

# **FINDING OF NO SIGNIFICANT IMPACT FOR THE ISSUANCE OF AN INCIDENTAL HARRASSMENT AUTHORIZATION TO ORSTED WIND POWER NORTH AMERICAN LLC FOR TAKE OF MARINE MAMMALS BY HARASSMENT INCIDENTAL TO MARINE SITE CHARACTERIZATION SURVEYS ASSOCIATED WITH OFFSHORE WIND ENERGY DEVELOPMENT**

## **I. INTRODUCTION AND PURPOSE**

On May 23, 2019, the National Marine Fisheries Service (NMFS) received an adequate and complete application from Orsted Wind Power North American LLC (herein “Orsted”) requesting incidental take of marine mammals in connection with their proposal to conduct marine site characterization surveys associated with offshore wind energy development along the Outer Continental Shelf (OCS) of the Atlantic Ocean. NMFS is required to review applications and, if appropriate, issue Incidental Take Authorizations (ITAs) pursuant to the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 et seq.). ITAs may be issued as either (1) regulations and the associated Letter of Authorization (LOA) or (2) an Incidental Harassment Authorization (IHA). In addition, the National Environmental Policy Act (NEPA), 40 Code of Federal Regulations (CFR) Parts 1500 -1508 and National Oceanic and Atmospheric Administration (NOAA) policy and procedures require all proposals for major federal actions be reviewed with respect to environmental consequences on the human environment.<sup>1</sup> The purpose of this document is to present the evaluation that issuance of an IHA to Orsted will not significantly impact the quality of the human environment.

## **II. BACKGROUND**

NMFS is issuing an IHA to Orsted pursuant to Section 101(a)(5)(D) of the MMPA and 50 CFR Part 216. The IHA will be valid for one year from the date the IHA is issued, and will authorize takes, by Level B harassment, of marine mammals incidental to the marine site characterization survey investigations Orsted is proposing to conduct within the Commercial Lease of Submerged Lands for Renewable Energy Development approved OCS lease areas, OCS-A-0486, OCS-A-0487 and OCS-A-0500, as well as coastal waters where cable route corridors will be established. These OCS lease areas are located approximately 14 miles south of Martha’s Vineyard, Massachusetts at its closest point and the cable route corridors are located off the coast of New York, Connecticut, Rhode Island and Massachusetts (herein referred to as “Project Area”).

Site characterization survey investigations are the initial step in gaining a comprehensive understanding of the geologic, hydrologic and engineering properties of a site. Thus, the primary purpose for conducting survey investigations is to gather enough data to understand seafloor conditions that can impact site conditions associated with wind turbine construction and operation. Two types of site characterization surveys typically conducted in support of renewable

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<sup>1</sup> NOAA Administrative Order (NAO) 216-6A “Compliance with the National Environmental Policy Act, Executive Orders 12114, Environmental Effects Abroad of Major Federal Actions; 11988 and 13690, Floodplain Management; and 11990, Protection of Wetlands” issued April 22, 2016 and the Companion Manual for NAO 216-6A “Policy and Procedures for Implementing the National Environmental Policy Act and Related Authorities” issued January 13, 2017

energy development are High Resolution Geophysical (HRG) surveys and Geotechnical surveys. Typical equipment used in HRG surveys includes single beam or multibeam depth sounders, magnetometers, side-scan sonars, and shallow and medium penetration sub-bottom profilers. Geotechnical surveys involve seafloor-disturbing activities (e.g., cone penetrometer tests (CPTs), geologic coring and grab sampling).

Orsted is planning to conduct both of these site characterization survey types. The impacts of underwater noise associated with the HRG surveys have the potential to cause marine mammals within or near the survey areas to be harassed, thus, the activities warrant authorization, in the form of an IHA, from NMFS. An authorization for incidental take is granted if NMFS finds that the take will have a negligible impact on the species or stock(s), and, where relevant, will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. In addition, only small numbers of takes may be authorized and the IHA must set forth the permissible methods of taking, other means of effecting the least practicable adverse impact on the species or stock and its habitat, and requirements pertaining to the monitoring and reporting of such takes.

