permit applications submitted to DNREC.

The Proposed Project is consistent with Policy 5.3.1.4.

Delaware Policy 5.3.1.5: The designated uses applicable to the various stream basins represent the categories of beneficial use of waters of the state which must be maintained and protected through application of appropriate criteria. Such uses shall include public water supply; industrial water supply; primary contact recreation involving any water-based form of recreation, the practice of which has a high probability for total body immersion or ingestion of water such as swimming and water skiing; secondary contact recreation involving a water-based form of recreation, the practice of which has a low probability for total body immersion or ingestion of water such as wading, boating and fishing; maintenance, protection and propagation of fish, shellfish, aquatic life and wildlife preservation; agricultural 26 water supply; and waters of exceptional recreational or ecological significance (ERES waters). [Delaware Surface Water Quality Standards, Sections 2 and 3, amended July 11, 2004]

For the purposes of Subpart E:

The Project would maintain the beneficial uses of waters of the state and protect them. Actions will be taken to avoid and minimize harm to the surrounding environment. Potential impacts are associated with the installation of the offshore and onshore export cables, installation and removal of the temporary gravity cells to be installed at the 3R's Beach or Tower Road landfalls, in Indian River Bay, and in Indian River, and dredging for barge access within Indian River Bay.

Indian River Bay and Indian River have been designated as waters of Exceptional Recreational or Ecological Significance. Despite these water quality classifications, Delaware's 2020 *Combined Watershed Assessment Report* (DNREC 2020) lists both Indian River and Indian River Bay as impaired. Water quality impairments include bacteria, nutrients, temperature, and total suspended solids.

The Project would adhere to time of year restrictions for specific activities based on DNREC's Environmental Review and avoidance of construction activities in the recreational season (see Section 2.1). Additionally, the Project would employ turbidity monitoring, develop a drilling fluid fracture contingency plan ("frac-out plan"), and other measures as described in COP Volume II Section 4.4.

Impacts are expected to be temporary and negligible to minor.

The Project is consistent with Policy 5.3.1.5.

For the purposes of Subpart D:

The Proposed Project incorporates all of the elements described above for the Project. For installation of up to 4 cables in Onshore Export Cable South Corridor, additional avoidance and minimization measures have been included in the Proposed Project design. Specifically, and most significantly, reductions in the need for dredging for barge access. US Wind initially provided a worst-case estimate of approximately 1.3 million cubic yards of dredging necessary for barge access along Onshore Export Cable Corridor 1. Dredging was reduced to 309,574 cubic yards with the selection of Onshore Export Cable South Corridor within Onshore Export Cable Corridor 1, as reflected in application materials submitted to DNREC on February 15, 2024. US Wind has worked to further optimize installation methods which would reduce dredging needed to a maximum of 73,676 cubic yards over the two campaign construction seasons. The most recent reduction removes the proposed dredging in the southern and eastern portions of Onshore Export Cable South Corridor and avoids installation of cables in the vicinity of Indian River Inlet where the bay bottom is dynamic and dredging and inlet maintenance occurs with some regularity (see Figure 3). Both USACE and DNREC potentially have interest in dredging some or all of the Indian River Bay Federal Navigation Channel, portions of which overlap with Onshore Export Cable South Corridor and in the immediate vicinity of Onshore Export Cable South Corridor in Indian River Bay.

The Proposed Project is consistent with Policy 5.3.1.5.

Delaware Policy 5.3.1.6: Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected. Degradation of water quality in such a manner that results in reduced number, quality, or river or stream mileage of existing uses shall be prohibited. Degradation shall be defined for the purposes of this section as a statistically significant reduction, accounting for natural variations, in biological, chemical, or habitat quality as measured or predicted using appropriate assessment protocols. [Delaware Surface Water Quality Standards, Section 5.1, amended July 11, 2004]

For the purposes of Subpart E and Subpart D:

The Project and the Proposed Project are not anticipated to impact existing water uses within Indian River or Indian River Bay. Water quality impacts are anticipated to be temporary, localized, and negligible to minor along Onshore Export Cable South Corridor and around the temporary gravity cells.

Suspended sediment/deposition associated with construction is anticipated to have a negligible to minor impact on water quality. Jet plow operations during cable laying and embedment will disturb sediment on the seafloor. HDD operations at the landfall locations are also expected to result in some sediment disturbance in and around the temporary gravity cells. Dredging would also result in sediment disturbance although it is expected to be significantly less than the disturbance resulting from jet plow installation.

Some of the material suspended by the plow may contain elevated levels of arsenic and nickel that are common in the Project area. Therefore, water quality impacts associated with jet plow operations and dredging are expected to be minor.

Increases in sediment suspension beyond baseline conditions will be limited during anchoring. Sediment suspension is expected to be localized to the area of anchorage and sediments directly disturbed by the anchor. The small volume of sediment displaced is expected to settle to the seafloor shortly thereafter. Therefore, water quality impacts associated with anchoring are expected to be negligible.

Although jet plow embedment is the least impactful method for installing submarine cables, jet plow operations during cable laying and embedment will result in disturbance of sediments along Onshore Export Cable South Corridor. The vast majority of sediments disturbed by the jet plow will quickly return to the cable installation trench. A portion of the disturbed sediments will leave the immediate trench area, resulting in measurable, but temporary increases in suspended sediment that are anticipated to occur within 600 m (1,968 ft) of jet plow operations. Areas of sediment deposition greater than 0.5 millimeters (0.02 inches) are also anticipated to occur within 30 m (95 ft) of jet plow operations (see the Indian River Bay Sediment Transport Modeling in Appendix II-B3 of the COP). Sediment suspension and deposition are expected to be locally higher in the immediate vicinity of jet plow operations. However, suspended sediment concentrations are expected to return to background levels no more than 24 hours after jet plow passage. Although concentrations of total suspended solids (TSS) associated with jet plow operations depend on the type of sediment present and the strength of local water currents, a study of particle settlement during cable laying for the Block Island Wind Farm found that measured TSS concentrations during and after plowing were as much as two orders of magnitude smaller than modeled concentrations and measured TSS concentrations two weeks post plowing were rarely distinguishable from background levels (Elliott et al. 2017). Additionally, some of the material suspended by the plow may contain elevated levels of arsenic and nickel that are common in the Project area. Water quality impacts associated with jet plow operations are expected to be minor.

The use of HDD at the landfalls will minimize water quality impacts in the nearshore environment, and temporary gravity cells will help to contain sediment that becomes suspended in the water column. Some sediment may be displaced during the installation and removal of the gravity cells; however, this would be a relatively small volume of material that would settle out relatively quickly. Consequently, water quality impacts associated with HDD are anticipated to be negligible.

Dredging would be conducted using mechanical, or most likely, hydraulic means, based on sediment information in Indian River Bay and Indian River. Mechanical dredging would involve the use of an excavator working off of a barge to dig out the sediment to be hauled away for disposal or reuse. Because mechanical dredging is robust and does not filter the dredge material, it is most often used to remove rock and gravel. The benefits of mechanical dredging are speed, mobility, accuracy, and the ability to handle larger dredge material. Its biggest potential drawback can be high resuspended sediment in the water column. However, these impacts are expected to be less than those resulting from jet plow installation and are anticipated to be negligible.

Appropriate avoidance, minimization, and mitigation measures for potential impacts associated with the low concentrations of heavy metals and polycyclic aromatic hydrocarbons (PAHs) that were detected in some of the sediment samples collected along Onshore Export Cable South Corridor will be addressed in the water quality certificate obtained for the Project under Section 401 of the Clean Water Act. For example,

turbidity monitoring will be conducted for the Project during construction, as required by the permitting authorities.

Nearshore waters of the Atlantic Ocean, Indian River Bay, and the Indian River could be affected by localized release of HDD drilling fluids from deeper subsurface borehole drilling, if drilling fluids are released and not properly contained. However, HDD drilling fluids (bentonite, clay and water) are biologically inert and would not cause appreciable poor water quality conditions. The bentonite contained in the drilling fluid will gel or coagulate upon contact with saline or brackish water. In the event of a fluid release, the bentonite fluid density and composition will cause it to remain as a cohesive mass on the bay bottom, which can be quickly cleaned up and removed by diver-operated vacuum equipment. The HDD operation will include a drilling fluid fracture or overburden breakout monitoring program during borehole drilling operations to minimize environmental effects which at worst will be temporary and very localized. Given the small area covered and short-term duration of HDD operations, impacts to water quality are expected to be negligible.

Construction vehicles will also emit particulates into the air as they combust fuel. While these particles could settle on the surface of the Indian River, Indian River Bay, or the Atlantic Ocean, much of the pollution associated with vehicle emissions will settle over land. The operation of construction vehicles in the Project area will be short-term and temporary, and insignificant when compared to existing sources of atmospheric pollutants that impact the Inland Bays and the Atlantic Ocean. Therefore, water quality impacts due to routine and accidental releases are anticipated to be negligible in nearshore waters.

The Project and Proposed Project are consistent with Policy 5.3.1.6.

Delaware Policy 5.3.1.7: Where the quality of the waters exceeds levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water, that water quality shall be maintained and protected. In the case of ERES waters, existing quality shall be maintained or enhanced. Limited degradation may be allowed if the DNREC finds, after review, that allowing lower water quality would result in a substantial net environmental or public health benefit and does not impede existing uses in the area in which the waters are located while allowing for full protection of existing uses. [Delaware Surface Water Quality Standards, Sections 2 and 5.2, amended July 11, 2004]

For the purposes of Subpart E and Subpart D:

Anticipated water quality impacts are described above in response to Policy 5.3.1.6. Water quality impacts associated with installation of the onshore export cables, dredging, and temporary gravity cells and dredging for cable installation along Onshore Export Cable South Corridor, would be temporary and are anticipated to be negligible to minor. Water quality is expected to return to pre-construction conditions after installation activities are completed. Operation of the buried onshore export cable is not anticipated to impact water quality.

Installation of the Project or the Proposed Project would result in substantial net environmental benefit, consistent with Delaware Policy 5.15.2.1, supporting deployment of alternative energy projects on the Outer Continental Shelf. The Project or Proposed Project would displace electricity generated by higher-polluting fossil fuel-powered plants and result in a significant net reduction in emissions over the lifespan of the Project. The Project or Proposed Project is also expected to bring significant employment and other economic benefits to the region and contribute to the development of a utility scale, domestic offshore wind industry.

The Project and Proposed Project are consistent with Policy 5.3.1.7.

Delaware Policy 5.3.1.10: All surface waters of the State shall be free from substances that are attributable to wastes of industrial, municipal, agricultural or other human-induced origin. Examples include but are not limited to the following:

> *5.3.1.10.1: Floating debris, oil, grease, scum, foam, or other materials on the water surface that may create a nuisance condition, or that may in any water interfere with attainment and maintenance of designated uses of the water.*
>
> *5.3.1.10.2: Settlable solids, sediments, sludge deposits, or suspended particles that may coat or cover submerged surfaces and create a nuisance condition, or that may in any way interfere with attainment and maintenance of designated uses of the water.*
>
> *5.3.1.10.3: Any pollutants, including those of a thermal, toxic, corrosive, bacteriological, radiological, or other nature that may interfere with attainment and maintenance of designated uses of the water, may impart undesirable odors, tastes, or colors to the water or to aquatic life found therein, may endanger public health, or may result in dominance of nuisance species. [Delaware Surface Water Quality Standards, Section 4.1, amended July 11, 2004]*

For the purposes of Subpart E and Subpart D:

Impacts to surface waters of the State would be limited to temporary installation and construction activities. See response to Policy 5.3.1.6.

The Project and Proposed Project are consistent with Policy 5.3.1.10.

Delaware Policy 5.3.1.13: Designated exceptional recreational or ecological significance (ERES) waters shall be accorded a level of protection and monitoring in excess of that provided most other waters of the State. These waters are recognized as special natural assets of the State, and must be protected and enhanced for the benefit of present and future generations of Delawareans. [Delaware Surface Water Quality Standards, Section 5.6.1.1, amended July 11, 2004]

For the purposes of Subpart E and Subpart D:

The Inland Bays are designated as ERES waters and US Wind proposes exceptional avoidance and minimization measures, and monitoring, in accordance with protection of Indian River Bay.

All cables would be buried in waters of the State. HDD technology would be used at all landfalls to avoid disturbance of shoreline protection measures, wetlands, and sensitive coastal habitats. Jet plow technology would be used to install the onshore export cables below the bay bottom in Indian River Bay. These installation technologies were chosen as they are proven and the least environmentally damaging. Jet plow installation limits the extent and duration of suspended sediments within the water columns and subsequent impacts to benthic communities and other significant coastal habitats and species. Where dredging is needed for barge access and cable burial, hydraulic dredging would likely be used over mechanical dredging, which results in a lower level of suspended sediment. See discussion above in Policy 5.3.1.10.

The Project and Proposed Project are consistent with Policy 5.3.1.13.

Delaware Policy 5.3.1.15: The discharge of oil from a vessel, truck, pipeline, storage, tank or tank car which causes or poses a threat of making a film on, emulsion in or sludge beneath the waters of the state or its shoreline shall be prohibited. [7 Del. C. §§6203, 6202(7)(5)(9)]

For the purposes of Subpart E and Subpart D:

Vessel traffic associated with construction activities is expected to produce routine and accidental releases of pollutants that will have negligible impacts on coastal habitat. Construction-related impacts from routine and accidental releases, including drilling fluid that could be released in the event of a frac-out during HDD. Spills of oil and hazardous chemicals can inhibit the growth of aquatic plants and harm or kill aquatic animals. Litter and other marine debris can also injure or suffocate aquatic animals. However, since the routine releases associated with this Project are anticipated to be small quantities of clean discharge and accidental releases associated with this Project are unlikely, the impacts of routine and accidental releases associated with the Project are anticipated to be negligible.

