

U.S. DEPARTMENT OF ENERGY  
OFFICE OF ENERGY EFFICIENCY AND RENEWABLE ENERGY  
NEPA DETERMINATION



RECIPIENT: Coonamessett Farm Foundation

STATE: MA

PROJECT TITLE : Surveying Commercial Fish Species And Habitat In Wind Farm Areas Using A Suite Of Non-Lethal Survey Methods

Funding Opportunity Announcement Number	Procurement Instrument Number	NEPA Control Number	CID Number
DE-FOA-0002237	DE-EE0009799	GFO-0009799-003	G09799

Based on my review of the information concerning the proposed action, as NEPA Compliance Officer (authorized under DOE Policy 451.1), I have made the following determination:

**CX, EA, EIS APPENDIX AND NUMBER:**

Description:

**A9 Information gathering, analysis, and dissemination**

Information gathering (including, but not limited to, literature surveys, inventories, site visits, and audits), data analysis (including, but not limited to, computer modeling), document preparation (including, but not limited to, conceptual design, feasibility studies, and analytical energy supply and demand studies), and information dissemination (including, but not limited to, document publication and distribution, and classroom training and informational programs), but not including site characterization or environmental monitoring. (See also B3.1 of appendix B to this subpart.)

**B3.6 Small-scale research and development, laboratory operations, and pilot projects**

Siting, construction, modification, operation, and decommissioning of facilities for smallscale research and development projects; conventional laboratory operations (such as preparation of chemical standards and sample analysis); and small-scale pilot projects (generally less than 2 years) frequently conducted to verify a concept before demonstration actions, provided that construction or modification would be within or contiguous to a previously disturbed or developed area (where active utilities and currently used roads are readily accessible). Not included in this category are demonstration actions, meaning actions that are undertaken at a scale to show whether a technology would be viable on a larger scale and suitable for commercial deployment.

**B3.16 Research activities in aquatic environments**

Small-scale, temporary surveying, site characterization, and research activities in aquatic environments, limited to: (a) Acquisition of rights-of-way, easements, and temporary use permits; (b) Installation, operation, and removal of passive scientific measurement devices, including, but not limited to, antennae, tide gauges, flow testing equipment for existing wells, weighted hydrophones, salinity measurement devices, and water quality measurement devices; (c) Natural resource inventories, data and sample collection, environmental monitoring, and basic and applied research, excluding (1) large-scale vibratory coring techniques and (2) seismic activities other than passive techniques; and (d) Surveying and mapping. These activities would be conducted in accordance with, where applicable, an approved spill prevention, control, and response plan and would incorporate appropriate control technologies and best management practices. None of the activities listed above would occur within the boundary of an established marine sanctuary or wildlife refuge, a governmentally proposed marine sanctuary or wildlife refuge, or a governmentally recognized area of high biological sensitivity, unless authorized by the agency responsible for such refuge, sanctuary, or area (or after consultation with the responsible agency, if no authorization is required). If the proposed activities would occur outside such refuge, sanctuary, or area and if the activities would have the potential to cause impacts within such refuge, sanctuary, or area, then the responsible agency shall be consulted in order to determine whether authorization is required and whether such activities would have the potential to cause significant impacts on such refuge, sanctuary, or area. Areas of high biological sensitivity include, but are not limited to, areas of known ecological importance, whale and marine mammal mating and calving/pupping areas, and fish and invertebrate spawning and nursery areas recognized as being limited or unique and vulnerable to perturbation; these areas can occur in bays, estuaries, near shore, and far offshore, and may vary seasonally. No permanent facilities or devices would be constructed or installed. Covered actions do not include drilling of resource exploration or extraction wells.

Rationale for determination:

The U.S. Department of Energy (DOE) is proposing to provide funding to Coonamessett Farm Foundation, Inc. (CFF; East Falmouth, MA) to design, fabricate, and test non-lethal and non-extractive survey tools to evaluate the impacts of offshore wind development on commercial fish species and benthic habitats and communities.

