



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

May 17, 2024

David Diamond  
Deputy Chief for Operations,  
Atlantic Outer Continental Shelf  
Office of Renewable Energy Programs  
Bureau of Ocean Energy Management  
45600 Woodland Road  
Sterling, Virginia 20166

RE: Issuance of wind energy research lease to the State of Maine

Dear Mr. Diamond:

We have completed consultation under Section 7 of the Endangered Species Act (ESA) in response to your July 20, 2023, request for consultation and your revised Biological Assessment (BA) received on April 24, 2024, regarding the Bureau of Ocean Energy Management's (BOEM) proposed issuance of a wind energy research lease on the U.S. Outer Continental Shelf to the State of Maine. Your BA describes associated regulatory actions by the Bureau of Safety and Environmental Enforcement, the U.S. Coast Guard, the National Marine Fisheries Service's Office of Protected Resources, the U.S. Army Corps of Engineers, and the Federal Communications Commission. The research lease would grant the State of Maine the exclusive rights to submit, for BOEM's potential approval, a Research Activities Plan (RAP) for wind energy-related research activities in the research lease.

BOEM describes the duration of the activities considered in the BA to be five years which corresponds to the maximum expected timeline to achieve RAP approval. The research lease would not authorize any development or construction activities on the OCS; that is, it does not authorize the deployment of any wind turbines or electric cables. The BA describes the planned site assessment activities within the lease and site characterization activities in and around the research lease and potential future project easements as well as the measures that the lessee will be required to implement during the associated site assessment and site characterization activities, including the identified fisheries surveys.

Based on our review and assessment of the best available scientific information, including our knowledge, expertise, and the information and analysis in your BA, we concur with your conclusion that the issuance of the proposed research lease and the site assessment and site characterization activities, including fisheries surveys, described in the BA may affect but are not likely to adversely affect any ESA-listed species or designated critical habitat under our jurisdiction. Therefore, no further consultation pursuant to Section 7 of the ESA is required. We note that we expect that any proposed approval of a RAP would require a new request for consultation with us.



We note that your original request for consultation and earlier versions of the BA included consideration of lobster trap surveys which would include the use of vertical lines. However, as noted in the April 2024 BA, BOEM is not including that activity as part of the Proposed Action for which ESA consultation was requested. BOEM is requiring the lessee to acknowledge that the issuance of the lease does not convey any authorization to carry out such surveys and that they would be outside the scope of this ESA section 7 consultation. BOEM's BA and request for consultation includes only lobster trap surveys that utilize ropeless gear technology and our concurrence is based on consideration of effects of that survey gear only.

We also note our concurrence with your determination that effects to ESA-listed species as a result of the trawl survey are discountable because we expect that interactions (i.e., capture) or any ESA-listed species is extremely unlikely to occur. This is due to the location of the survey (water depths [82 -186 m] and distance from shore within the northern Gulf of Maine), as well as the limited survey effort (30 to 38 20-minute tows per season for five years); together, these factors support a determination that the potential for capture of any individual listed fish or sea turtle is extremely unlikely to occur.

As stated in 50 CFR §402.16, reinitiation of consultation is required and shall be requested by the Federal action agency, where discretionary Federal involvement or control over the action has been retained or is authorized by law and: If new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered in the consultation; if the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this consultation; or, if a new species is listed or critical habitat designated that may be affected by the identified action. No incidental take is anticipated or exempted; if there is any incidental take, NMFS must be notified immediately, and reinitiation of this consultation would be required. Should you have any questions about this correspondence please contact Nick Sisson at (978) 281-9179 or by email ([nick.sisson@noaa.gov](mailto:nick.sisson@noaa.gov)).

Sincerely,

for  
Jennifer Anderson  
Assistant Regional Administrator  
for Protected Resources

ec: Sisson, Crocker – GAR PRD