It is anticipated that routine and accidental releases associated with the Project and the Proposed Project will have negligible impacts on water quality during operations. Boats traveling to the Project area for maintenance activities may discharge sanitary waste, litter, and engine emissions into the Atlantic Ocean. However, the discharged volume of these materials would be small and unlikely to have a measurable impact on water quality. Materials such as paint, solvent, or lubricant could also be spilled during maintenance work, but these would also be used in relatively small quantities. Boats may also experience accidental oil spills. Because marine discharges are not a part of routine operations for the Project, it is anticipated that they will have a negligible impact on water quality.

An Oil Spill Response Plan has been developed.

The Project and Proposed Project are consistent with Policy 5.3.1.15.

Delaware Policy 5.3.1.19: No person shall, without first having obtained a permit from the Delaware Department of Natural Resources, undertake any activity:

> *5.3.1.19.1: In a way which may cause or contribute to the discharge of an air contaminant;*

For the purposes of Subpart E and Subpart D:

US Wind applied for an Outer Continental Shelf Clean Air Act Permit on August 17, 2023, which was deemed administratively complete on January 4, 2024.

US Wind will conduct an assessment to determine whether its emissions in Delaware during any year of construction will exceed any of the General Conformity emissions thresholds. If so, US Wind will complete a General Conformity Determination to demonstrate that the emissions from the project in Delaware during construction will conform with the State Implementation Plan (SIP).

The Project and Proposed Project are consistent with Policy 5.3.1.19.

> *5.3.1.19.2: In a way which may cause or contribute to the discharge of a pollutant into any surface or ground water;*

For the purposes of Subpart E and Subpart D:

The only anticipated potential discharge due to Project or Proposed Project activities is stormwater during construction and at the US Wind Substations. US Wind would develop and implement a Stormwater Pollution Prevention Plan (SWPPP), which would be submitted for agency approval prior to

commencement of construction activities. US Wind anticipates one SWPPP for construction at 3R's Beach Parking Lot, a second SWPPP for construction at the US Wind Substations, and a third SWPPP for operations at the US Wind Substations.

The Project and Proposed Project are consistent with Policy 5.3.1.19.2.

> *5.3.1.19.3: In a way which may cause or contribute to withdrawal of ground water or surface water or both;*

For the purposes of Subpart E and Subpart D:

Neither the Project nor the Proposed Project will withdraw ground water or surface water.

Therefore, Policy 5.3.1.19.3 is not applicable.

> *5.3.1.19.4: In a way which may cause or contribute to the collection, transportation, storage, processing or disposal of solid wastes, regardless of the geographic origin or source of such solid wastes;*

For the purposes of Subpart E and Subpart D:

The Project and the Proposed Project would obtain the necessary permits to properly dispose of any construction-related solid wastes.

The Project and the Proposed Project are consistent with Policy 5.3.1.19.4.

> *5.3.1.19.5: To construct, maintain or operate a pipeline system including any appurtenances such as a storage tank or pump station;*

For the purposes of Subpart E and Subpart D:

Neither the Project nor the Proposed Project involve a pipeline. Therefore, Policy 5.3.1.19.5 is not applicable.

> *5.3.1.19.6: To construct any water facility; or*

For the purposes of Subpart E and Subpart D:

Neither the Project nor the Proposed Project propose to construct a water facility. Therefore, Policy 5.3.1.19.6 is not applicable.

> *5.3.1.19.7: To plan or construct any highway corridor which may cause or contribute to the discharge of an air contaminant or discharge of pollutants into any surface or ground water. [7 Del. C. § 6003(a)]*

For the purposes of Subpart E and Subpart D:

Neither the Project nor the Proposed Project involve the planning or construction of a highway corridor. Therefore, Policy 5.3.1.19.7 is not applicable.

Delaware Policy 5.3.1.20: No person shall, without first having obtained a permit from the Delaware Department of Natural Resources and Environmental Control, construct, install, replace, modify or use any equipment or device or other article:

5.3.1.20.1: Which may cause or contribute to the discharge of an air contaminant;

For the purposes of Subpart E and Subpart D:

US Wind will obtain any necessary air permits from DNREC prior to construction.

US Wind applied for an Outer Continental Shelf Clean Air Act Permit on August 17, 2023, which was deemed administratively complete on January 4, 2024.

US Wind will conduct an assessment to determine whether its emissions in Delaware during any year of construction will exceed any of the General Conformity emissions thresholds. If so, US Wind will complete a General Conformity Determination to demonstrate that the emissions from the project in Delaware during construction will conform with the State Implementation Plan (SIP).

The Project and Proposed Project are consistent with Policy 5.3.1.20.1.

5.3.1.20.2: Which may cause or contribute to the discharge of a pollutant into any surface or ground water;

For the purposes of Subpart E and Subpart D:

Neither the Project nor the Proposed Project would cause or contribute to the discharge of a pollutant into any surface or ground water.

Therefore, Policy 5.3.1.20.2 is not applicable.

5.3.1.20.3: Which is intended to prevent or control the emission of air contaminants into the atmosphere or pollutants into surface or ground waters;

For the purposes of Subpart E and Subpart D:

Neither the Project nor the Proposed Project would control air emissions, except in the broadest sense of avoiding emissions related to fossil fuel electricity generation.

Therefore, Policy 5.3.1.20.3 is not applicable.

5.3.1.20.4: Which is intended to withdraw ground water or surface water for treatment and supply; or

For the purposes of Subpart E and Subpart D:

Neither the Project nor the Proposed Project would withdraw ground water or surface water.

Therefore, Policy 5.3.1.20.4 is not applicable.

5.3.1.20.5: For disposal of solid waste. [7 Del. C. §6003(b)]

For the purposes of Subpart E and Subpart D:

The Project and the Proposed Project would obtain any necessary permits to properly dispose of construction-related solid wastes. Dredged materials would be dewatered and placed in an approved

landfill. US Wind included a waste acceptance letter from Jones Crossroads Landfill in applications to DNREC submitted March 29, 2024.

The Project is consistent with this policy.

Delaware Policy 5.3.1.21: Regulatory variances for the activities identified in the preceding policy statement may be granted pursuant to 7 Del. C. §6011 if all of the following conditions exist in the opinion of the Secretary of the Delaware Department of Natural Resources and Environmental Control:

> *5.3.1.21.1: Good faith efforts have been made to comply with these policies;*
>
> *5.3.1.21.2: The cost of compliance is disproportionately high with respect to the benefits which would be bestowed by compliance, or the necessary technology is unavailable;*
>
> *5.3.1.21.3: Available alternative operating procedures or interim control measures are being or will be used to reduce adverse impacts; and*
>
> *5.3.1.21.4: The activities are necessary to the national security or to the lives, health, or welfare of the occupants of Delaware. [7 Del. C. §6011(b)]*

For the purposes of Subpart E and Subpart D:

Neither the Project nor the Proposed Project requires a variance for the activities discussed in Section 2.0 as the Project complies with Delaware's policies. The Project and Proposed Project have been sited and designed to minimize impacts to the surrounding environment. Least environmentally damaging installation methodologies have been chosen for construction.

No variance is being requested, therefore Policy 5.3.1.21 is not applicable.

Delaware Policy 5.3.1.26: No person or entity shall:

> *5.3.1.26.1: Engage in the drilling, boring, coring, driving, digging, construction, installation, removal, or repair of a water well or water test well, except as or under the supervision of a licensed water well contractor;*
>
> *5.3.1.26.2: Construct, repair, install or replace any part of a septic tank system except by or under the supervision of a licensed septic tank installer; or*
>
> *5.3.1.26.3: Operate any liquid waste treatment system without a licensed liquid waste treatment plant operator.*
>
> *5.3.1.26.4: No permits or licenses shall be issued for these activities unless the DNREC finds that the applicant is prepared and willing to conduct such activities in a manner which is consistent with the CMP policies. [7 Del. C. §6023; Delaware Executive Order 43, August 15, 1996]*

For the purposes of Subpart E and Subpart D:

Neither the Project nor the Proposed Project involves any well or septic tank system installation or repair, or the operation of any liquid waste treatment system.

Therefore, Policy 5.3.1.26 is not applicable.

Delaware Policy 5.3.1.31: After July 1, 1991, unless a particular activity is exempted by these regulations, a person may not disturb land without an approved sediment and stormwater management plan from the appropriate plan approval agency. [Delaware Sediment and Stormwater Regulations, Section 8(1), amended April 11, 2005]

For the purposes of Subpart E and Subpart D:

US Wind will develop an Erosion and Sediment Control Plan as well as stormwater management plans for agency approval prior to the commencement of construction activities.

The Project and Proposed Project are consistent with Policy 5.3.1.31.

3.5 Subaqueous Lands and Coastal Strip Management

Delaware Policy 5.4.1: The "coastal zone", referred to in these policies as the "coastal strip", is defined as all that area of the State, whether land, water or subaqueous land between the territorial limits of Delaware in the Delaware River, Delaware Bay and Atlantic Ocean, and a line formed by certain Delaware highways and roads. [7 Del. C. §7002]

Delaware Policy 5.4.2: The natural environment of the coastal strip shall be protected from the impacts of heavy industry and oil pollution for the purpose of recreation, tourism, fishing, crabbing, and gathering other marine life useful in food production. [7 Del. C. §§7001, 6201]

For the purposes of Subpart E and Subpart D:

Portions of the Proposed Project or Proposed Project would be located within the coastal strip. The Project and Proposed Project have been sited and designed to minimize and avoid impacts to the coastal zone to the greatest extent practicable. The construction and installation methods chosen are proven technologies with the least environmentally damaging impacts practicable as discussed throughout this consistency statement. All associated impacts would be temporary during construction or routine maintenance or repairs.

Vessel traffic associated with construction activities may produce routine and accidental releases of pollutants that will have negligible impacts on coastal habitat, water quality, and aquatic plants and animals. Any routine releases associated with the Project or Proposed Project are anticipated to be small quantities of clean discharge. Accidental releases associated with the Project or Proposed Project are unlikely, and an Oil Spill Response Plan has been developed. The impacts of routine and accidental releases associated with the Project and Proposed Project are anticipated to be negligible.

US Wind would adhere to seasonal time of year restrictions described in Section 2.3 to protect marine life and recreational uses of the coastal strip.

The Project and Proposed Project are consistent with Policy 5.4.2.

Delaware Policy 5.4.3: The need for protection of the natural environment in the coastal strip shall be balanced with the need for new industry in the State's coastal areas. [7 Del. C. §7001]

For the purposes of Subpart E and Subpart D:

Actions would be taken to protect the coastal strip as discussed above in Policy 5.4.2. Construction activities conducted within the coastal strip would support new and existing industries in Delaware's coastal areas. The Project and Proposed Project involve the construction, operation, and decommissioning of offshore WTGs and associated infrastructure on the OCS. The offshore WTGs will provide clean renewable energy and reduce the region's reliance on fossil fuels, providing reductions in air emissions in the electricity generation sector.

The Project and Proposed Project are consistent with Policy 5.4.3.

Delaware Policy 5.4.15: Avoidable pollution or avoidable contamination of the ocean and of the waters covering submerged lands, avoidable pollution or avoidable contamination of the beaches or land underlying the ocean or waters covering submerged lands, or any substantial impairment of and interference with the enjoyment and use thereof, including but not limited to bathing, boating, fishing, fish and wildlife production, and navigation, shall be prohibited and the lessee shall exercise a high degree of care to provide that no oil, tar, residuary product of oil or any refuse of any kind from any well or works shall be permitted to be deposited on or pass into the waters of the ocean, any bay or inlet thereof, or any other waters covering submerged lands; provided, however, that this policy does not apply to the deposit on, or passing into, such water or waters not containing any hydrocarbons or vegetable or animal matter. [7 Del. C. §6119(a)]

For the purposes of Subpart E and Subpart D:

As addressed in previous policy responses, there is potential for unavoidable pollution or contamination of the ocean, waters, and beaches. However, the Project and Proposed Project would implement measures to prevent avoidable pollution and avoidable contamination of the ocean and of all waters covering submerged lands, avoidable pollution or avoidable contamination of the beaches or land underlying the ocean or waters covering submerged lands, or any substantial impairment of and interference with the enjoyment and use thereof, including but not limited to bathing, boating, fishing, fish and wildlife production, and navigation. US Wind would adhere to seasonal time of year restrictions described in Section 2.3 to protect marine life and recreational uses of the coastal strip.

The Project and Proposed Project are consistent with Policy 5.4.15.

Delaware Policy 5.4.16: For the purposes of this section", "avoidable pollution" or "avoidable contamination" means pollution or contamination arising from:

> *5.4.16.1: The acts of omissions of the lessee or its officers, employees or agents; or*
>
> *5.4.16.2: Events that could have been prevented by the lessee or its officers, employees or agents through the exercise of a high degree of care. [7 Del. C. §6119(b)]*

For the purposes of Subpart E and Subpart D:

See the above response to Policy 5.4.15.

The Project and Proposed Project are consistent with Policy 5.4.16.