DOE previously completed two NEPA Determinations (NDs): (GFO-0009799-001; Categorical Exclusions (CXs) A9, A11, and B3.6; 07/01/2022) and (GFO-0009799-002; CXs A9 and B3.16; 05/01/2023). GFO-0009799-001 covered all Budget Period (BP) 1 planning and preliminary research activities (i.e., BP1 Tasks 1, 2.1, 3.1, 4.1, 5, 6, and 7). These activities were integral for informing other award tasks and BPs. GFO-0009799-002 addressed BP1 Task 2 activities

which involved conducting towed off-bottom vehicle survey tests on the CFF-owned and operated HabCam v3 survey vehicle, hereinafter "HabCam." These tests were necessary to determine the functionality of the newly equipped front-facing sonar system. In addition to this award, the HabCam is part of a separate effort for the Sea Scallop Research Set-Aside (RSA) survey program funded by the National Marine Fisheries Service (NMFS) Northeast Fisheries Science Center (NEFSC). NMFS conducted an intra-service Section 7 consultation for all activities funded by the NMFS NEFSC, including HabCam surveys absent of an equipped sonar system. The Sea Scallop RSA was reviewed under the Biological Opinion issued on 10/08/2021, in addition to a subsequent Biological Opinion issued on 06/15/2023 from a reinitiation of consultation, for activities to be conducted from 10/2021 through 10/2026. Since BP1 Task 2 activities were tied to a separate effort with an earlier timeline, the HabCam testing activities in BP1 Task 2 of this award were reviewed separately (GFO-0009799-002) from the rest of the at-sea testing and surveying activities. Additionally, BP 1 Task 2 activities, outside of the use of sonar, were not evaluated as part of the Section 7 of the Endangered Species Act (ESA) consultation for this award per direction from NMFS. In GFO-0009799-002, DOE evaluated potential effects from use of the HabCam sonar system during the Sea Scallop RSA surveys and determined that the sonar would not result in impacts to ESA-listed species. The Biological Opinion issued on 04/01/2024 for this award backs up this determination stating: "Based on the information presented in DOE's [Biological Assessment] and summarized here, there will be no effects to any ESA listed species resulting from deployment and operation of the sonar on the HabCam surveys. Therefore, there will be no effects beyond those considered in the 2023 NEFSC Opinion." This ND covers the remaining at-sea activities, applying to BP1 Task 3 and 4 activities as well as BP2 and BP3 activities.

The award would utilize three optical survey methods: open and closed codend video trawl surveys; towed off-bottom HabCam sonar and benthic surveys; and anchored and on-demand, ropeless stationary camera surveys. Field research would occur over four years and involve in-water equipment testing and surveys. Equipment testing, other than the Sea Scallop RSA HabCam sonar system testing (GFO-0009799-002), would occur in the spring and summer of 2024. This includes one five-day video trawl test and two one-day ropeless stationary camera tests. Surveys would begin in the spring of 2025 and continue in the spring and fall of each year through the fall of 2027. This would result in each survey method being performed five times. Video trawl surveys would be conducted over five days. Open codend tows would vary in length from less than one to nine hours, depending on the location. The closed codend tows would be less than 20 minutes in duration and would not exceed more than 30 percent (%) of total tows. The HabCam surveys would involve four-day trips and would run 24 hours a day. The HabCam would be towed off a commercial scallop vessel and "flown" at altitudes of 1.5 to 2.5 meters (m) off bottom. Stationary camera surveys would be conducted using anchored and on-demand ropeless camera systems during seven-day long trips. Six ropeless camera systems would be deployed first and collected at the end of each survey trip. After deployment of the six ropeless camera systems, the anchored camera system would be deployed for 60 to 90 minutes and retrieved. The anchored camera deployment and retrieval would be repeated 45-50 times in the action area. All survey equipment being utilized for this award are temporary in nature and would be pulled from the water at the conclusion of each survey.

All at-sea award activities are proposed in the wind lease areas of South New England (SNE) waters and nearshore waters of Cape Cod Bay. Specifically, the SNE wind lease areas would be the approximate location of the video trawl testing, video trawl surveys, HabCam surveys, and stationary camera surveys. The ropeless stationary camera system would be tested nearshore in Cape Cod Bay. Testing and surveying would require the use of various types of vessels. All vessels would transit to testing and surveying locations from existing port facilities primarily in New Bedford, MA. Trips from existing ports in Fairhaven, Woods Hole, Sandwich, or Duxbury, MA would also be possible.