NMFS's issuance of an IHA to Orsted allowing the taking of marine mammals, consistent with provisions under the MMPA and incidental to the applicant's lawful activities, is considered a major federal action. Therefore, NMFS determined preparing an Environmental Assessment (EA) was appropriate for the issuance of this IHA to Orsted. In addition, NMFS relied on the public process pursuant to the MMPA to develop and evaluate environmental information relevant to the analysis under NEPA. NMFS considered public comments prior to making a final decision on the issuance of the requested IHA and concluding the NEPA process. The comments received and NMFS responses to those comments will be summarized in the final notice of the IHA, which will be available at <https://www.fisheries.noaa.gov/action/incidental-take-authorization-orsted-wind-power-llc-site-characterization-surveys-renewable>.

### **III. PROPOSED ACTION AND ALTERNATIVES SUMMARY**

Sections 101(a)(5)(A) and (D) of the MMPA give NMFS the authority to authorize the incidental but not intentional take of small numbers of marine mammals, provided certain determinations are made and statutory and regulatory procedures are met. As indicated in Section II, to authorize the incidental take of marine mammals, NMFS evaluates the best available scientific information to determine whether the take would have a negligible impact<sup>2</sup> on affected species or stocks and whether the activity would have an unmitigable adverse impact on the availability of the species or stocks for subsistence use (if applicable). NMFS cannot issue authorizations if it would result in more than a negligible impact on marine mammal species or stocks or would result in an unmitigable adverse impact on the species or stocks for subsistence uses. NMFS must also prescribe the permissible methods of take and other means of effecting the least practicable adverse impact on the species or stocks of marine mammals and their habitat, paying particular attention to rookeries, mating grounds, and other areas of similar significance.

The purpose of NMFS action, which is a direct outcome of Orsted's request for authorization to take marine mammals incidental to conducting their proposed site characterization surveys, is to

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<sup>2</sup> NMFS defines "negligible impact" as "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival." (50 CFR section 216.103)

evaluate Orsted's application pursuant to section 101(a)(5)(D) of the MMPA and 50 CFR Part 216 and issue an IHA, if appropriate. The need for NMFS action is to consider the impacts of Orsted's activities on marine mammals and ultimately authorize the incidental take in compliance with the MMPA, if the requirements of section 101(a)(5)(D) are satisfied. Based on the statutory framework explained above, NMFS considered two alternatives, a no action alternative in which NMFS denies Orsted's request for the IHA and an action alternative in which it grants Orsted's request and issues an IHA. Thus, the Final EA addresses the potential environmental impacts of two alternatives to meet NMFS' purpose and need:

Alternative 1 (No Action Alternative): For NMFS, denial of an IHA constitutes the NMFS No Action Alternative, which is consistent with our statutory obligation under the MMPA to grant or deny incidental take authorization requests and to prescribe mitigation, monitoring, and reporting with any authorizations. Under the No Action Alternative, NMFS would not issue the IHA and NMFS assumes Orsted would not proceed with their proposed site characterization survey activities as described in the application. The No Action Alternative served as a baseline against which the impacts of the Preferred Alternative were compared and contrasted.

Alternative 2 (Preferred Alternative): NMFS issues the final IHA to Orsted authorizing take of marine mammals incidental to Orsted's proposed site characterization survey activities described in the application and with the mitigation, monitoring and reporting measures described in Section 2.4.1 in the Final EA and in the final IHA under "Mitigation" and "Monitoring" sections.

#### IV. ANALYSIS SUMMARY

The environmental consequences to the marine environment and protected resources are important to the evaluation leading to the decision to issue any given IHA. In particular, because NMFS' action is specific to authorizing incidental take of marine mammals, the key factors relevant to, and considered in a decision to issue any given IHA, are related to NMFS' statutory mission under the MMPA. The information in the following subsections discusses key factors considered in the analysis in the EA along with the evaluation and reasons why the impacts of our proposed action will not significantly impact the quality of the human environment. Information in the EA specific to descriptions below is incorporated by reference per 40 CFR 1502.21.

##### A. Summary of Environmental Consequences

In the EA, we present the baseline environmental conditions for the affected resources in locations throughout the Project Area where the various site characterization survey activities will occur along with a qualitative evaluation of potential impacts to marine mammals, including explanations about potential acoustic impacts used to indicate at what received sound levels marine mammals will experience certain effects<sup>3</sup> during the HRG surveys. However, since the potential effects of sound on marine mammal species involves a complex analysis of the manner in which sound interacts with the physiology of marine mammals and the potential responses of those animals to sound, only general information about sound and marine mammal hearing along with potential effects of sound on marine mammals is explained in the EA while details concerning exposure estimates and the quantitative analysis of impacts to marine mammals is provided in the "Take Calculation and Estimation" section of the IHA.