Delaware Policy 5.4.17: State subaqueous lands within the boundaries of Delaware constitute an important resource of the State and shall be protected against uses or changes which may impair the public interest in the use of tidal or nontidal waters. [7 Del. C. Ch. 72]

For the purposes of Subpart E and Subpart D:

State subaqueous lands utilized for the Proposed Project will not impair the public interest in the use of tidal or nontidal waters. There would be temporary, localized impacts to these subaqueous lands during dredging for barge access and cable burial, during the installation of the export cables, and during temporary gravity cell installation and removal. US Wind would adhere to seasonal time of year restrictions described in Section 2.3 to protect marine life and recreational uses of the coastal strip.

Following installation of the export cables and related infrastructure, there are no anticipated impacts to subaqueous lands or public interest in the use of these waters. Routine maintenance or repairs, as required, of the onshore export cables will be localized and on a smaller scale than installation.

US Wind applied for a Wetlands Permit, Subaqueous Lands Permit and Lease, Water Quality Certification and Coastal Construction on February 15, 2024, for the Proposed Project. A revised Coastal Construction Permit Application was submitted February 27, 2024, and revised applications for a Wetlands Permit, Subaqueous Lands Permit and Lease, and Water Quality Certification were submitted to DNREC on March 29, 2024.The Project and Proposed Project are consistent with Policy 5.4.17.

Delaware Policy 5.4.18: No person shall deposit material upon or remove or extract materials from, or construct, modify, repair or reconstruct, or occupy any structure or facility upon submerged lands or tidelands without first having obtained a permit, lease or letter of approval from the DNREC. Such permit, lease or letter of approval, if granted, may include reasonable conditions required in the judgment of the DNREC to protect the interest of the public. If it is determined that granting the permit, lease or approval will result in loss to the public of a substantial resource, the permittee may be required to take measures which will offset or mitigate the loss. [7 Del. C. §7205]

For the purposes of Subpart E:

All necessary permits would be acquired prior to the commencement of the Project. Temporary gravity cell installation for HDD conduit installation would require the removal/excavation of sediment at the HDD locations in the Atlantic Ocean, Indian River Bay, and Indian River. Dredging is anticipated for barge access and cable burial in the western portion of Indian River Bay and Indian River in the vicinity of the existing Indian River Inlet and Bay Federal Channel. Disturbance associated with the temporary gravity cell installation and dredging related to export cable installation would occur at locations outside of sensitive resources areas and would not result in a loss to the public of a substantial resource.

The Project is consistent with Policy 5.4.18.

For the purposes of Subpart D:

US Wind is consulting with DNREC and applied for a Subaqueous Lands Permit and Lease on February 15, 2024, for the Proposed Project. The permit application includes all proposed cable installation activities, including potential dredging for barge access and cable burial in the western portion of Indian River Bay and Indian River in the vicinity of the existing Indian River Inlet and Bay Federal Channel.

The Proposed Project is consistent with Policy 5.4.18.

Delaware Policy 5.4.19: The extent of jurisdictional authority over public or private subaqueous lands includes any activity in a navigable stream or waterbody, which have a hydrologic connection to natural waterbodies". "Activity" includes, but is not limited to, any human induced action, such as dredging, draining,

filling, grading, bulkheading, mining, drilling, extraction of materials or excavation, or construction of any kind, including, but not limited to, construction of a boat ramp or slip, breakwater, residences, bridge, bulkhead, culvert, dam, derrick, deck, groin, jetty, lagoon, gabion, rip-rap, launching facility, marina, mooring facility, pier, seawall, walkway, or wharf. [Delaware Regulations Governing the Use of Subaqueous Lands, Section 1.02(A)(1) and Definition #1, amended September 2, 1992]

For the purposes of Subpart E:

The installation of temporary gravity cells for cable installation and associated excavation/dredging of material as well as dredging for cable installation on public subaqueous lands is considered a human-induced action and is within Delaware's jurisdiction. All necessary permits would be acquired prior to the commencement of the Project.

The Project is consistent with Policy 5.4.19.

For the purposes of Subpart D:

US Wind applied for a Wetlands Permit, Subaqueous Lands Permit and Lease, Water Quality Certification and Coastal Construction on February 15, 2024, for the Proposed Project.A revised Coastal Construction Permit Application was submitted February 27, 2024, and revised applications for a Wetlands Permit, Subaqueous Lands Permit and Lease, and Water Quality Certification were submitted to DNREC on March 29, 2024..

The Proposed Project is consistent with Policy 5.4.19.

Delaware Policy 5.4.20: The following types of activities in, on, over, or under private subaqueous lands require a permit or letter of authorization from the DNREC:

5.4.20.1: Construction of a convenience structure or boat docking facility.

5.4.20.2: Construction of a shoreline erosion control structure or measure.

5.4.20.3: Dredging, filling, excavating or extracting of materials.

5.4.20.4: Excavation, creation, or alteration of any channel, lagoon, turning basin, pond, embayment, or other navigable waterway on private subaqueous lands which will make connection with public subaqueous lands.

5.4.20.5: Dredging of existing channels, ditches, dockages, lagoons and other navigable waterways to maintain or restore the approved depth and width.

5.4.20.6: Excavation of land which makes connection to public subaqueous lands.

5.4.20.7: The laying of any pipeline, electric transmission line, telephone line, or any other utility structure in, on, over, or under the beds of private subaqueous lands.

5.4.20.8: Installation of temporary or permanent mooring buoys or private marker buoys.

5.4.20.9: Establishment of an anchorage for the use of a mooring for more than two (2) boats or for appurtenant onshore services.

5.4.20.10: Anchoring or mooring a floating platform over private subaqueous lands and for a period of twenty-four (24) consecutive hours or more.

5.4.20.11: Anchoring or mooring any vessel or platform over private subaqueous lands for revenue generating purposes.

5.4.20.12: Repair and replacement of existing serviceable structures over private subaqueous lands, except no permit or letter is required for repairs or structural replacements which are above the mean low tide and which do not increase any dimensions or change the use of the structure. [Delaware Regulations Governing the Use of Subaqueous Lands, Section 1.03(C), amended September 2, 1992]

US Wind applied for a Wetlands Permit, Subaqueous Lands Permit and Lease, Water Quality Certification and Coastal Construction on February 15, 2024, for the Proposed Project. A revised Coastal Construction Permit Application was submitted February 27, 2024, and revised applications for a Wetlands Permit, Subaqueous Lands Permit and Lease, and Water Quality Certification were submitted to DNREC on March 29, 2024.

The Project and Proposed Project are consistent with Policy 5.4.20.

Delaware Policy 5.4.21: The following types of activities on public subaqueous lands require a lease, permit, or letter of authorization from the DNREC:

5.4.21.1: Construction or use of any structure on, in, under, or over public subaqueous lands, including but not limited to, any convenience structures, shoreline erosion control structure or measure, or boat docking facility.

US Wind applied for a Wetlands Permit, Subaqueous Lands Permit and Lease, Water Quality Certification and Coastal Construction on February 15, 2024, for the Proposed Project.A revised Coastal Construction Permit Application was submitted February 27, 2024, and revised applications for a Wetlands Permit, Subaqueous Lands Permit and Lease, and Water Quality Certification were submitted to DNREC on March 29, 2024.

The Project and Proposed Project are consistent with Policy 5.4.21.

5.4.21.2: Dredging, filling, excavating or extracting of materials.

Excavation of or movement of sediment public subaqueous lands will be required for the installation of the temporary gravity cells at the at the Atlantic Ocean, Indian River Bay, and Indian River HDD locations and for barge access and cable burial within Indian River Bay. Material from dredging will be dewatered and trucked to a landfill for disposal.

US Wind applied for a Wetlands Permit, Subaqueous Lands Permit and Lease, Water Quality Certification and Coastal Construction on February 15, 2024, for the Proposed Project.A revised Coastal Construction Permit Application was submitted February 27, 2024, and revised applications for a Wetlands Permit, Subaqueous Lands Permit and Lease, and Water Quality Certification were submitted to DNREC on March 29, 2024.

The Project and Proposed Project are consistent with Policy 5.4.21.2.

5.4.21.3: Continuous anchoring or mooring of a commercial vessel used in a commercial activity on or over public subaqueous lands for thirty (30) or more calendar days during any consecutive three (3) months.

If applicable, US Wind will obtain the required lease, permit, or letter of authorization from the DNREC.

The Project and Proposed Project are consistent with Policy 5.4.21.3.

5.4.21.4: The laying of any pipeline, electric transmission line, or telephone line in, on, over, or under the beds of public subaqueous lands.

The onshore export cables would be installed below the bay bottom and below public subaqueous lands. US Wind applied for a Wetlands Permit, Subaqueous Lands Permit and Lease, Water Quality Certification and Coastal Construction on February 15, 2024, for the Proposed Project. A revised Coastal Construction Permit Application was submitted February 27, 2024, and revised applications for a Wetlands Permit, Subaqueous Lands Permit and Lease, and Water Quality Certification were submitted to DNREC on March 29, 2024.

The Project and Proposed Project are consistent with Policy 5.4.21.4.

5.4.21.5: Installation of temporary or permanent mooring buoys or private marker buoys.

If applicable, US Wind will obtain the required lease, permit, or letter of authorization from the DNREC.

The Project and Proposed Project are consistent with Policy 5.4.21.5.

5.4.21.6: Establishment of an anchorage for mooring more than two (2) boats or which serves as a permanent place for resident vessels.

Neither the Project nor Proposed Project involves the establishment of an anchorage for mooring more than two (2) boats or which serves as a permanent place for residential vessels.

Therefore, this policy is not applicable.

5.4.21.7: Anchoring or mooring a floating platform over public subaqueous lands and for a period of twenty-four (24) consecutive hours or more.

If applicable, US Wind will obtain the required lease, permit, or letter of authorization from the DNREC.

The Project and Proposed Project are consistent with Policy 5.4.21.7.

5.4.21.8: Maintenance dredging of existing or new channels, ditches, dockages, lagoon and other waterways to maintain or restore the approach depth and width.

Neither the Project nor Proposed Project involves maintenance dredging.

Therefore, this policy is not applicable.

5.4.21.9: Anchoring or mooring any vessel or platform over public subaqueous lands for revenue generating purposes.

Neither the Project nor the Proposed Project involves anchoring or mooring any vessel or platform over public subaqueous lands for revenue generating purposes.

Therefore, this policy is not applicable.

> *5.4.21.10: Repair and replacement of existing serviceable structures over private subaqueous lands, except no permit or letter is required for repairs or structural replacements which are above the mean low tide and which do not increase any dimensions or change the use of the structure.*

Neither the Project nor Proposed Project involves the repair or replacement of existing serviceable structures over private subaqueous lands.

Therefore, this policy is not applicable.

> *5.4.21.11: New dredging activities of channels, ditches, dockage, or other waterways. [Delaware Regulations Governing the Use of Subaqueous Lands, Section 1.04(B), amended September 2, 1992]*

The Proposed Project will perform dredging for barge access and cable burial along Onshore Export Cable South Corridor in Indian River Bay and Indian River. US Wind applied for a Wetlands Permit, Subaqueous Lands Permit and Lease, Water Quality Certification and Coastal Construction on February 15, 2024, for the Proposed Project. A revised Coastal Construction Permit Application was submitted February 27, 2024, and revised applications for a Wetlands Permit, Subaqueous Lands Permit and Lease, and Water Quality Certification were submitted to DNREC on March 29, 2024.

The Project and Proposed Project are consistent with Policy 5.4.21.11.

Delaware Policy 5.4.22: The DNREC shall consider the public interest in any proposed activity which might affect the use of subaqueous lands. These considerations include, but are not limited to, the following:

> *5.4.22.1 The value to the State or the public in retaining any interest in subaqueous lands which the applicant seeks to acquire, including the potential economic value of the interest.*

For the purposes of Subpart E and Subpart D:

The use of subaqueous lands would bring offshore wind energy to the Delaware electric grid and reduce the region's reliance on fossil fuels, in addition to bringing economic opportunities associated with the emerging offshore wind industry. The State and the public will benefit from US Wind utilizing subaqueous lands to connect the Project to the regional grid.

The Project and Proposed Project are consistent with Policy 5.4.22.1.

> *5.4.22.2 The value to the State or the public in conveying any interest in subaqueous lands which the applicant seeks to acquire.*

For the purposes of Subpart E and Subpart D:

The use of subaqueous lands would bring offshore wind energy to the Delaware electric grid and reduce the region's reliance on fossil fuels, in addition to bringing economic opportunities associated with the emerging offshore wind industry. The State and the public would benefit from US Wind utilizing these subaqueous lands.

The Project and Proposed Project are consistent with Policy 5.4.22.2.

> *5.4.22.3 The potential effect on the public with respect to commerce, navigation, recreation, aesthetic enjoyment, natural resources and other uses of the subaqueous lands.*

For the purposes of Subpart E and Subpart D:

There would be localized, temporary impacts on the public with respect to commerce, navigation, recreation, aesthetic enjoyment, natural resources and other uses of the subaqueous lands. Impacts would be limited to installation and removal of the temporary gravity cells at the Atlantic Ocean, Indian River Bay, and Indian River HDD locations, dredging for cable installation, and installation of the onshore export cables in the seabed and bay bottom. Impacts associated with installation may temporarily preclude the public from using the immediate construction area. US Wind would limit construction to the period outside of peak recreational activity as described in Section 2.3.

Once installed, the onshore export cables are not anticipated to affect the public with respect to commerce, navigation, recreation, aesthetic enjoyment, natural resources and other uses of the subaqueous lands as the onshore export cables would be buried below the bay bottom. Export cables would be buried, at the direction of USACE, at least 1.8 m (6 ft) below the maintenance depth of the Indian River Inlet and Bay Federal Channel to accommodate any future dredging of the navigation channel by USACE or DNREC.