In addition to at-sea activities, the award would focus on developing automated detection models for fish and invertebrate species as well as statistical models to predict the impact of wind farms on the same species. CFF would utilize existing research facilities and a workshop to perform project management and data analysis activities. The warehouse at Quinn Fisheries (New Bedford, MA) would house the HabCam when in storage. Kitware, Inc. (Clifton Park, NY) is responsible for the selection of the automated detector model as well as training and evaluation of survey imagery. Lastly, the University of Massachusetts School of Marine Science & Technology (SMAST; New Bedford, MA) would design and test the open codend video trawl system as well as test the ropeless stationary camera system in the existing SMAST test tank. This project would not require any physical modifications to facilities, ground disturbing activities, changes in the use of existing facilities, or installation of outdoor equipment.

Award activities would involve work on vessels at-sea. Any risks associated with award activities would be mitigated through adherence to established health and safety policies and procedures including training, the use of personal safety gear (e.g., immersion suits, personal flotation devices, life rafts), and adherence to vessel emergency procedures. All waste products would be disposed of by licensed waste management service providers. CFF and its award partners would observe all applicable Federal, state, and local health, safety, and environmental regulations.

DOE completed formal Section 7 of the ESA consultation via a Biological Assessment (BA) and abbreviated Magnus-Stevens Fishery Conservation and Management Act Section 305 Essential Fish Habitat (EFH) consultation with NMFS. On 01/03/2024, NMFS informed DOE that the abbreviated EFH consultation was complete pending acceptance of one recommended conservation measure, i.e., no permanent impacts to rocky habitats. On 04/01/2023,

NMFS issued a Biological Opinion concurring with DOE's determination that the proposed action is likely to adversely affect but is not likely to jeopardize the continued existence of Northwest Atlantic distinct population segment (DPS) loggerhead, North Atlantic DPS green and Kemp's ridley sea turtles, and Atlantic sturgeon from the Gulf of Maine, New York Bight, Chesapeake Bay, Carolina, and South Atlantic DPSs. Additionally, NMFS determined that the proposed action is not likely to adversely affect leatherback sea turtles or blue, fin, sei, sperm, or North Atlantic right whales and would have no effect on giant manta rays, oceanic white tip sharks, shortnose sturgeon, hawksbill sea turtles, the Gulf of Maine DPS of Atlantic salmon or critical habitat designated for the North Atlantic right whale. Along with the Biological Opinion, NMFS issued an Incidental Take Statement (ITS) mandating Reasonable and Prudent Measures (RPMs) and Terms and Conditions as well as advising the use of two Conservation Recommendations. The abbreviated EFH consultation and Biological Opinion are contingent upon each RPM, Terms and Condition, and Conservation Recommendation being properly implemented by all award participants. A failure to implement the proposed action as proposed in the BA, including exceeding incidental take numbers, may render the conclusions of the Biological Opinion and the take exemption inapplicable to the activities carried out, and may require DOE to reinstate consultation with NMFS.

CFF proposed mitigation and reporting measures in which NMFS considers part of the proposed action:

1. Vessel Strike Avoidance (note that all vessels will operate at speeds of less than 10 knots at all times, including during transit):
  - a. Maintain vigilant watch for protected species during transit and execute vessel slow down and avoidance procedures when sightings occur.
  - b. Brief all crew members on the identification of protected species, along with regulations and best practices for avoiding collisions.
  - c. Have a minimum of one trained lookout on the vessel that will serve as an ESA-listed species lookout and all people on the vessel will have access to binoculars to assist the lookout.
  - d. If the trained lookout is a vessel crew member, this must be their designated role and primary responsibility while the vessel is transiting.
  - e. For HabCam survey activities that run during the night, a minimum of one pair of night-vision goggles will be onboard for a lookout to continue operations after dark.
  - f. Maintain 200 m distance from all whales, and 500 m from North Atlantic right whales.
  - g. If a large whale is identified within the forward path of any vessel (1000 m), the vessel operator will steer a course away from the whale at 10 knots (18.5 kilometers/hour) or less until the minimum separation distance has been established. Vessels may also shift to idle if feasible.
  - h. If a large whale is sighted within 200 m of the forward path of a vessel, the vessel operator will reduce speed to under 4 knots and steer a course away from the whale. If stationary, the vessel will not engage engines until the large whale has moved beyond 500 m.
  - i. If a sea turtle is sighted within the operating vessel's forward path, the vessel operator will slow down to 4 knots (unless unsafe to do so) and steer away as possible. The vessel may resume normal operations once the vessel has passed the individual.
  - j. During times of year when sea turtles are known to occur in the survey area, vessels will avoid transiting through areas of visible jellyfish aggregations or floating vegetation (e.g., Sargassum lines or mats). In the event that operational safety prevents avoidance of such areas, vessels must slow to 4 knots or less while transiting through such areas.
  - k. Abide by Dynamic Management Areas and Seasonal Management Areas speed restrictions, including compliance with 10 knot speed restrictions in these areas by all survey vessels.
  - l. Check for information regarding mandatory or voluntary ship strike avoidance areas and daily information regarding North Atlantic right whale sighting locations before the trip starts and during the trip as information is available using the National Oceanic and Atmospheric Association (NOAA) North Atlantic right whale sightings page (<https://www.fisheries.noaa.gov/resource/map/north-atlantic-right-whale-sightings>), NOAA weather radio, U.S. Coast Guard (USCG) NAVTEX and Channel 16 broadcasts, Notices to Mariners, the Whale Alert app, or WhaleMap website (<https://whalemap.org/>). The chief scientists will also monitor the sea turtle sighting hotline ([www.seaturtlesightings.org](http://www.seaturtlesightings.org)) prior to each trip and report any observations of sea turtles in the vicinity of the planned transit to all vessels.
2. HabCam v3 Survey Specific Measures:
  - a. Maintain tension on the tether from the vessel to the HabCam v3 to prevent entanglement and make every effort to keep it above the seafloor.
3. Stationary Camera Specific Measures:
  - a. Follow Project Design Criteria 6 (Minimize Risk During Buoy Deployment, Operations, and Retrieval) for protected species (Bureau of Ocean Energy Management. 2021. Project Design Criteria and Best Management Practices for Protected Species Associated with Offshore Wind Data Collection. November 22, 2021.).
  - b. Keep soak time for anchored cameras short (under 90 minutes).
  - c. Pause deployment and retrieve anchored camera systems if any ESA-listed species is spotted with 500 m (or 1000 m for North Atlantic right whales) and only resume testing after no listed species have been observed for 30 minutes.
  - d. Surveys will only be conducted during the months of May, August, and September to avoid putting any vertical lines in the water during months when fishing gear with vertical lines are prohibited in the South Island Restricted Area (February-April).

e. Use weak links approved for offshore lobster fisheries on ropeless cameras to minimize risk to listed species if the vertical lines release prematurely.

#### 4. Trawl Survey Specific Measures:

- a. Closed codend trawls will be no more than 30% of total trawls and trawl times no more than 20 minutes long.
- b. If any listed species are observed in the video feed during closed codend tows, the tow will be immediately terminated, and the net will be hauled back to allow rapid release of any listed species caught.
- c. The same procedure will be followed during open codend tows if the live video feed does not show a listed species passing through safely and completely.
- d. ESA-listed species will only be handled by science staff or vessel captain and crew who have received dedicated training on identifying and handling listed species.

#### 5. Reporting Measures:

- a. Departure and return dates and times for all field activities will be reported to the DOE Project Officer immediately before departure and upon return to port.
- b. All North Atlantic right whale sightings will be immediately reported to the USCG (Channel 16) and additional reports made to NOAA Fisheries Stranding Hotline (866-755-6622) and WhaleAlert (<http://www.whalealert.org/>) as soon as possible including date, location, and number of animals, evidence of distress or entanglement and photographs, when possible.
- c. Any sturgeon or sea turtles caught during trawl surveys will be handled according to sturgeon and sea turtle standard operating procedures. Handling times will be minimized to limit the amount of stress placed on the animals. Takes will be documented with the required measurements and photographs, and all vessels will be equipped with a Passive Integrated Transponder (PIT) tag reader to scan for previously implanted tags. Sturgeon will be PIT tagged when possible if no PIT tags are present. A NMFS Take Report Form (<https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-take-reporting-programmatics-greater-atlantic>) will be filled out for each individual sturgeon and sea turtle. In addition, and when possible, fin clips will be taken from all captured Atlantic sturgeon following approved procedures for obtaining sturgeon fin clips.
- d. Any sightings of sea turtles or sturgeon from the vessel or in the live video feeds will be documented with details on the species included, when possible, the number of animals sighted, and the location based on vessel coordinates. The sightings data will be shared with appropriate agencies after each trip concludes.