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<sup>3</sup> Equivalent to regulatory definitions of harassment pursuant to the MMPA.

## B. Significance Evaluation

The Council on Environmental Quality (CEQ) Regulations state that the significance of an action should be analyzed in terms of both “context” and “intensity” and lists ten criteria for intensity. The Companion Manual for NOAA Administrative Order 216-6A requires consideration of CEQ’s context and intensity criteria (40 CFR 1508.27(a) and 40 CFR 1508.27(b)) along with six additional factors for determining whether the impacts of a proposed action are significant. Each criterion is discussed below with respect to NMFS’ proposed action and is considered individually as well as in combination with the others.

*1. Can the proposed action reasonably be expected to cause both beneficial and adverse impacts that overall may result in a significant effect, even if the effect will be beneficial?*

NMFS’ proposed action is not expected to cause either beneficial or adverse impacts resulting in any significant effects. NMFS is proposing to authorize take of marine mammals incidental to Orsted’s marine site characterization surveys. Therefore, impacts from NMFS’ proposed action are expected to be predominantly to marine mammals, which, if affected, would be through the introduction of sound into the marine environment during HRG surveys. The equipment used during HRG surveys emit noise into the water column, which has the potential to behaviorally disturb marine mammals. Given their reliance on sound for basic biological functioning (e.g., foraging, mating), marine mammals are the species most vulnerable to increased noise in the marine environment, although marine mammal prey (e.g., fish and squid) may be impacted in some of the same ways. However, NMFS expects its action to have only intermittent, localized impacts on marine mammals and their habitat, because the HRG survey is short-term and temporary. While NMFS predicts adverse effects to individuals, it does not anticipate population-level effects that would rise to the level of significance. The single geotechnical activity proposed is benthic grab sampling and is used to validate the seabed classification obtained from the multibeam echosounder/sidescan sonar data. This activity may disrupt the sediment, but these impacts are considered minor and temporary as they will affect only a small portion of available bottom habitat.

*2. Can the proposed action reasonably be expected to significantly affect public health or safety?*

The issuance of an IHA to Orsted for take of marine mammals is not likely to have the potential to significantly affect public health or safety because Orsted’s proposed site characterization surveys will take place offshore in a broad area. Any overlap with activities conducted by the public would be temporary. NMFS only authorizes the take of marine mammal species associated with these site characterization survey activities, which does not involve the public or expose the public directly (e.g., chemicals, diseases) or indirectly (e.g., food sources) to hazardous or toxic materials in a way that would be linked to the quality of the environment and well-being of humans.

*3. Can the proposed action reasonably be expected to result in significant impacts to unique characteristics of the geographic area, such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas?*

The primary potential effects that may result from NMFS proposed action are potential adverse effects to marine mammals that are the subject of the take authorization, as well as their habitat. It is not expected to result in impacts to unique or ecologically critical areas in the offshore area where



Orsted's site characterization survey activities will occur. Since the underlying activity is temporary, public recreational uses that may occur in the area will not be significantly affected. Any proposed activity must be consistent with the MMPA and NMFS' implementing regulations and, as applicable, must cause no greater than negligible impacts to affected species or stocks, cause taking determined to be of no greater than small numbers, and include measures sufficient to effect the least practicable adverse impact to marine mammal species or stocks and their habitat. Therefore, it is not likely the issuance of this IHA to Orsted could adversely impact these areas at a level that would reach significance under NEPA.

*4. Are the proposed action's effects on the quality of the human environment likely to be highly controversial?*

NMFS' issuance of an IHA will not have effects on the quality of the human environment that are likely to be highly controversial. There is no substantial debate over the size, nature, or effect of the proposed action's effects on marine mammals or the marine environment. In addition, public comments NMFS received regarding a proposed IHAs for similar site characterization surveys did not indicate that the environmental effects of NMFS' actions were likely to be highly controversial.

*5. Are the proposed action's effects on the human environment likely to be highly uncertain or involve unique or unknown risks?*

The issuance of the IHA to Orsted will not result in effects on the human environment likely to be highly uncertain or involving unique or unknown risk because the take of marine mammals incidental to Orsted's activities would be of limited duration and in a limited geographic location, as required in the IHA. The underlying activities authorized by the IHA are well understood and thoroughly documented; prior authorizations and analyses demonstrate the issuance of IHAs for this type of activity only affect the marine mammals that are the subject of the authorization.