There may be temporary, localized impacts for routine maintenance or repair activities associated with the onshore export cables and HDD conduits. Maintenance or repair activities are anticipated to be significantly less than installation activities.

The Project and Proposed Project are consistent with Policy 5.4.22.3.

> *5.4.22.4 The extent to which any disruption of the public use of such lands is temporary or permanent.*

Disruption of the public use of these subaqueous lands would be temporary. See response to 5.4.22.3.

The Project and Proposed Project are consistent with Policy 5.4.22.3.

> *5.4.22.5 The extent to which the applicant's primary objectives and purposes can be realized without the use of such lands (avoidance).*

For the purposes of Subpart E:

US Wind's primary objective is to deliver offshore wind renewable energy generation to the regional electric grid. Due to the distance from the shoreline to the Point of Interconnection all routes for the export cables would use or cross subaqueous lands.

The Project proposes the use of Onshore Export Cable South Corridor through subaqueous lands because it provides the most direct and practicable route the Point of Interconnection in Delaware. As described in Section 2.1, US Wind assessed optional terrestrial Onshore Export Cable Corridors which would not require the use of subaqueous lands although HDD under subaqueous lands would be necessary at one or more locations along any of the alternative .

Section 2.5.3.3 of COP Volume I describes the evaluation of all of the Onshore Export Cable Corridors in the PDE.

The Project is consistent with Policy 5.4.22.5.

For the purposes of Subpart D:

The Proposed Project would install up to 4 export cables in Onshore Export Cable South Corridor, which would traverse Indian River Bay, as the only practicable route. US Wind would adhere to seasonal time of year restrictions described in Section 2.3 to avoid and minimize impacts to subaqueous lands, their resources, and their users.

The Proposed Project is consistent with Policy 5.4.22.5.

> *5.4.22.6 The extent to which the applicant's primary purpose and objectives can be realized by alternatives, i.e. minimize the scope or extent of an activity or project and its adverse impact.*

See response to Policy 5.4.22.5.

The Project and Proposed Project are consistent with Policy 5.4.22.6.

> *5.4.22.7 Given the inability for avoidance or alternatives, the extent to which the applicant can employ mitigation measures to offset any losses incurred by the public.*

For the purposes of Subpart E:

Any detriments suffered by the public would be limited to the installation and construction activities, however, these would be temporary and negligible. Detrimental impacts may include the public not being allowed to use portions of the water sheet for navigation, fishing, or fowling; temporary closures of the beach while installation of the cables occurs; or temporary impacts to wetlands, benthic habitats, and species. These impacts will be temporary, localized, and negligible. The Project's proposed avoidance, minimization, and mitigation measures are detailed in COP Volume II, Section 1.5.

The Project is consistent with Policy 5.4.22.7.

For the purposes of Subpart D:

Impacts would be similar to those described above in relation to Subpart E. The Proposed Project includes measures to avoid and minimize impacts to subaqueous lands and the public which uses subaqueous lands. In the narrative accompanying US Wind's applications for a Subaqueous Lands Permit and Lease, US Wind proposed a mitigation measure to conduct an evaluation of opportunities and locations where eelgrass establishment or hard clam seeding could be appropriate in Indian River Bay.

The Proposed Project is consistent with Policy 5.4.22.7.

> *5.4.22.8 The extent to which the public at large would benefit from the activity or project and the extent to which it would suffer detriment.*

For the purposes of Subpart E and Subpart D:

As described above and in the COP, the Project would benefit the state of Delaware though environmental improvements and economic benefits to the region from the development of a utility scale, domestic offshore wind industry. The use of subaqueous lands would bring offshore wind energy to the Delaware electric grid and reduce the region's reliance on fossil fuels. The State and the public would benefit from US Wind utilizing these subaqueous lands. Any detriments suffered by the public would be limited to the installation and construction activities, however, these would be temporary and negligible. Detrimental impacts may include the public not being allowed to use portions of the water sheet for navigation, fishing, or fowling; temporary closures of the beach while installation of the cables occurs; or temporary impacts to wetlands, benthic habitats, and species. These impacts will be temporary, localized, and negligible.

The Project and Proposed Project are consistent with Policy 5.4.22.6.

> *5.4.22.9 The extent to which the primary purpose of a project is water-dependent. [Delaware Regulations Governing the Use of Subaqueous Lands, Section 3.01(A), amended September 2, 1992]*

For the purposes of Subpart E and Subpart D:

The objective of the Project and Proposed Project is to generate and connect offshore wind energy to the onshore power grid and it is therefore water dependent.

The Project and Proposed Project are consistent with Policy 5.4.22.9.

Delaware Policy 5.4.23: The DNREC shall consider the impact on the environment, including but not limited to, the following:

> *5.4.23.1 Any impairment of water quality, either temporary or permanent, which may reasonably be expected to cause violation of the State Surface Water Quality Standards. This impairment may include violation of criteria or degradation of existing uses;*

For the purposes of Subpart E and Subpart D:

US Wind provides information in the COP and USACE Individual Permit application for DNREC to evaluate potential temporary impacts to water quality from the construction activities. See response to Delaware Policy 5.3.1.6.

The Project and Proposed Project are consistent with Policy 5.4.23.

> *5.4.23.2 Any effect on shellfishing, finfishing, or other recreational activities and existing or designated water uses;*

For the purposes of Subpart E and Subpart D:

US Wind provides information in the COP and USACE Individual Permit application, including the results of benthic and shellfish density surveys conducted in 2021 and 2022, for DNREC to evaluate effects to shellfishing, finfishing, and related recreational activities, and existing or designated water uses.

The Project and Proposed Project are consistent with Policy 5.4.23.2.

> *5.4.23.3 Any harm to aquatic or tidal vegetation, benthic organisms or other flora and fauna, and their habitats;*

For the purposes of Subpart E and Subpart D:

US Wind provides information in the COP and USACE Individual Permit application, including the results of benthic and shellfish density surveys conducted in 2021 and 2022, for DNREC to evaluate effects to benthic organisms and other flora and fauna. No submerged aquatic vegetation has been documented in the Project or Proposed Project area. Impacts to benthic organisms and their habitats are anticipated to be localized, temporary and minor to negligible.

The Project and Proposed Project are consistent with Policy 5.4.23.3.

5.4.23.4 Any loss of natural aquatic habitat;

For the purposes of Subpart E and Subpart D:

US Wind provides information in the COP and USACE Individual Permit application, including the results of benthic and shellfish density surveys conducted in 2021 and 2022, for DNREC to evaluate effects to aquatic habitat.

Impacts to natural aquatic habitat would be temporary during construction and US Wind has implemented measures to avoid and minimize impacts. The presence of new structure offshore is expected to provide significant benefits to habitat for fish and invertebrates during operation of the Project or Proposed Project.

The Project and Proposed Project are consistent with Policy 5.4.23.4.

5.4.23.5 Any impairment of air quality either temporarily or permanently, including noise, odors, and hazardous chemicals; the extent to which the proposed project may adversely impact natural surface and groundwater hydrology and sediment transport functions. [Delaware Regulations Governing the Use of Subaqueous Lands, Section 3.01(B), amended September 2, 1992]

For the purposes of Subpart E and Subpart D:

Activities associated with Project construction, operation, and decommissioning have the potential to affect air quality locally. US Wind provides an assessment of air emissions on the OCS in the COP for the Project and US Wind applied for an OCS Clean Air Act Permit on August 17, 2023, for the Proposed Project, which was deemed administratively complete on January 4, 2024.

US Wind will conduct an assessment to determine whether its emissions in Delaware during any year of construction will exceed any of the General Conformity emissions thresholds. If so, US Wind will complete a General Conformity Determination to demonstrate that the emissions from the project in Delaware during construction will conform with the State Implementation Plan (SIP).

See the response above to Delaware Policy 5.4.23.2 for a discussion of potential Project noise and sediment/deposition impacts.

The Project and Proposed Project are consistent with Policy 5.4.23.5.

Delaware Policy 5.4.24: The DNREC shall also consider the following to determine whether to approve the application:

5.4.24.1 The degree to which the project represents an encroachment on or otherwise interferes with public lands, waterways or surrounding private interests.

For the purposes of Subpart E:

The US Wind Substations would be located adjacent to the Indian River Substation on a privately-owned, industrialized parcel adjacent to the Indian River Power Plant.

If any of the alternative terrestrial routes for the onshore export cables were selected, there would be air quality, traffic and noise impacts to public lands, and surrounding private interests during construction of the onshore export cables and Interconnection Facilities. Impacts would be intermittent, localized, and temporary, however, the temporary impacts could significantly disrupt access to public and private facilities when roads would be closed during construction. US Wind would avoid and minimize impacts by conducting construction outside of the recreational season and coordinating with state, local, and private interests.

As described in the COP, the presence of export cables within existing ROWs has the potential to impact completed and planned infrastructure upgrades, and to limit future state and local projects such as sewer lines and utilities.

The Project is consistent with Policy 5.4.24.1.

For the purposes of Subpart D:

The Proposed Project could interfere with the public lands of Delaware Seashore State Park. However, impacts would be minimized by restricting construction to occur outside of the peak recreation season. In addition, there will be no conversion of land per the Land and Water Conservation Fund, as the parking lots will continue to function as a public access point to Delaware beaches. Therefore, any impacts to public lands, waterways and surrounding private interests will be limited to the installation and construction activities, and these are anticipated to be negligible to minor.

The Proposed Project is consistent with Policy 5.4.24.1.

> *5.4.24.2 The degree to which the project incorporates sound engineering principles and appropriate materials of construction.*

For the purposes of Subpart E and Subpart D:

US Wind will retain qualified engineering and construction support as required by BOEM, including hiring a Certified Verification Agent (CVA) to review design, fabrication, and installation of Project or Proposed Project components.

The Project and Proposed Project are consistent with Policy 5.4.24.2.

> *5.4.24.3 The degree to which the proposed project fits in with the surrounding structures, facilities, and uses of the subaqueous lands and uplands.*

For the purposes of Subpart E:

The onshore export cables are a water-dependent use and would have negligible impacts on surrounding subaqueous lands and uplands. Once installed along Onshore Export Cable South Corridor, the onshore export cables and associated structures would be buried below the bay bottom. Where the onshore export cables make landfall at the Interconnection Facilities, Interconnection Facilities would be sited and

constructed near existing utility infrastructure and would be similar in appearance and use as those surrounding structures and facilities..

The alternative terrestrial cables routes, associated with Onshore Export Cable Corridor Options 1a, 1b, 1c, or 2, would be buried within existing rights of way or rights of way currently under development.

The Project is consistent with Policy 5.4.24.3.

For the purposes of Subpart D:

The Proposed Project would install export cables only in Onshore Export Cable South Corridor, as described above.

The Proposed Project is consistent with Policy 5.4.24.3.

> *5.4.24.4 Whether the proposed activity complies with the State of Delaware's Surface Water Quality Standards both during construction and during subsequent operation or maintenance.*

For the purposes of Subpart E and Subpart D:

The Project or Proposed Project would comply with the state of Delaware's Surface Water Quality Standards both during construction and during subsequent operation or maintenance.

US Wind applied for a Wetlands Permit, Subaqueous Lands Permit and Lease, Water Quality Certification and Coastal Construction on February 15, 2024, for the Proposed Project. A revised Coastal Construction Permit Application was submitted February 27, 2024, and revised applications for a Wetlands Permit, Subaqueous Lands Permit and Lease, and Water Quality Certification were submitted to DNREC on March 29, 2024.

The Project and Proposed Project are consistent with Policy 5.4.24.4.

> *5.4.24.5 The degree to which the proposed project may adversely affect shellfish beds or finfish activity in the area. [Delaware Regulations Governing the Use of Subaqueous Lands, Section 3.01(C), amended September 2, 1992]*

For the purposes of Subpart E and Subpart D:

Activities associated with Project construction have the potential to impact shellfish beds and finfish, although impacts are expected to be negligible to minor and temporary.

Dredging Reductions for Impact Avoidance and Minimization

US Wind significantly reduced the need for potential dredging for barge access, cable burial, and cable flotation through optimization and planning, which would increase costs and construction time, to avoid and minimize potential impacts to sensitive resources. The initial worst-case dredging estimate for the southern corridor, now Onshore Export Cable South Corridor, was 1,368,000 cubic yards, which would have implemented dredging along the entirety of the cable corridor in Indian River Bay. US Wind was able to significantly reduce dredging through the planned use of a cable lay barge with a smaller draft. In February 2024, US Wind identified dredging needed in Onshore Export Cable South Corridor as 309,574 cubic yards over an anticipated two installation campaigns.

US Wind is now able to confirm that dredging volumes can be further reduced to a total of 73,676 cubic yards over two construction campaigns (see Section 2.1.3.3). US Wind worked with its engineers and potential installation contractors to confirm feasible installation processes to realize the dredging reductions. The refined installation process is similar to prior plans, however. downtime during installation would potentially increase during periods of low water, another splice in each cable may be necessary, and a larger barge to optimize weight distribution of the heavy export cables, among other optimizations. Installation cost to US Wind and the time of cable installation could increase, however, the dredging reductions made to the installation plans in March 2024 allow US Wind to reduce planned dredging overall and to avoid dredging entirely along the southern portion of Onshore Export Cable South Corridor, a location DNREC, USACE, and NMFS identified as potentially biologically sensitive. Dredging, if needed, is now planned only in the vicinity of prior dredging projects.