#### Abbreviated EFH Recommended Conservation Measure:

1. No permanent impacts to rocky habitats. To adhere to this conservation measure, CFF has agreed to do the following:
  - a. Not towing in an area with known obstructions, including rocks and boulders, based on the vessel captain's knowledge. Tow locations will be discussed with the vessel captain prior to trip departure, and if a planned tow is in known rocky habitat, an alternative tow location will be selected.
  - b. Monitoring the vessel sounder for the presence of obstructions, including rocks and boulders, during a tow. If an obstruction is isolated (e.g., a single rock pile or boulder), the trawl net will be raised while the net passes over the obstruction. If the bottom looks continuously rocky, the tow will be terminated, and an alternative tow location will be selected.

#### RPMs:

1. DOE must notify NMFS Greater Atlantic Regional Fisheries Office, Protected Resources Division (GARFO-PRD) before annual sampling commences and again upon completion of the sampling activities for the year.
2. Effects to ESA-listed species must be minimized during survey activities. Sea turtles and Atlantic sturgeon caught during the surveys must be handled and resuscitated according to established procedures.
3. Effects to, or interactions with, ESA-listed species must be documented during all phases of the proposed action, and all incidental take must be reported to NMFS GARFO-PRD.

#### Terms and Conditions:

1. To implement RPM #1, DOE must contact NMFS GARFO-PRD ([nmfs.gar.incidental-take@noaa.gov](mailto:nmfs.gar.incidental-take@noaa.gov)) within 48 hours of beginning and ending of annual sampling.
2. To implement the requirement of RPM #2, at least one of the survey staff onboard the trawl survey vessels must have completed NMFS Northeast Fisheries Observer Program (NEFOP) training within the last 5 years or other training in protected species identification and safe handling (inclusive of taking genetic samples from Atlantic sturgeon); documentation of training must be submitted to NMFS GARFO-PRD ([nmfs.gar.incidental-take@noaa.gov](mailto:nmfs.gar.incidental-take@noaa.gov)) at least 7 calendar days prior to the start of the trawl surveys and at any later time that a different NEFOP trained observer is deployed on the survey. If CFF will deploy non-NEFOP trained survey personnel in lieu of NEFOP-trained observers, CFF must submit a plan to NMFS GARFO-PRD describing the training that will be provided to those survey observers. This Observer Training Plan for Trawl Surveys must be submitted as soon as possible after issuance of this Biological Opinion but no later than 15 calendar days prior to the start of trawl surveys for which a non-NEFOP trained observer will be deployed. CFF must obtain NMFS GARFO-PRD's concurrence with this observer training plan prior to the deployment of the non-NEFOP trained observer on any trawl surveys. This plan must include a description of the elements of the training (i.e., curriculum, virtual or hands on, etc.) and identify who will carry out the training and their qualifications. Once the training is complete, confirmation of the training and a list of trained survey staff must be submitted to NMFS GARFO-PRD; this list must be updated if additional staff are trained for future surveys. In all

cases, a list of trained survey staff must be submitted to NMFS GARFO-PRD at least one business day prior to the beginning of the survey.

3. To implement the requirements of RPM #2, any sea turtles or Atlantic sturgeon captured, collected, or entangled in the trawl survey gear must be identified and prioritized for safe handling. Any sea turtles or Atlantic sturgeon must be documented as outlined below. Obtaining biological data and samples for sturgeon or turtles brought onto the survey vessel must occur as outlined below. Live, uninjured animals should be returned to the water as quickly as possible after completing the required handling and documentation. Annually, consult <https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-take-reporting-programmatics-greater-atlantic> for any updates to relevant forms.

a. Reference materials for identification, disentanglement, safe handling, and genetic sampling procedures must be available on board the survey vessel (available at: <https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-take-reporting-programmatics-greater-atlantic>).

b. The Sturgeon and Sea Turtle Take Standard Operating Procedures must be followed (<https://www.fisheries.noaa.gov/s3/2023-09/Sturgeon-Sea-Turtle-Take-SOPs-external-09132023.pdf>).

