



MARINE MAMMAL COMMISSION

2 September 2020

Ms. Jolie Harrison, Chief
Permits and Conservation Division
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910-3225

Dear Ms. Harrison:

The Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the application submitted by Ørsted Wind Power North America, LLC (Ørsted) under section 101(a)(5)(D) of the Marine Mammal Protection Act (the MMPA). Ørsted is seeking authorization to take small numbers of marine mammals by harassment incidental to high-resolution geophysical (HRG) surveys in coastal waters from New York to Massachusetts. The Commission also has reviewed the National Marine Fisheries Service's (NMFS) 10 August 2020 notice (85 Fed. Reg. 48179) requesting comments on its proposal to issue the authorization, subject to certain conditions.

Ørsted is proposing to conduct HRG surveys to characterize lease areas¹ and export cable routes in support of offshore wind energy projects. Ørsted would use sub-bottom profilers (including chirp, sparker, boomer, and parametric types), acoustic corers, and ultra-short baseline acoustic positioning systems during its HRG surveys. Based on the information provided in the *Federal Register* notice, it is reasonable to conclude that incidental taking of marine mammals could occur. However, as the Commission has pointed out in detail in previous letters regarding proposed authorizations for similar HRG survey activities², NMFS continues to overestimate the size of the Level B harassment zones³. Regardless, Ørsted would be required by its BOEM leases to implement a 200-m or 500-m exclusion zone⁴, which would minimize the potential for marine mammals to be exposed to sound levels expected to result in taking. As such, the Commission believes that issuance of an incidental harassment authorization for the proposed activities is unnecessary.

Please contact me if you have questions.

Sincerely,

A handwritten signature in blue ink that reads "Peter O. Thomas".

Peter O. Thomas, Ph.D.,
Executive Director

¹ Bureau of Ocean Energy Management (BOEM) lease numbers OCS-A 0486/0517, 0487, and 0500.

² See its [13 July 2020](#) (Equinor Wind, LLC), [6 July 2020](#) (Dominion Energy Virginia), [26 June 2020](#) (Mayflower Energy, LLC), [12 March 2020](#) (Vineyard Wind, LLC), [18 October 2019](#) (Skipjack Offshore Energy, LLC), [23 August 2019](#) (Ørsted Wind Power LLC), [6 July 2018](#) (Dominion Energy Virginia), and [13 June 2018](#) (Ørsted/Bay State Wind) letters.

³ NMFS estimated the largest zone to be 141 m.

⁴ For cetaceans/pinnipeds and North Atlantic right whales, respectively.