Habitat alteration

The installation of submarine cables, operation of anchored vessels, and dredging for cable installation during construction would alter benthic habitat in Indian River Bay and the Atlantic Ocean. Immobile and slow-moving benthos may be lost during these activities, temporarily reducing the potential food supply for demersal fish until these species recover to pre-construction population levels. Although motile organisms may be able to vacate installation areas and avoid direct mortality, these organisms could be temporarily displaced by construction activities.

Habitat alteration would have a negligible to minor impact on finfish. The reduction in benthic food supply would be temporary and localized, and the loss of soft-bottom habitat associated with the Project or Proposed Project would be small relative to the overall extent of benthic habitat available within and around the Project or Proposed Project area. No seagrass beds have been documented in the Project or Proposed Project area. Benthic communities would experience localized mortality and habitat disturbance during construction, although impacts are expected to be temporary and spatially limited. As the areas disturbed by construction activities would constitute only a small percentage of benthic habitats in the region, organisms are expected to rapidly recolonize these locations from surrounding undisturbed habitats.

Turbidity/Suspended sediment

Suspended sediment and sedimentation would have a negligible to minor impact on finfish and Essential Fish Habitat (EFH). The COP includes results of benthic surveys offshore and in Indian River Bay as well as sediment transport modelling for export cable installation offshore and within Onshore Export Cable South Corridor.

An offshore sediment transport modelling study has been provided in COP Appendix II-B2. This study addresses turbidity and total suspended solids from the construction phase along Offshore Export Cable Corridor 1. Turbidity and total suspended solids from construction along Offshore Export Cable Corridor 2 were assessed in Addendum 1 of COP Appendix II-B2. Addendum 2 of COP Appendix II-B2 provides sediment transport modeling results for the proposed trailing suction hopper dredging that may be needed to prepare the seafloor for construction at each of the four proposed OSS locations.

Sediment transport modelling for Indian River Bay is provided as COP Appendix II-B3 which indicates that the majority of suspended sediments would settle out of the water column following the completion of jet plowing within 24 hours.

While some fish may struggle to navigate during times of reduced visibility and alterations in water chemistry, others may benefit from the increased turbidity because it will help conceal them from predators (Wilber and Clarke 2001). Gilled fish may also experience increased respiration during periods of increased turbidity in order to maintain sufficient oxygen intake (Newcombe and Jensen 1996). As suspended sediment settles out of the water column, fish eggs could be buried, and demersal fish that feed on benthic organisms may experience difficulty finding food (USDOI and MMS 2007). However, it is expected that most fish will seek food and shelter outside of the Project area when vessel traffic and other construction noises begin, and construction will occur from late fall through winter to avoid creating impacts during the spring spawning season. Additionally, gravity cells would be placed around HDD bore holes to contain sediment at the landfalls. As suspended sediment concentrations are expected to return to background levels quickly after construction ceases, it is anticipated that the impact of increased turbidity and suspended sediment on finfish would be negligible to minor depending on the species.

As sediments within the Project area are not known to be highly contaminated, exposure of benthic organisms to harmful levels of resuspended contaminants is not expected.

In areas where deposition is highest, benthic organisms may become buried. Surface-dwelling motile organisms and actively burrowing organisms are at low risk of harm from burial, as these species will be able to vacate the affected area during disturbance or unbury themselves. However, sessile or less motile buried organisms located in the disturbed area may experience mortality or metabolic impacts due to smothering. However, these conditions are expected to be highly localized and result in negligible impacts to benthic communities.

Noise

Vessel traffic would produce ambient noise during construction. Fish are likely to avoid the source of noise and move out of the area or away from vessels. The most severe impact would be that fish may be deterred from annual migration routes, which could interfere with their feeding and reproductive success. It is anticipated that construction noise will have a negligible to minor impact on finfish. Finfish are likely to avoid or move away from the noise source during construction activities resulting in temporary displacement.

Vessel traffic

There is a risk that construction vessels may hit aquatic organisms, potentially causing injury or death. It is anticipated that vessel traffic will have a negligible impact on finfish. Fish may differ their spatial distribution patterns in the presence of construction vessels. For example, skipjack tunas have shown attraction responses to floating objects (NMFS 2006), which may draw them toward construction vessels. However, avoidance or attraction responses to construction vessels are not expected to have a net impact on fish, either positive or negative. In the event of collision with a construction vessel, fish are unlikely to be harmed due to their small size relative to the vessel, which allows the vessel to absorb the fish's momentum with no real impact to the fish or the vessel. Project or Proposed Project construction vessels will follow vessel speed restrictions and any other applicable national guidance for vessel strike avoidance.

Lighting

If construction activities extend before sunrise or after sunset, artificial lighting may be used. It is anticipated that such construction lighting would have a negligible impact on finfish and EFH. While it is possible that fish may alter their movement toward or away from the light (Orr, Herz, and Oakley 2013), this reaction is not well-studied, and it is not expected that this behavior would have a net impact on fish, either positive or

negative. Lighting would be limited to areas of active construction, which will leave most of the Project or Proposed Project area unaffected at any given time.

Routine/Accidental releases

Wastes from construction vessels may be released into Indian River Bay or the Atlantic Ocean either as part of their allowed operations or during an accidental spill. Because permissible releases are relatively clean and accidental releases would be infrequent and dilute quickly in these large bodies of water, it is anticipated that routine and accidental releases will have a negligible impact on finfish.

EMF

Once the Project is operational, electric current would be continuously transmitted through the onshore export cables. This current can produce an electromagnetic field (EMF). The EMF created by the cables could interfere with naturally occurring EMF. Burying the cables would minimize the impact of the EMFs produced by the onshore export cables, and a protective shield will be installed around the cables to further reduce the effect of EMFs produced by the onshore export cables in the Project area.

US Wind conducted site-specific studies of potential impacts of EMF, summarized here, which found electric and magnetic fields produced by the operation of project cables to be below the reported detection thresholds for electrosensitive marine organisms (Exponent 2023a, 2023b). The maximum magnetic and electric fields at peak loading of the Project cables rapidly decrease with horizontal distance from the cables and is shown in Table 1 (Exponent 2023b). Therefore, EMF associated with the submarine cable system is unlikely to impact benthic organisms, as all electrical transmission cables would be buried at a minimum depth of 1 m (3.2 ft) beneath the substrate or covered in cable protection. Therefore, impacts to fish and benthic resources from EMF are expected to be negligible.

Table 1. Summary of Calculated Magnetic- and Induced Electric-Field Levels[1]

Cable Configuration	Evaluation Height for Magnetic- or Electric-Field	Magnetic Field (mG)			Electric Field (mV/m) [2]		
		Max	Horizontal Distance from Cable		Max	Horizontal Distance from Cable	
			1.5 m (5 ft)	3 m (10 ft)		1.5 m (5 ft)	3 m (10 ft)
Inter-array Cable	At the seabed	49	4.0	0.1	0.7	0.1	< 0.1
	1 m (3.3 ft) above the seabed	2.1	0.5	< 0.1	< 0.1	< 0.1	< 0.1
Offshore Export Cable	At the seabed	148	21	0.9	2.5	0.4	< 0.1
	1 m (3.3 ft) above the seabed	12	3.7	0.3	0.2	0.1	< 0.1

Export Cables in Indian River Bay [3,4]	At the seabed	148	21	0.9	2.5	0.4	< 0.1
	1 m (3.3 ft) above the seabed	12	3.8	0.3	0.2	0.1	< 0.1

Adapted from Exponent 2023b

[1] The horizontal distance is measured from the centerline of the individual inter-array or offshore export cable.

[2] Induced electric fields in representative marine species of interest are lower than those presented here for induced electric fields in seawater.

[3] For HDD, cables will be installed approximately 6.6 ft (2 m) or greater. As a result, the maximum calculated field levels will be lower than those presented here.

[4] For Indian River Bay Export Cables, the results at horizonal distances > 0 were provided relative to the cable with the higher current (1,200 A and 480 A for peak and average loading, respectively). Calculated fields near cables carrying lower currents will be lower.

Impacts to shellfish beds and finfish are anticipated to be negligible to minor and temporary. These impacts are associated with the installation and construction activities.

The Project and Proposed Project are consistent with Policy 5.4.24.5.

Delaware Policy 5.4.25: The following concerns for protecting water quality shall be specifically considered by the DNREC in evaluating applications for dredging projects:

5.4.25.1 All dredging is to be conducted in a manner consistent with sound conservation and water pollution control practices. Spoil and fill areas are to be properly diked to contain the dredged material and prevent its entrance into any surface water. Specific requirements for spoils retention may be specified by the DNREC in the approval, permit or license.

5.4.25.2 All material excavated shall be transported, deposited, confined, and graded to drain within the disposal areas approved by the DNREC. Any material that is deposited elsewhere than in approved areas shall be removed by the applicant and deposited where directed at the applicant's expense and any required mitigation shall also be at the applicant's expense.

5.4.25.3 Materials excavated by hydraulic dredge shall be transported by pipeline directly to the approved disposal area. All pipelines shall be kept in good condition at all times and any leaks or breaks shall be immediately repaired.

5.4.25.4 Materials excavated and not deposited directly into an approved disposal area shall be placed in scows or other vessels and transported to either an approved enclosed basin, dumped, and then rehandled by hydraulic dredge to an approved disposal area, or to a mooring where scows or other vessels shall be unloaded by pumping directly to an approved disposal area.

5.4.25.5 When scows or other vessels are unloading without dumping, they shall have their contents pumped directly into an approved disposal area by a means sufficient to preclude any loss of material into the body of water.

5.4.25.6 In approved disposal areas, the applicant may construct any temporary structures or use any means necessary to control the dredge effluent, except borrowing from the outer slopes of existing embankments and/or hydraulic placing of perimeter embankments. For bermed disposal

sites, a minimum freeboard of two (2) feet, measured vertically from the retained materials and water to the top of the adjacent

5.4.25.7 The applicant shall not obstruct drainage or tidal flushing on existent wetlands or upland areas adjacent thereto. The applicant shall leave free, clear, and unobstructed outfalls of sewers, drainage ditches, and other similar structures affected by the disposal operations. The dredged materials shall be distributed within the disposal area in a reasonably uniform manner to permit full drainage without ponding during and after fill operations.

5.4.25.8 The dredging operation must be suspended if water quality conditions deteriorate in the vicinity of dredging or spoil disposal site. Minimum water quality standards may be included as an element of the permit and shall be monitored by the applicant. Violation of these conditions shall be cause for immediate suspension of activity and notification of the DNREC. Dredging shall not be resumed until water quality conditions have improved and the DNREC has authorized the resumption. [Delaware Regulations Governing the Use of Subaqueous Lands, Section 3.05(C), amended September 2, 1992]

For the purposes of Subpart E:

Dredging is anticipated in Indian River Bay for barge access and to reach the required cable burial depth. Dredging would temporarily displace sediment and would stabilize after installation of submarine cables. Sediment disturbance impacts are expected to be significantly less than those resulting from jet plow installation and are anticipated to be negligible. Dredged material would be dewatered and hauled to an approved upland landfill.

Turbidity monitoring would be conducted during construction.

The Project is consistent with Policy 5.4.25.

For the purposes of Subpart D:

Dredged material will be piped via temporary dredge pipeline to a dewatering staging area at the US Wind Substations, within the planned limits of construction disturbance. Dredged materials will be dewatered and placed in trucks for disposal/placement at an upland landfill location within 161 km (100 mi) of the US Wind Substations area. US Wind confirmed that the Jones Crossroads Landfill approximately 13 miles from the dewatering site can accept the dewatered dredged material and has sufficient capacity. Dewatering would be achieved by a passive method using large geobags which would allow dredged material to dewater over approximately 30-60 days prior to removal and placed into dump trucks. Alternatively, mechanical dewatering using a temporary system of separators (shakers), clarifiers, mixing tanks, and belt presses could be sized to meet target daily dredge production and continuously remove material to one or more upland disposal facilities. A combination of passive and mechanical dewatering methods may be used, pending final design.

US Wind applied for a Wetlands Permit, Subaqueous Lands Permit and Lease, Water Quality Certification and Coastal Construction on February 15, 2024, for the Proposed Project. A revised Coastal Construction Permit Application was submitted February 27, 2024, and revised applications for a Wetlands Permit, Subaqueous Lands Permit and Lease, and Water Quality Certification were submitted to DNREC on March 29, 2024.

The Proposed Project is consistent with Policy 5.4.25.

Delaware Policy 5.4.26: The following types of dredging projects are prohibited:

> *5.4.26.1 Dredging of biologically productive areas, such as nursery areas, shellfish beds, and submerged aquatic vegetation, if such dredging will have a significant or lasting impact on the biological productivity of the area.*
>
> *5.4.26.2 Dredging of new dead-end lagoons, new basins and new channels, which have a length to width ratio greater than 3:1. This subsection shall not apply to marina projects governed by the Marina Regulations.*
>
> *5.4.26.3 Dredging channels, lagoons or canals deeper than the existing controlling depth of the connecting or controlling waterway.*
>
> *5.4.26.4 Dredging channels, cleaning marinas or other subaqueous areas by using propeller wash from boats. [Delaware Regulations Governing the Use of Subaqueous Lands, Section 3.05(D), amended September 2, 1992]*

For the purposes of Subpart E and Subpart D:

Dredging associated with the Project or Proposed Project avoids areas DNREC identifies as biologically sensitive. Per Delaware Regulations Governing the Use of Subaqueous Lands (7 Del.C. §7504-4.11.4), the areas of proposed dredging have been sited to avoid biologically productive areas (i.e., submerged aquatic vegetation, shellfish beds, and nursery areas). Specifically, there will be no dredging along the eastern portion of Onshore Export Cable South Corridor in the vicinity of White Creek, which DNREC has stated in previous communications is an area of high shellfish density.