c. Survey vessels must have a PIT tag reader onboard capable of reading 134.2 kilohertz (kHz) and 125 kHz encrypted tags (e.g., Biomark GPR Plus Handheld PIT Tag Reader) and this reader must be used to scan any captured sea turtles and sturgeon for tags. Any recorded tags must be recorded on the take reporting form (see below).

d. Genetic samples must be taken from all Atlantic sturgeon brought back to the survey vessel (alive or dead) to allow for identification of the DPS of origin of captured individuals and tracking of the amount of incidental take. This must be done in accordance with the Procedures for Obtaining Sturgeon Fin Clips (<https://www.fisheries.noaa.gov/s3/2023-09/Sturgeon-Genetics-Sampling-Revised-September-2023.pdf>).

i. Fin clips must be sent to a NMFS approved laboratory capable of performing genetic analysis and assignment to DPS of origin. To the extent authorized by law, DOE is responsible for the cost of the genetic analysis. DOE has arrangements in place to cover the costs of shipping and analysis of any samples. Results of genetic analysis, including assigned DPS of origin must be submitted to NMFS GARFO-PRD within 6 months of the sample collection.

ii. Subsamples of all fin clips and accompanying metadata form must be held and submitted to the Atlantic Coast Sturgeon Tissue Research Repository on a quarterly basis. The Sturgeon Genetic Sample Submission Form is available for download at: [https://media.fisheries.noaa.gov/2021-02/Sturgeon%20Genetic%20Sample%20Submission%20sheet%20for%20S7\\_v1.1\\_Form%20to%20Use.xlsx?null](https://media.fisheries.noaa.gov/2021-02/Sturgeon%20Genetic%20Sample%20Submission%20sheet%20for%20S7_v1.1_Form%20to%20Use.xlsx?null).

e. All sea turtles and Atlantic sturgeon brought back to the survey vessel must be documented with required measurements and photographs. The animal's condition and any marks or injuries must be described. This information must be entered as part of the record for each incidental take. A NMFS Take Report Form must be filled out for each individual sturgeon and sea turtle (<https://www.fisheries.noaa.gov/s3/2023-11/Take-Report-Form-11142023.pdf>) and submitted to NMFS GARFO-PRD as described below.

4. To implement the requirements of RPM #2, all sea turtles and Atlantic sturgeon entangled, captured, or collected in the trawl gear must be handled and resuscitated (if unresponsive) according to established protocols and whenever at-sea conditions are safe for those handling and resuscitating the animal(s) to do so. Specifically:

a. Priority must be given to the handling and resuscitation of any sea turtles or sturgeon that are captured in the trawl gear being used, if conditions at sea are safe to do so. Handling times for these species should be minimized (i.e., kept to 15 minutes or less) to limit the amount of stress placed on the animals.

b. All survey vessels must have copies of the Sea Turtle Handling & Resuscitation Measures found at 50 CFR 223.206(d)(1) prior to the commencement of any on-water activity ([https://media.fisheries.noaa.gov/dammigration/sea\\_turtle\\_handling\\_and\\_resuscitation\\_measures.pdf](https://media.fisheries.noaa.gov/dammigration/sea_turtle_handling_and_resuscitation_measures.pdf)). These handling and resuscitation procedures must be carried out any time a sea turtle is incidentally captured and brought onboard the vessel during the proposed actions.

i. If the link above does not work, the Sea Turtle Handling & Resuscitation Measures can be found here: <https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-take-reporting-programmatics-greater-atlantic#biological-opinion---take-reporting>.

c. If any sea turtles that appear injured, sick, or distressed, are caught and retrieved in fisheries survey gear, survey staff must immediately contact the Greater Atlantic Region Marine Animal Hotline at 866-755-6622 for further instructions and guidance on handling the animal, and potential coordination of transfer to a rehabilitation facility. If unable to contact the hotline (e.g., due to distance from shore or lack of ability to communicate via phone), the USCG should be contacted via VHF marine radio on Channel 16. If required, hard-shelled sea turtles (i.e., non-leatherbacks) may be held on board for up to 24 hours following handling instructions provided by the Hotline, prior to transfer to a rehabilitation facility.