*6. Can the proposed action reasonably be expected to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration?*

The issuance of the IHA to Orsted for the take of marine mammals incidental to planned site characterization survey activities may inform the environmental review for future projects, but would not establish a precedent or represent a decision in principle about future actions. NMFS' actions under MMPA Section 101(a)(5)(A) and (D) are considered individually and are based on the best available scientific information, which is continuously evolving. Requests for authorizations are evaluated on their own merits relative to the criteria established in the MMPA and 50 CFR Part 216 on a case-by-case basis. Therefore, issuance of an authorization to a specific entity for a given activity does not guarantee or imply that NMFS will issue future authorizations upon request in relation to similar activities.

*7. Is the proposed action related to other actions that when considered together will have individually insignificant but cumulatively significant impacts?*

NMFS considered all relevant activities in evaluating the potential for cumulatively significant impacts in the Final EA. NMFS' EA concludes that the impacts of the site characterization survey activities considered in context with NMFS' required mitigation, will not result in cumulatively significant impacts to marine mammals and their habitat when viewed collectively with other past,

present, and reasonably foreseeable future actions. The potential impacts to marine mammals, their habitats, and the human environment are expected to be minimal, based on the limited spatial and temporal nature of the activities authorized by NMFS, and the mitigation and monitoring requirements in the IHA. The cumulative effects of the proposed action on the affected marine mammal populations, when added to the effects of other human-related activities affecting marine mammal species in the Project Area, including climate change, disease, fisheries, vessel traffic, marine mammal watching, and geophysical and geotechnical site characterization surveys, are not expected to be significant.

*8. Can the proposed action reasonably be expected to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources?*

The effects of issuance of this final IHA is limited to those occurring to marine mammals and their habitat; and, therefore, NMFS's proposed action is not expected to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places. Likewise, it is not expected to cause loss or destruction of significant scientific, cultural, or historical resources. Furthermore, the underlying site characterization survey activities themselves take place in open water and the HRG survey involves production of underwater sound; therefore, although known or unknown historical resources may be present, the chance of affecting such resources is remote and unlikely as to be discountable.

*9. Can the proposed action reasonably be expected to have a significant impact on endangered or threatened species, or their critical habitat as defined under the Endangered Species Act of 1973?*

NMFS determined there are four species of marine mammals listed under the ESA that occur in the Project Area that may be affected by Orsted's proposed site characterization surveys : the North Atlantic right, fin, sei and sperm whales. NMFS' proposed action is not expected to have significant impacts on endangered or threatened species or their critical habitat, as NMFS determined the take of marine mammals authorized in the IHA would be limited to behavioral disturbance that would be short-term and limited to harassment. The authorized take of marine mammals incidental to Orsted's activities is not expected to affect reproductive fitness or survivorship in any marine mammals, and no injury or mortality of any marine mammals is expected or authorized in the IHA. Thus, the take of marine mammals authorized in the IHA would not result in population-level effects to ESA-listed species of marine mammals.

NMFS' Greater Atlantic Regional Fisheries Office (GARFO) issued a Biological Opinion to BOEM in April 2013 for commercial wind lease issuance and site assessment activities on the Atlantic OCS for Massachusetts, Rhode Island, New York and New Jersey wind energy areas. NMFS was included as an action agency. NMFS's Office of Protected Resources (OPR) initiated consultation with GARFO Protected Resources Division (PRD) in July 2019 to amend the existing incidental take statement of the Biological Opinion to include and be consistent with NMFS OPR's issuance of an IHA to Orsted for their proposed site characterization survey activities. The Biological Opinion was amended to include an incidental take exemption for ESA-listed marine mammal species associated with Orsted's proposed site characterization survey activities. GARFO PRD determined this approach was appropriate.

Orsted's proposed site characterization survey activities will not occur within any designated critical habitat areas, and are therefore not likely to result in the destruction or adverse modification of critical habitat for these species.

*10. Can the proposed action reasonably be expected to threaten a violation of Federal, state, or local law or requirements imposed for environmental protection?*

The issuance of this IHA would not violate any federal laws for environmental protection. NMFS has engaged in consultation and conducted analyses as necessary to ensure compliance with relevant environmental protection laws, as discussed in other sections herein.