US Wind would not dredge to create new dead-end lagoons, new basins or new channels.

The Project and Proposed Project are consistent with Policy 5.4.26.

3.6 Public Lands Management

Delaware Policy 5.5.1: State public lands shall be protected to preserve the scenic, historic, scientific, prehistoric and wildlife values of such areas. [7 Del.C. Chapters 45 and 47; Delaware Executive Order 42 and 43, August 15, 1996]

For the purposes of Subpart E:

Two wildlife areas are located within the Project vicinity within Indian River Bay: Piney Point and Okie Preserve. These are both part of Assawoman Wildlife Area. Okie Preserve is located on the northern side of Indian River Bay. Piney Point is located on the western end of Indian River Bay on a peninsula southeast of the Interconnection Facilities.

Potential impacts from the Project are anticipated to be temporary and negligible, limited to the construction and installation of the onshore export cables and temporary gravity cells. The cable laying vessel may be visible from wildlife areas throughout the construction period. While there are no other anticipated impacts to these wildlife areas, the impacts to wildlife, water quality, wetlands, historic and cultural areas, and coastal habitats discussed throughout this consistency statement may be applicable to these areas. Best

management practices will help prevent impacts to wildlife areas. Upon completion of installation, there are no further anticipated impacts to wildlife areas as the onshore export cables will be installed below the bay bottom. The US Wind substations adjacent to the Indian River Substation would be consistent in land use and visual impacts with the surrounding uses. The US Wind Substations in the vicinity of Indian River Substation may be visible from portions of Piney Point, however this is unlikely given the existing buildings and structures between Piney Point and the US Wind substations.

The 3R's Beach and Tower Road landfalls are on state public land in Delaware Seashore State Park. The landfalls would utilize HDD to pass under and avoid sensitive coastal beach and wetlands. Transition vaults for the cables are proposed to be located in an area used for parking. The vaults would be located underground and the only associated impact would be temporary disturbance during construction which will be restored.

The potential alternative terrestrial cable corridors may be adjacent to areas of known natural resources, including forests, freshwater habitats, and other conservation lands (Figure 4). These lands can provide habitat to evergreen bayberry, swamp pink, and Northern long-eared bat, which are protected species that may occur within the Project area. DNREC in its Environmental Review identified the Vines Creek Natural Area along Onshore Export Cable Corridor 1b and 1c, which is a State Natural Area with areas of land and/or water retaining or reestablishing natural character and other sensitive values. Onshore Export Cable Corridor 2 passes through a State Natural Area, Herring Creek Natural Area, as well.

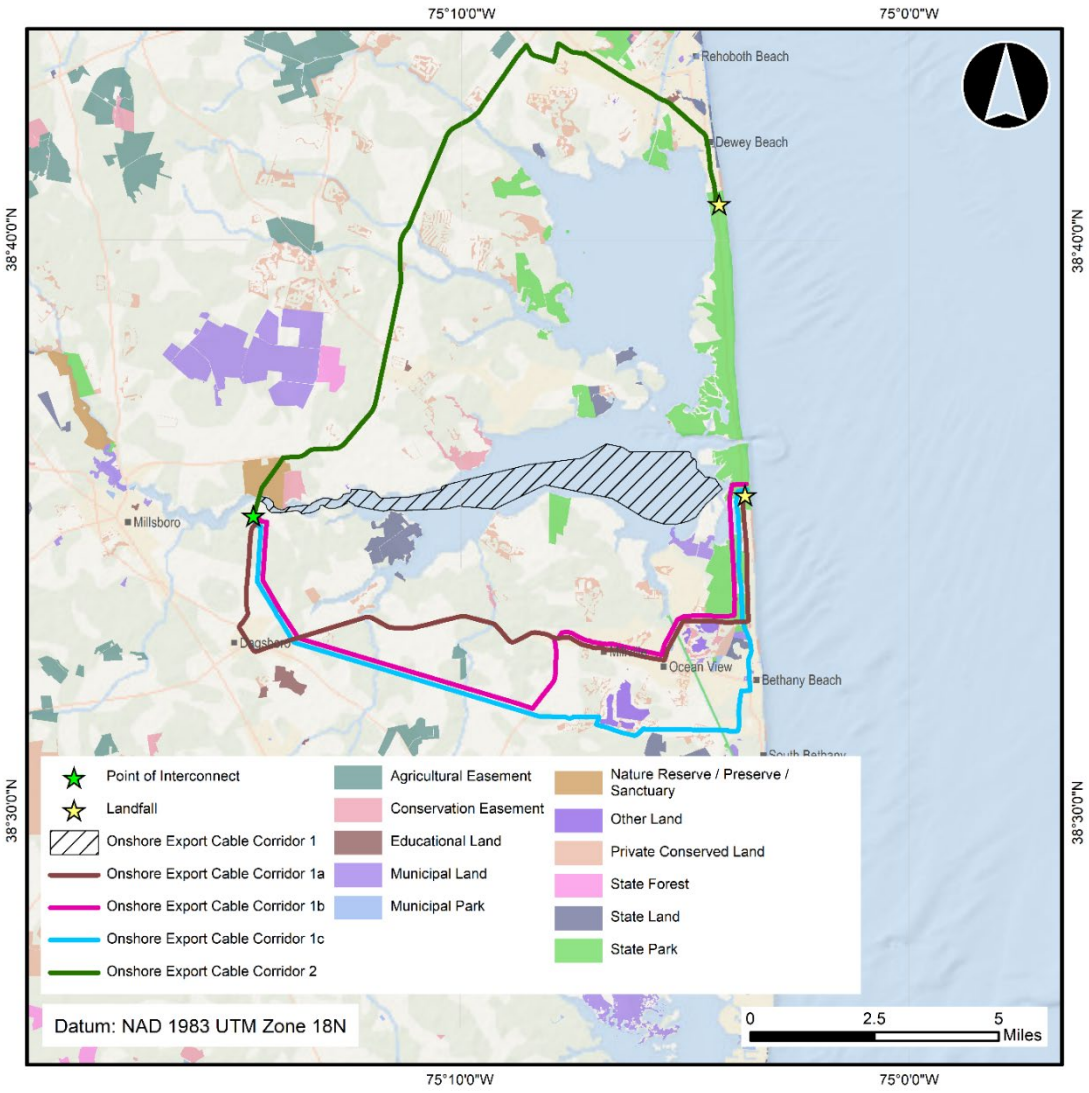

Figure 4. Natural Resources along the Land-based Onshore Export Cable Corridors

The Project is consistent with Policy 5.5.1.

For the purposes of Subpart D:

For the Proposed Project US Wind is consulting with state agencies to obtain the necessary approvals for construction of transition vaults at 3R's Parking Lot. US Wind is coordinating with DNREC and the Division of Parks and Recreation.

US Wind applied for a Wetlands Permit, Subaqueous Lands Permit and Lease, Water Quality Certification and Coastal Construction on February 15, 2024, for the Proposed Project. A revised Coastal Construction Permit Application was submitted February 27, 2024, and revised applications for a Wetlands Permit, Subaqueous Lands Permit and Lease, and Water Quality Certification were submitted to DNREC on March 29, 2024.

The Proposed Project is consistent with Policy 5.5.1.

Delaware Policy 5.5.2: The integrity of State public lands shall be protected from encroachment. [7 Del.C. Chapters 45 and 47; Delaware Executive Order 42 and 43, August 15, 1996]

For the purposes of Subpart E and Subpart D:

Neither the Project nor the Proposed Project would encroach onto state public lands because any permanent impacts would occur below grade.

The Project and Proposed Project are consistent with Policy 5.5.2.

Delaware Policy 5.5.3: All private development on public lands, except that authorized by DNREC for public use, shall be prohibited. [7 Del.C. Chapters 45 and 47; Delaware Executive Order 42 and 43, August 15, 1996]

For the purposes of Subpart E:

The 3R's Beach or Tower Road landfalls are on state public land. US Wind would seek authorization from DNREC for the use of these public lands prior to construction. Following construction, US Wind would restore the parking lot to current conditions with only up to 8 manholes within the parking lot area.

The Project is consistent with Policy 5.5.3.

For the purposes of Subpart D:

US Wind is consulting with DNREC and applied for a Coastal Construction Permit on February 15, 2024, for the Proposed Project and re-submitted the application via e-permitting February 27, 2024.

Additionally, US Wind has entered into negotiations with DNREC for bringing cables ashore at 3R's Beach and constructing below grade cable transition vaults at the 3R's Beach Parking Lot for up to 4 export cables. On March 12, 2024, DNREC Parks and Recreation held a public information session regarding US Wind's Proposed Project, confirming that the buried cables and underground transition vaults would not represent a conversion of the land from recreational use, as defined in the Land and Water Conservation Fund, if the site is restored to pre-existing condition within 12 months after ground disturbance. US Wind would restore the 3R's Beach Parking Lot to current conditions with only up to 8 manholes within the parking lot area.

The Proposed Project is consistent with Policy 5.5.3.

Delaware Policy 5.5.4: The public lands shall be surveyed and remain appropriately marked with the location and coordinates tied to the state plane coordinate system and recorded with the office of the recorder of deeds for the county in which the lands lies. Detailed drawings, survey work sheets and field notes, perimeter descriptions, and other pertinent property records shall be likewise recorded. [7 Del.C. Chapters 45 and 47; Delaware Executive Order 42 and 43, August 15, 1996]

For the purposes of Subpart E and Subpart D:

Public lands would be surveyed and marked as required, and all relevant documentation will be recorded at the Sussex County Recorder of Deeds.

The Project and Proposed Project are consistent with Policy 5.5.4.

Delaware Policy 5.5.5: These lands shall be managed for public recreation purposes and for the conservation and preservation of their natural resources and beauty. A management priority shall be the maintenance of public access to the beach and ocean where such access can be accommodated without serious damage to the primary resources. The Department may lease certain portions for highway and utility purposes as it deems advisable and for the public good. Management of these lands shall be consistent with the State Comprehensive Outdoor Recreation Plan (SCORP) and in accordance with sound master planning activities. [7 Del.C. Chapters 45 and 47; Delaware Executive Order 42 and 43, August 15, 1996]

For the purposes of Subpart E:

The 3R's Beach or Tower Road landfalls are on state public land. US Wind would seek authorization from DNREC for the use of these public lands prior to construction. Following construction, US Wind would restore the parking lot to current conditions with only up to 8 manholes within the parking lot area.

The Project is consistent with Policy 5.5.5.

For the purposes of Subpart D:

US Wind is consulting with DNREC and applied for a Coastal Construction Permit on February 15, 2024, for the Proposed Project and re-submitted the application via e-permitting February 27, 2024.

Additionally, US Wind has entered into negotiations with DNREC for a lease at 3R's Beach Parking Lot for below grade utilities, specifically cables and cable transition vaults for up to 4 export cables. On March 12, 2024, DNREC Parks and Recreation held a public information session regarding US Wind's Proposed Project, confirming that the buried cables and underground transition vaults would not represent a conversion of the land from recreational use, as defined in the Land and Water Conservation Fund, if the site is restored to pre-existing condition within 12 months after ground disturbance. US Wind would restore the 3R's Beach Parking Lot to current conditions with only up to 8 manholes within the parking lot area.

The Proposed Project is consistent with Policy 5.5.5.

3.7 Natural Areas Management

Delaware Policy 5.6.2.1: Water quality in the Inland Bays watersheds shall be protected and improved though:

5.6.2.1.1 Reduction of point sources;

Neither the Project nor the Proposed Project would involve the addition of point sources.

Therefore, this policy is not applicable.

5.6.2.1.2 Establishment of riparian buffers,

For the purposes of Subpart E:

The Project would avoid impacts to riparian areas by the use of HDD at the landfall locations. For the US Wind substations, an effort would be made to establish riparian buffers adjacent to Indian River Bay.

All of the alternative terrestrial export cable routes cross wetlands within existing ROWs and would involve construction activities immediately adjacent to wetlands and riparian areas. Where avoidance is not possible, the Project proposes to minimize wetland impacts during construction by maintaining buffers around wetlands, implementing BMPs for erosion and sediment control, and maintaining natural surface draining patterns, as practicable.

The Project is consistent with Policy 5.6.2.1.2.

For the purposes of and Subpart D

The Proposed Project would avoid impacts to riparian areas by the use of HDD at the landfall locations. For the US Wind substations, an effort would be made to establish riparian buffers adjacent to Indian River Bay.

The Proposed Project is consistent with Policy 5.6.2.1.2.

> *5.6.2.1.3 Use of sediment and stormwater controls, and*

For the purposes of Subpart E and Subpart D:

US Wind would develop Stormwater Pollution Prevention Plans (SWPPPs) for onshore construction activities, as appropriate. US Wind anticipates 3 plans, specifically one SWPPP for construction at 3R's Beach Parking Lot, a second SWPPP for construction at the US Wind Substations, and a third SWPPP for operation of the US Wind Substations.

The Project and Proposed Project are consistent with Policy 5.6.2.1.3.

> *5.6.2.1.4 Proper design, installation, operation, maintenance and inspection of on-site waste water treatment and disposal systems.*

Neither the Project nor the Proposed Project include any on-site wastewater treatment systems.

Therefore, this policy is not applicable.