d. Attempts must be made to resuscitate any Atlantic sturgeon that are unresponsive or comatose by providing a running source of water over the gills as described in the Sturgeon Resuscitation Guidelines ([https://media.fisheries.noaa.gov/dammigration/sturgeon\\_resuscitation\\_card\\_06122020\\_508.pdf](https://media.fisheries.noaa.gov/dammigration/sturgeon_resuscitation_card_06122020_508.pdf)).

i. If the link above does not work, the Sturgeon Resuscitation Guidelines can be found here: <https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-take-reporting-programmatics-greater-atlantic#biological-opinion---take-reporting>.

e. Provided that appropriate cold storage facilities are available on the survey vessel, following the report of a dead sea turtle or sturgeon to NMFS GARFO-PRD, and if NMFS GARFO-PRD requests, any dead sea turtle, or Atlantic sturgeon must be retained on board the survey vessel for transfer to an appropriately permitted partner or facility on

shore as safe to do so.

f. Any live sea turtles or Atlantic sturgeon caught and retrieved in gear used in any fisheries survey must ultimately be released as quickly as possible following the required handling and documentation.

5. To implement the requirements of RPM #3, CFF must notify NMFS GARFO-PRD as soon as possible following any interactions with or observations of listed species, including entanglement, capture, or collection in the trawl gear for both open and closed codend tows. Specifically:

a. NMFS GARFO-PRD must be notified within 24 hours of any interaction with a sea turtle or sturgeon (nmfs.gar.incidental-take@noaa.gov). If notifying GARFO via email within 24 hours is not feasible due to communication constraints, the information can be reported via phone to NMFS GARFO-PRD (978-281-9328) and followed up via email. The report must include at a minimum: (1) survey name and applicable information (e.g., vessel name, station number); (2) GPS coordinates describing the location of the interaction (in decimal degrees); (3) gear type involved; (4) tow time, gear configuration and any other pertinent gear information; (5) time and date of the interaction; and (6) identification of the animal to the species level. Additionally, the e-mail must transmit a completed NMFS Take Report Form (<https://www.fisheries.noaa.gov/s3/2023-11/Take-Report-Form-11142023.pdf>) and a photographs or videos of the animal. Reports of Atlantic sturgeon take must include a statement as to whether a fin clip sample for genetic sampling was taken. Fin clip samples are required in all cases to document the DPS of origin; the only exception to this requirement is when additional handling of the sturgeon would result in an imminent risk of injury to the fish or the survey personnel handling the fish, we expect such incidents to be limited to capture and handling of sturgeon in extreme weather. If reporting within 24 hours is not possible due to distance from shore or lack of ability to communicate via phone or email, reports must be submitted as soon as possible; late reports must be submitted with an explanation for the delay.

b. In the event that personnel involved in the Project discover a stranded, entangled, injured, or dead ESA-listed species (e.g. marine mammal, sea turtle, listed fish), CFF must immediately report the observation to NMFS GARFO-PRD via the NMFS Greater Atlantic Stranding Hotline (866-755-6622). Reports of listed fish should only be sent to nmfs.gar.incidental-take@noaa.gov. If notification to the hotline to report a marine mammal or sea turtle is not feasible due to communication constraints, the report can be made to the USCG via Channel 16. Additionally, DOE or CFF must report the incident to NMFS GARFO-PRD (nmfs.gar.incidental-take@noaa.gov) as soon as feasible. Note, the stranding hotline may request the report be sent to the local stranding network response team. The report must include: (A) Contact information (name, phone number, organization, project, etc.), time, date, and location (coordinates) of the first discovery (and updated location information if known and applicable); (B) Species identification (if known) or description of the animal(s) involved; (C) Condition of the animal(s) (including carcass condition if the animal is dead); (D) Observed behaviors of the animal(s), if alive; (E) If available, photographs or video footage of the animal(s); and (F) General circumstances under which the animal was discovered. Staff responding to the Hotline call will provide any instructions for handling or disposing of any injured or dead animals, which may include coordination of transport to shore, particularly for injured sea turtles.