*11. Can the proposed action reasonably be expected to adversely affect stocks of marine mammals as defined in the Marine Mammal Protection Act?*

The issuance of this IHA would authorize Orsted to take marine mammals by harassment, as defined by the MMPA, incidental to site characterization survey activities specified in the application. However, while take of individuals is expected, we do not expect adverse impacts at the population level to stocks of marine mammals. Importantly, effects on individuals or groups of animals does not necessarily translate into an adverse effect to a stock or species, unless such effects result in reduced fitness for those individuals and, ultimately, accrue to the point that there is reduced reproduction or survival leading to effects on annual rates of recruitment or survival for the species. Adverse effects on stocks could potentially result from direct mortality or serious injury or from harassment impacting critical biological functioning and behaviors, such as feeding, mating, calving, or communicating, in a manner that reduces reproductive fitness or survivorship in enough individuals to negatively affect population rates. The loss or serious injury of an individual, or significant reductions in health or reproductive rates, could trigger population impacts if birth rates or emigration do not offset the loss of individuals. For this proposed activity, impacts to marine mammals would occur through noise exposure from equipment used during Orsted's HRG surveys and associated increases in ambient noise. However, effects would be limited to behavioral harassment; this behavioral harassment is not expected to affect reproductive fitness or survivorship in any marine mammals, and no injury or mortality of any marine mammals is expected or authorized in the IHA. Thus, NMFS does not expect the activity to have adverse effects on marine mammal species or stocks.

*12. Can the proposed action reasonably be expected to adversely affect managed fish species?*

NMFS expects the issuance of an IHA to Orsted for the take of marine mammals incidental to conducting site characterization survey activities may result in short-term, temporary and minor impacts to some managed fish species. The equipment used by Orsted for HRG surveys would introduce noise to the marine environment, thus there is the potential to prompt short-term avoidance of the area around the HRG survey area by individual fish. No gear type associated with Orsted's site characterization surveys is anticipated to physically impact important habitat for managed fish species. Additionally, marine mammals have not been identified as a prey component of managed fish species in this area, so authorizing the incidental take of marine mammals will not reduce the quantity and/or quality of EFH (see related response to question 13 below).

*13. Can the proposed action reasonably be expected to adversely affect essential fish habitat as defined under the Magnuson-Stevens Fishery Conservation and Management Act?*

NMFS' proposed action only affects the marine mammals that are the subject of the IHA and does not affect essential fish habitat. Orsted's proposed HRG surveys may result in temporarily elevated noise levels within the survey area, but this will be short in duration and intermittent within any specific area. Orsted's proposed geotechnical surveys may result in temporary sediment disturbance but would quickly return pre-survey conditions. Therefore, authorizing the take of marine mammals is unlikely to affect water quality or substrate necessary to provide spawning, feeding, breeding or growth to maturity functions for managed fish. In addition, based on NMFS' Office of Habitat Conservation 2017 guidance concerning incidental take authorizations and EFH, NMFS OPR determined the issuance of the IHA to Orsted will not result in adverse impacts to EFH and that consultation per Section 305(B)(2) of the MSA as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267) is not required. NMFS' GARFO concurs with OPR's determination.

*14. Can the proposed action reasonably be expected to adversely affect vulnerable marine or coastal ecosystems, including but not limited to, deep coral ecosystems?*

We do not expect our action to impact any vulnerable marine ecosystems, nor any aspects of biodiversity or functioning of marine ecosystems, in a significant manner. As described elsewhere in this document, the impact from our action is limited to impacts to marine mammals and their habitat, due to the potential increased noise levels into the marine environment during the proposed HRG survey. NMFS does not anticipate that the proposed action would result in any permanent effects on the habitats used by the marine mammals in the Project Area, including the food sources they use (i.e., fish and invertebrates) and does not anticipate that the proposed activity would have any habitat-related effects that could cause significant or long-term consequences for individual marine mammals or their populations. Any noise impact is expected to be sporadic, temporary, and localized given a mobile sound source over a broad area. Thus, short-term minor effects may occur but are not expected to rise to the level of significance. No deep coral ecosystems exist in the Project Area.