> *5.6.2.1.5 For the purpose of this section, the Indian River Watershed, Indian Bay Watershed, Rehoboth Bay Watershed, and Little Assawoman Bay Watershed shall be collectively known as the "Inland Bays Watersheds". [Delaware Regulations Governing The Pollution Control Strategy For The Indian River, Indian River Bay, Rehoboth Bay And Little Assawoman Bay Watersheds, effective November 11, 2008]*

3.8 Flood Hazard Areas Management

All necessary local and state flood hazard permits or approvals will be obtained.

The Project and Proposed Project are consistent with these policies.

3.9 Historic and Cultural Areas Management

Delaware Policy 5.10.1.1: In order to protect and preserve archaeological and scientific information, matters and objects which are to be found on privately owned lands in this State, excavations on privately owned lands should be discouraged, except with when said activities are conducted in cooperation with the Division of Historical and Cultural Affairs. [7 Del. C. §5315]

For the purposes of Subpart E and Subpart D:

The Project and the Proposed Project are undergoing review and consultation under Section 106 of the National Historic Policy Act, of which the Delaware Division of Historical and Cultural Affairs is a consulting party. US Wind will consult with the Division of Historical and Cultural Affairs as part of the Project permitting process to establish procedures to ensure the protection of any archeological finds during Project construction.

The Project and Proposed Project are consistent with Policy 5.10.1.1.

Delaware Policy 5.10.1.2: No person shall excavate, collect, deface, injure or destroy any archaeological resource or artifact, or otherwise disturb or alter an archaeological resource or artifact or its surrounding location in context, in or on lands owned or controlled by this State, except with the permission of the Governor of this State or the person duly authorized by the Governor to extend and grant such permission. Archaeological resources and artifacts shall be defined to include any remains of past human life or activity that are at least 50 years old. [7 Del. C. §5308]

For the purposes of Subpart E and Subpart D:

The Project and the Proposed Project are undergoing review and consultation under Section 106 of the National Historic Policy Act, of which the Delaware Division of Historical and Cultural Affairs is a consulting party. The Division of Historical and Cultural Affairs, local historian group, and/or the person duly authorized by the Governor, would be consulted prior to the commencement of construction of the Project or the Proposed Project to ensure that no archeological resource or artifact will be harmed.

The Project and Proposed Project are consistent with Policy 5.10.1.2.

Delaware Policy 5.10.1.4: All activities that may impact historic and cultural areas shall be coordinated, to the maximum extent possible, with the Delaware Division of Historical and Cultural Affairs. [7 Del. C. §5301; Delaware Executive Order 42, August 15, 1996]

For the purposes of Subpart E and Subpart D:

The Project and the Proposed Project are undergoing review and consultation under Section 106 of the National Historic Policy Act, of which the Delaware Division of Historical and Cultural Affairs is a consulting party. The Project and Proposed Project are consistent with Policy 5.10.1.4.

Delaware Policy 5.10.1.5: When unmarked burials or human skeletal remains are known or suspected in a construction area or being encountered as a result of construction or agricultural activities, said activity shall cease immediately upon discovery and the Medical Examiner or the Director of the Division of Historical and Cultural Affairs notified of the discovery. [7 Del. C. §5403(b)]

For the purposes of Subpart E and Subpart D:

The Project and the Proposed Project are undergoing review and consultation under Section 106 of the National Historic Policy Act, of which the Delaware Division of Historical and Cultural Affairs is a consulting party. The Project and Proposed Project include an Unanticipated Discovery Plan which states that construction activities will cease immediately should unmarked burials or human skeletal remains be encountered and the Medical Examiner or the Director of the Division of Historical and Cultural Affairs will be notified of the discovery.

The Project and Proposed Project are consistent with Policy 5.10.1.5.

3.10 Living Resources

Delaware Policy 5.11.1.1: No activity shall have an adverse environmental effect on living resources and shall include consideration of the effect of site preparation and the proposed activity on the following wetland values:

5.11.1.1.1 Value of tidal ebb and flow

5.11.1.1.1.1 Production Value: carving organic matter to adjacent estuaries and coastal waters which serve as breeding areas for certain animal species (especially fish and shellfish).

For the purposes of Subpart E and Subpart D:

Export cables would be located buried in Delaware waters in the Atlantic Ocean and below the bay bottom in Onshore Export Cable South Corridor. Once installed the export cables would not impact tidal fluctuations within the Atlantic Ocean or Indian River Bay. Suspended sediment, habitat alteration, and water quality in the water column during installation has been discussed in previous sections. Installation activities associated with onshore export cable placement (including dredging for barge access) and temporary excavation associated with gravity cell installation and removal may have negligible to minor impacts on adjacent estuaries and coastal waters which serve as breeding areas for animal species (especially fish and shellfish).

Section 2.1 discusses the recommended time of year restrictions from DNREC through its Environmental Review.

The Project and Proposed Project are consistent with Policy 5.11.1.1.1.1.

5.11.1.1.1.2 Value as a natural protective system of absorption of storm wave energy, flood waters, and heavy rainfall, thereby decreasing flood and erosion damage.

For the purposes of Subpart E and Subpart D:

The onshore export cables and associated structures would be buried in Delaware waters in the Atlantic Ocean and underground on land. Wetlands and vegetation along the coastal areas of the Atlantic Ocean and Indian River Bay would be crossed under using HDD installation methods to minimize impacts to these natural protective systems. Therefore, upon installation, the Project or Proposed Project are not anticipated to impact the value of areas as a natural protective system of absorption of storm wave energy, flood waters, and heavy rainfall. The Project and Proposed Project are consistent with Policy 5.11.1.1.1.2.

5.11.1.1.1.3 The prevention of silting in certain harbors and inlets thereby reducing dredging.

For the purposes of Subpart E and Subpart D:

US Wind is consulting with DNREC and USACE to ensure that the Proposed Project is sited to not reduce any required dredging.

The Project and Proposed Project are consistent with Policy 5.11.1.1.1.3.

5.11.1.1.1.4 Removal and recycling of inorganic nutrients.

Neither the Project nor the Proposed Project involve the removal and recycling of inorganic nutrients.

Therefore, this policy is not applicable.

5.11.1.1.1.5 Effect on the estuarine waters.

For the purposes of Subpart E and Subpart D:

Onshore Export Cable South Corridor traverses Indian River Bay and estuarine portions of the Indian River. Although there would be temporary impacts on water quality in the estuarine portion of the Indian River as a result of temporary sediment disturbances during onshore export cable installation activities, those temporary impacts would be minimized by using low impact cable installation techniques, such as jet plowing, and hydraulic dredging wherever feasible. The installation of the onshore export cables in the estuarine portions of the Indian River would have no permanent impacts to water quality.

The Project and Proposed Project are consistent with Policy 5.11.1.1.1.5.

5.11.1.1.2 Habitat Value

For the purposes of Subpart E and Subpart D:

The Project and Proposed Project have been sited and designed to minimize permanent impacts to habitat value. The use of HDD technology and installing the transition vaults in existing parking areas would avoid impacts to habitat at the 3R's Beach and Tower Road landfall locations, as well as using HDD at the Indian River POI. The use of jet plow installation technology and other low impact cable installation techniques wherever feasible would limit temporary disturbance to benthic habitats in Indian River Bay. The alternative terrestrial Onshore Export Cable Corridors would utilize previously disturbed areas, such as developed parcels and existing rights-of-way and planned rights-of-way, to minimize impacts to habitat value.

Section 2.1 discusses the recommended time of year restrictions from DNREC through its Environmental Review.

The Project and Proposed Project are consistent with Policy 5.11.1.1.2.

5.11.1.1.2.1 Habitat for resident species of wildlife including furbearers, invertebrates, finfish.

For the purposes of Subpart E and Subpart D:

The Project and Proposed Project would utilize previously disturbed areas, such as developed parcels and existing rights-of-way and planned rights-of-way to minimize impacts to habitat for resident species of furbearers. The use of HDD, jet plow, hydraulic dredging, and other similar low-impact cable construction techniques will minimize any potential Project and Proposed Project impacts to benthic and other marine species. The Project and Proposed Project would identify and avoid any sensitive marine habitats in the Project or Proposed Project area and minimize construction activities in areas containing anadromous fish during migration periods. Section 2.1 discusses the recommended time of year restrictions from DNREC through its Environmental Review.

The Project and Proposed Project are consistent with Policy 5.11.1.1.2.1.

5.11.1.1.2.2 Habitat for migratory wildlife species including waterfowl, wading birds, shorebirds, passerines, finfish, shrimp.

For the purposes of Subpart E and Subpart D:

The Project and Proposed Project have been sited and designed to minimize permanent impacts to migratory wildlife species. The use of HDD technology and installing the transition vaults in existing parking areas will avoid impacts to habitat at the 3R's Beach and Tower Road landfall locations, as well as using HDD at the Indian River POI. The use of HDD, jet plow, hydraulic dredging, and other similar low-impact cable construction techniques will minimize any potential Project impacts to benthic and other marine species. The Project or Proposed Project would identify and avoid any sensitive marine habitats in the area and minimize construction activities in areas containing anadromous fish during migration periods.

Section 2.1 discusses the recommended time of year restrictions from DNREC through its Environmental Review.

The Project and Proposed Project are consistent with Policy 5.11.1.1.2.2.

5.11.1.1.2.3 Rearing area, nesting area, breeding grounds for various species.

For the purposes of Subpart E and Subpart D:

The Project and Proposed Project have been sited and designed to minimize permanent impacts to migratory wildlife species. The use of HDD technology and installing the transition vaults in existing parking areas will avoid impacts to habitat at the 3R's Beach and Tower Road landfall locations, as well as using HDD at the Indian River POI. The use of HDD, jet plow, hydraulic dredging, and other similar low-impact cable construction techniques will minimize any potential Project impacts to benthic and other marine species. The Project or Proposed Project would identify and avoid any sensitive marine habitats in the area and minimize construction activities in areas containing anadromous fish during migration periods.

Section 2.1 discusses the recommended time of year restrictions from DNREC through its Environmental Review.

The Project and Proposed Project are consistent with Policy 5.11.1.1.2.3.

5.11.1.1.2.4 Habitat for rare or endangered plants.

For the purposes of Subpart E and Subpart D:

Two species of rare or endangered plants have the potential to be affected by the Project or Proposed Project. The threatened seabeach amaranth (*Amaranthus pumilus*) is highly sensitive to habitat alteration and fragmentation, but because all known populations occurred on private lands at the time of listing, critical habitat has not been designated for this species (USDOI and USFWS 1993). Beach maintenance activities, including grooming and shoreline stabilization, threaten the continued existence of beach amaranth. Erosion, flooding, herbivory, competition, and all-terrain vehicle use during the plant's flowering and fruiting also stress beach amaranth populations.

US Wind would establish and maintain buffers around wetlands, implement best management practices (BMPs) to minimize erosion and control sediments and maintain natural surface drainage patterns, as practicable.

The evergreen bayberry (*Morella caroliniensis*) is listed as endangered by the state of Maryland. It is a shrub or small tree found in coastal habitats, such as dunes and wetlands.

Installation activities at the landfalls have potential to impact these species, however, the use of HDD technology minimizes the potential impact. The transition vaults would be installed and HDD operations would occur in the existing 3 R's Beach and Tower Road parking lot, which are already disturbed. Limiting ground disturbance to the parking lot also avoids impacting to dunes and the beach. Therefore, impacts to rare or endangered plants will be negligible.

Section 2.1 discusses the recommended time of year restrictions from DNREC through its Environmental Review.

The Project and Proposed Project are consistent with Policy 5.11.1.1.2.4.

> *5.11.1.1.2.5 Presence of plants or animals known to be rare generally, or unique to the particular location.*

For the purposes of Subpart E and Subpart D:

Species that are classified as threatened or endangered under the federal Endangered Species Act (ESA) and species on the Delaware Endangered Species List that may be found in the Project area include the bald eagle, piping plover, rufa red knot, eastern black rail, and the northern long-eared bat.

The responses to 5.11.1.1.2.1 through 5.11.1.1.2.4 detail avoidance and mnimization measures for the Project and Proposed Project to minimize impacts to plants and animals, including plants and animals known to be threatened or endangered. Section 2.1 discusses the recommended time of year restrictions from DNREC through its Environmental Review.

US Wind would locate cable landfalls and onshore facilities so as to avoid impacts to known nesting beaches, where feasible. The use of HDD for cable installation under the Barrier Beach Landfalls will avoid impacts on beaches.

The Project and Proposed Project are consistent with this Policy 5.11.1.1.2.5.

> *5.11.1.1.2.6 Presence of plants or animals near the limits of their territorial range.*

There are no known plants or animal within the Project or Proposed Project area near the limits of their territorial range.

Therefore, this policy is not applicable.

> *5.11.1.1.2.7 Presence of unique geologic or wetland features [7 Del. Admin. Code 7502 §12.2]*

For the purposes of Subpart E and Subpart D:

There are no known unique geologic features along the export cable route in Delaware waters or near the Interconnection Facilities. Wetland features and potential impacts are described in response to Policy 5.1.

The Project and Proposed Project are consistent with Policy 5.11.1.1.2.7.

Delaware Policy 5.11.2.1: All forms of protected wildlife shall be managed and protected from negative impacts. [7 Del. C. §102(a)]

For the purposes of Subpart E and Subpart D:

Species that are classified as threatened or endangered under the federal Endangered Species Act (ESA) and species on the Delaware Endangered Species List that may be found in the Project or Proposed Project area include the bald eagle, piping plover, rufa red knot, eastern black rail, and the northern long-eared bat.