*15. Can the proposed action reasonably be expected to adversely affect biodiversity or ecosystem functioning (e.g., benthic productivity, predator-prey relationships, etc.)?*

We do not expect our action to have a substantial impact on biodiversity or ecosystem functioning within the affected environment. As described elsewhere in this document, impacts from NMFS' proposed action are limited to the marine mammals that are the subject of the IHA. While marine mammals play a critical role in marine ecosystems, including those in the Project Area, the adverse effects of the proposed action on marine mammals would be limited to short-term behavioral responses that would be temporary and localized. The proposed action would not result in injury or in harassment that would have the potential to impact critical biological functions and behaviors, such as feeding, mating, calving, or communicating in a manner that reduces reproductive fitness or survivorship, and thus would not have the potential to result in population-level impacts to marine mammals. Thus, the function of marine mammals in the ecosystem would not be affected by the proposed action.

Current research indicates that some fish species and other marine mammal prey (e.g., squid, zooplankton) can be affected by ocean noise, though the degree of impact depends on many environmental and biological conditions. Any potential impacts to fish are expected to be temporary and localized and result in short-term displacement at most. Impacts are not expected to affect



predator-prey relationships or otherwise impact any form of benthic productivity. Thus, NMFS' proposed action cannot reasonably be expected to affect biodiversity or ecosystem functioning within the affected environment.

*16. Can the proposed action reasonably be expected to result in the introduction or spread of a nonindigenous species?*

The proposed site characterization survey activities do not involve methods known or likely to result in the introduction or spread of non-indigenous species, such as through ballast water exchange. Sufficient precautionary measures may be taken by Orsted to prevent the introduction, continued existence, or spread of noxious organisms or other non-native species. Therefore, it is not likely that NMFS' issuance of an IHA would promote or result in the introduction or spread of invasive species at a level that would reach significance under NEPA.

## **V. CONDITIONS – MITIGATION, MONITORING AND REPORTING**

While NMFS does not authorize Orsted's site characterization survey activities, NMFS does authorize the take of marine mammals incidental to Orsted's activities under its jurisdiction in connection with these activities, and prescribes, where applicable, the methods of taking and other means of effecting the least practicable impact on the species and stocks and their habitats. NMFS' issuance of this IHA for Orsted's site characterization survey activities is thus conditioned upon reporting requirements and the implementation of mitigation and monitoring designed to reduce impacts to marine mammals to the level of least practicable impact. These conditions are summarized below and are described in detail in the Mitigation and Monitoring sections of the final IHA and in section 2.4.1 of the EA.

Mitigation measures include:

- Establishing marine mammal exclusion zones within which marine mammals could otherwise be exposed to received sound levels associated with injury;
- Implementing shutdown procedures when marine mammals are detected within or about to enter exclusion zones;
- Implementing ramp-up procedures when the site characterization survey equipment is started to provide marine mammals with a warning and to allow animals to vacate the area;
- Limiting the number of survey vessels that may operate concurrently in areas of high right whale density during the months when whale density is greatest; and
- Adhering to vessel strike avoidance protocols to minimize risk of death or injury from ship strike.


Monitoring and reporting measures include:

- NMFS-approved protected species observers (PSOs) documenting the number and species of marine mammals exposed to sounds from the site characterization survey equipment as well as the behavior and responses of marine mammals to project-related activities;
- Evaluating monitoring results to assess the effectiveness of mitigation measures in minimizing disturbance of marine mammals during project-related activities; and

- Submitting draft monitoring report to NMFS within 90 calendar days after completion of activities and a final report within 30 days following the resolution of any comments on the draft report from NMFS.

## VI. DETERMINATION

Based on the information presented herein along with the analysis in the final EA, the notices for the proposed and final IHA, and Orsted's application, it is hereby determined the issuance of the IHA to Orsted for site characterization survey activities will not significantly impact the quality of the human environment. Although the survey associated with this IHA will cover a large swath of the Atlantic Ocean, only a miniscule portion of the area will be ensonified at any given time by survey vessels. Thus, we expect impacts to marine mammals to be temporary and localized around the survey vessels and remain within the bounds of the established take authorizations. We do not expect the Level B harassment authorized by the IHA to affect annual rates of recruitment or survival of marine mammal species or stocks. To reach the conclusion of no significant impacts we addressed all beneficial and adverse impacts of our action. Accordingly, the preparation of an Environmental Impact Statement for this action is not necessary.



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Date