The responses to 5.11.1.1.2.1 through 5.11.1.1.2.4 details the mitigation measures being proposed for the Project and Proposed Project to minimize impacts to plants and animals, including plants and animals known to be threatened or endangered. Section 2.1 discusses the recommended time of year restrictions from DNREC through its Environmental Review.

The Project and Proposed Project are consistent with Policy 5.11.2.1.

Delaware Policy 5.11.2.2: State shellfish resources shall be protected from further impairment and improved when possible [7 Del. C. §1902 (a)(1)(2)(5)]

For the purposes of Subpart E and Subpart D:

Measures are in place to protect shellfish resources from the temporary impacts associated with the Project and Proposed Project. Where impacts are unavoidable, pre- and post-construction monitoring may be conducted.

Dredging associated with the Project or Proposed Project avoids areas DNREC identifies as shellfish beds. Per Delaware Regulations Governing the Use of Subaqueous Lands (7 Del.C. §7504-4.11.4), the areas of proposed dredging have been sited to avoid biologically productive areas (i.e., submerged aquatic vegetation, shellfish beds, and nursery areas). Specifically, there will be no dredging along the eastern portion of Onshore Export Cable South Corridor in the vicinity of White Creek, which DNREC has stated in previous communications is an area of high shellfish density.

The Project and Proposed Project are consistent with Policy 5.11.2.2.

Delaware Policy 5.11.3.1: "Nongame" is that fauna, including rare and endangered species, which are not commonly trapped, killed, captured or consumed, either for sport or profit. [7 Del. C. §202(a)]

For the purposes of Subpart E and Subpart D:

It is not anticipated that any nongame fauna will be harmed during the construction of the Project or Proposed Project.

The Project and Proposed Project are consistent with Policy 5.11.3.1.

Delaware Policy 5.11.3.2: Rare and endangered species are in need of active, protective management to preserve and enhance such species. The diversity and abundance of the native flora and fauna of

Delaware, particularly those deemed rare or endangered, shall be preserved and enhanced through the protection of the habitat, natural areas, and areas of unusual scientific significance or having unusual importance to their survival. [7 Del. C. §201(1)(2)]

For the purposes of Subpart E and Subpart D:

Five coastal species that are classified as threatened or endangered under the federal Endangered Species Act (ESA) may be found in the Project and Proposed Project area. These include four bird species and one plant species, the threatened seabeach amaranth. Piping plover and rufa red knot are migratory shorebirds that are also protected in the United States by the Migratory Bird Treaty Act. These are discussed in more detail in response to Policies 5.11.1.1.2.4 and 5.11.1.1.2.5 above.

Based on correspondence and consultation with the USFWS, NMFS, and DNREC Division of Fish and Wildlife, no federally listed or candidate species have been identified in the vicinity of the Interconnection Facilities. However, measures are in place to project wildlife from the negative temporary impacts.

For in-water work, US Wind will follow BOEM guidelines for impact avoidance and minimization, including, but not limited to: vessel strike avoidance, protected species observers, and ramp-up and shut-down procedures with respect to marine mammals and sea turtles.

The Proposed Project and Proposed Project would avoid habitat, natural areas, and areas of unusual scientific significant or having unusual importance to the survival of rare or endangered flora and fauna. The Project and Proposed Project have been sited and designed such that it avoids and minimizes impacts to sensitive habitats and resource areas.

Section 2.1 discusses the recommended time of year restrictions from DNREC through its Environmental Review.

The Project and Proposed Project are consistent with Policy 5.11.3.2.

Delaware Policy 5.11.4.1: Actions which may interfere with or otherwise adversely affect fish and wildlife in Delaware shall be implemented only after careful consultation with DNREC and exploration of alternatives less damaging to such fish and wildlife.

For the purposes of Subpart E and Subpart D:

Installation methods chosen have been proven to be the least environmentally damaging. HDD technology at the landfalls will minimize impacts to coastal habitats and jet plow installation of submarine cables will minimize impacts to benthic habitats and species. HDD and jet plow installation methodologies have been used on many submarine cable projects throughout the east coast. These technologies are proven to minimize or avoid impacts to fish and wildlife as well as their habitats.

HDD installation allows cables to be pulled through entry/exit holes and cross under sensitive habitat, such as coastal areas or wetlands. Jet plow technology limits the spatial extent of impacts (i.e. suspended sediments during jetting) and duration of impacts. Where dredging is needed for barge access, hydraulic dredging would likely be used over mechanical dredging, which results in a lower level of suspended sediment and less impacts to aquatic habitat.

US Wind is consulting with DNREC on proposed methods, such as time of year restrictions on construction activities, to further minimize or avoid damage to fish and wildlife. Section 2.1 discusses the recommended time of year restrictions from DNREC through its Environmental Review.

The Project and Proposed Project are consistent with Policy 5.11.4.1.

3.11 State Owned Coastal Recreation and Conservation

Delaware Policy 5.13.1: State owned lands whose natural condition or present state of use would maintain important recreational areas and wildlife habitat, or would maintain or enhance the conservation of natural, cultural or historic resources shall be managed, preserved, and protected, for conservation and recreational use. [7 Del. C. §§7301, 7504(6), 5305; 7 Del. C. Ch 45]

For the purposes of Subpart E:

The Project has been sited and designed to avoid impacts to state owned lands that maintain important recreational areas and wildlife habitats, and maintain or enhance the conservation of natural, cultural and historical resources, as described throughout in the previous responses in this document and in Volume II of the COP.

The Project is consistent with Policy 5.13.1.

For the purposes of Subpart D:

US Wind has entered into negotiations with DNREC for a lease at 3R's Beach Parking Lot for below grade utilities, specifically cables and cable transition vaults for up to 4 export cables. On March 12, 2024, DNREC Parks and Recreation held a public information session regarding US Wind's Proposed Project activities, confirming that the buried cables and underground transition vaults would not represent a conversion of the land from recreational use, as defined in the Land and Water Conservation Fund, if the site is restored to pre-existing condition within 12 months after ground disturbance. US Wind would restore the 3R's Beach Parking Lot to current conditions with only up to 8 manholes within the parking lot area.

US Wind applied for a Wetlands Permit, Subaqueous Lands Permit and Lease, Water Quality Certification and Coastal Construction on February 15, 2024, for the Proposed Project. A revised Coastal Construction Permit Application was submitted February 27, 2024, and revised applications for a Wetlands Permit, Subaqueous Lands Permit and Lease, and Water Quality Certification were submitted to DNREC on March 29, 2024.

The Proposed Project is consistent with Policy 5.13.1.

3.12 Public Trust Doctrine

Delaware Policy 5.14.1: The public have a right of navigation and fishery on all streams where the tide ebbs and flows, even though the riparian proprietor's lines cover the place; but they have no right to land fish on private property, above the high water marks. [Bickel v. Polk, Delaware Supr. 5 Harr. 325 (1851)]

For the purposes of Subpart E and Subpart D:

The Project and Proposed Project involves dredging related to export cable installation, installation of HDD conduits, temporary gravity cells, and Export Cable below the high water mark within Delaware state waters

(Indian River, Indian River Bay and the Atlantic Ocean). Installation activities may temporarily affect public access within the immediate construction area for fishing and navigation. For safety purposes, there may be temporary closures of portions of the 3R's Beach or Tower Road during installation that inhibit the public's ability to freely access this area. These activities will be coordinated with local and state authorities. Fishing and navigation may be temporarily displaced within the immediate vicinity of the cable laying barges during installation activities. However, given the small area of construction activities relative to this portion of the Delaware coast, these impacts during installation are anticipated to be temporary and minor.

Once the onshore export cables are installed, neither the Project nor the Proposed Project would affect the public's right to navigate or fish within Indian River, Indian River Bay or the Atlantic Ocean because the export cables would be buried below the bay bottom or seabed. In the event of routine maintenance activities or repairs, there may be temporary, localized impacts to navigation and fishing. These impacts would be on a smaller scale than installation activity impacts and as mentioned above, given the small area affected during maintenance or repair, the impacts would be negligible to navigation and fishing.

The Project and Proposed Project are consistent with Policy 5.14.1.

Delaware Policy 5.14.2: Unless otherwise proven, the Public Trust Doctrine is applicable to those properties between the high and low water marks. [Bickel v. Polk, Delaware Supr. 5 Harr. 325 (1851); 7 DE Admin Code 7504 subsection 2.2.2.3]

For the purposes of Subpart E and Subpart D:

See response to Policy 5.14.1. Activities that inhibit the public's right to access, navigate, or fish on waters between the high and low water marks will be limited to construction and installation activities. Construction activities will be restricted to periods of low recreational activity, to the extent practicable. Therefore, impacts are anticipated to be temporary and localized. Operation of the onshore export cables is not anticipated to impact the public's rights of access, navigation, or fishing.

The Project and Proposed Project are consistent with Policy 5.14.2.

3.13 Air Quality Management

Delaware Policy 5.20.1: In view of the rapid growth of population, agriculture, industry and other economic activities, the air resources of the State must be protected, conserved and controlled to assure their reasonable and beneficial use in the interest of the people of the State. [7 Del. C. Ch 60]

For the purposes of Subpart E and Subpart D:

See response to Delaware Policy 5.4.23.5.

The Project and Proposed Project are consistent with Policy 5.20.1.

3.14 Waste Disposal Management

For the purposes of Subpart E and Subpart D:

Any waste material generated during the construction or operation of the Project or Proposed Project would be managed in accordance with applicable regulation or other requirements. A waste management plan

would be developed and any waste will be minimized to the extent practicable, recycled where appropriate or properly disposed of.

The Project and Proposed Project are consistent with these policies.

3.15 Development

Delaware Policy 5.23.1.3: Relating to Industry and Industrial Land Use:

> *5.23.1.3.1 Use of existing unused industrial sites and buildings should be encouraged wherever they can be adapted to today's industrial needs.*
>
> *5.23.1.3.2 Delaware should encourage the introduction of new industries that optimize the State's resources and the special skills and needs of Delaware residents.*
>
> *5.23.1.3.3 Delaware should encourage development of industrial areas that are located so that services can be provided economically, mass transportation can serve the needs of the workers, and the industries will draw on and support existing rail lines, ports, and air terminals.*
>
> *5.23.1.3.4 Delaware should assume regulatory control over any future sites or rights-of-way for marine terminals, bulk transfer facilities, or utilities including pipelines.*
>
> *5.23.1.3.5 Delaware and its local governments should establish standards and criteria for industrial location including optimum size, utility availability, accessibility, and the overall impact on local communities, such standards to be met prior to rezoning for industry. The State shall not promote a site for industrial purposes when utilization for that purpose is contrary to the land use plan in the area.*

For the purposes of Subpart E and Subpart D:

Offshore wind is a new industry to the state of Delaware and should be encouraged by Delaware consistent with Delaware Policy 5.15.2.1. US Wind has sited the only aboveground facilities in Delaware adjacent to existing electric utility infrastructure.

The Project and Proposed Project are consistent with Policy 5.23.1.3.

3.16 Pollution Prevention

Delaware Policy 5.24.1.1: Whenever possible, the generation of waste should be reduced or eliminated as expeditiously as possible, and that waste that is generated should be recovered, reused, recycled, treated or disposed of in a manner that minimizes any present or future threats to human health or the environment. [7 Del.C. §7802(a)(1)]

For the purposes of Subpart E and Subpart D:

Neither the Project nor the Proposed Project are anticipated to generate large amounts of waste during construction. During installation of cables and construction of the Interconnection Facilities, US Wind and its contractors would reduce or eliminate waste as expeditiously as possible. Waste would be recovered, reused, recycled, treated, or disposed of in a manner consistent with Delaware's policies. US Wind will develop a materials management plan consistent with Delaware's policies.

The Project and Proposed Project are consistent with Policy 5.24.1.1.

Delaware Policy 5.24.2.2: Industries are encouraged to utilize the DNREC Pollution Prevention Program's services, including non-regulatory technical assistance and information, to ensure that the potential for degradation of the quality of air, land, and water is minimal.

For the purposes of Subpart E and Subpart D:

US Wind will utilize the DNREC Pollution Prevention Program's services as appropriate.

The Project and Proposed Project are consistent with Policy 5.24.2.2.

3.17 Coastal Management Coordination

Delaware Policy 5.25.1: State agencies shall provide an opportunity for one another, federal agencies, and other interested parties to review and comment on proposed actions which may be of more than local interest. [Delaware Executive Order No. 42, August 15, 1996]

For the purposes of Subpart E and Subpart D:

All relevant and interested parties have the opportunity to comment on the proposed actions during the federal permitting process, specifically under the National Environmental Policy Act (NEPA), which has specific processes for state and federal agencies and other interested parties to review and comment. Additionally, US Wind applied for DNREC Wetlands and Subaqueous Land Permit and Lease, Coastal Construction Permit, and Water Quality Certification request, all of which include public and agency comment and review processes.

The Project and Proposed Project are consistent with Policy 5.25.1.

Delaware Policy 5.25.2: State agencies responsible for implementation of the CMP shall coordinate their CMP implementation responsibilities with each other to the extent necessary to assure well informed and reasoned program decisions. [Delaware Executive Order No. 42, August 15, 1996]

US Wind has coordinated with DNREC CMP for coordinated and consistent review.

The Project and Proposed Project are consistent with Policy 5.25.2.

4.0 Statement of Consistency

For the purposes of Subpart E:

US Wind has determined that the Project complies with Delaware's approved coastal management program and will be conducted in a manner consistent with such program.

For the purposes of Subpart D:

US Wind has determined that the Proposed Project complies with Delaware's approved coastal management program and will be conducted in a manner consistent with such program.

5.0 REFERENCES

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