c. In the event of a suspected or confirmed vessel strike of any ESA-listed species (e.g. marine mammal, sea turtle, listed fish) by any vessel associated with the Project, DOE or CFF must immediately report the incident to NMFS GARFO-PRD via the NMFS Greater Atlantic Stranding Hotline (866-755-6622). Reports of listed fish should only be sent to nmfs.gar.incidental-take@noaa.gov. If notifying GARFO is not feasible due to communication constraints, the report can be made to the USCG via Channel 16. Separately, DOE or CFF must report the incident to NMFS GARFO-PRD (nmfs.gar.incidental-take@noaa.gov) as soon as feasible. The report must include: (A) Time, date, and location (coordinates) of the incident; (B) Species identification (if known) or description of the animal(s) involved (i.e., identifiable features including animal color, presence of dorsal fin, body shape and size); (C) Vessel strike reporter information (name, affiliation, email for person completing the report); (D) Vessel strike witness (if different than reporter) information (name, affiliation, phone number, platform for person witnessing the event); (E) Vessel name and/or Maritime Mobile Service Identities number; (F) Vessel size and motor configuration (inboard, outboard, jet propulsion); (G) Vessel's speed leading up to and during the incident; (H) Vessel's course/heading and what operations were being conducted (if applicable); (I) Part of vessel that struck the animal (if known); (J) Vessel damage notes; (K) Status of survey gear in use at time of strike; (L) If animal was seen before strike event; (M) Behavior of animal before strike event; (N) Description of avoidance measures/requirements that were in place at the time of the strike and what additional measures were taken, if any, to avoid strike; (O) Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, visibility) immediately preceding the strike; (P) Estimated (or actual, if known) size and length of animal that was struck; (Q) Description of the behavior of the marine mammal immediately preceding and following the strike; (R) If available, description of the presence and behavior of any other marine mammals immediately preceding the strike; (S) Other animal details if known (e.g., length, sex, age class); (T) Behavior or estimated fate of the animal post-strike (e.g., dead, injured but alive, injured and moving, external visible wounds (linear wounds, propeller wounds, non-cutting blunt-force trauma wounds), blood or tissue observed in the water, status unknown, disappeared); (U) To the extent practicable, photographs or video footage of the animal(s); and (V) Any additional notes the witness may have from the interaction. For any numerical values provided (i.e., location, animal length, vessel length etc.), please provide if values are actual or estimated.

d. Within 60 days of completion of annual survey activities, a report must be sent to NMFS GARFO-PRD that compiles all information on any observations and interactions with ESA-listed species. This report must also contain information on all survey activities that took place during the season including vessel activity, location of gear set, duration of soak/trawl, and total effort. The report must include a summary of all ESA-listed species that are recorded on the video feed during open and closed codend trawl tows, including location, depth, and speed of net at time of observation,

species identification (if known), start and end time of detection, any entanglement/interaction/contact with the trawl net, and description of behavior. The report on survey activities must be comprehensive of all activities, regardless of whether ESA-listed species were observed. This report must be submitted by email to [nmfs.gar.incidental-take@noaa.gov](mailto:nmfs.gar.incidental-take@noaa.gov).

6. To implement the requirements of RPMs #1-3, DOE must exercise its authority to assess the implementation of measures to minimize and monitor incidental take of ESA-listed species during activities described in this Biological Opinion. If any term and condition(s) is/are not being complied with, DOE, as appropriate, must immediately notify NMFS GARFO-PRD and take effective action to ensure prompt implementation.

Conservation Recommendations:

1. If a North Atlantic right whale is sighted with no visible injuries or entanglement at any time by project personnel, DOE or CFF must immediately report the sighting to NMFS; if immediate reporting is not possible, the report must be submitted as soon as possible but no later than 24 hours after the initial sighting.
  - a. To report the sighting, download and complete the Real-Time North Atlantic Right Whale Reporting Template spreadsheet found here: <https://www.fisheries.noaa.gov/resource/document/template-datasheet-real-time-north-atlantic-right-whale-acoustic-and-visual>. Save the spreadsheet as a .csv file and email it to NMFS NEFSC-PSD ([ne.rw.survey@noaa.gov](mailto:ne.rw.survey@noaa.gov)) and NMFS GARFO-PRD ([nmfs.gar.incidental-take@noaa.gov](mailto:nmfs.gar.incidental-take@noaa.gov)).
  - b. If unable to report a sighting through the spreadsheet within 24 hours, call the Greater Atlantic Region Hotline (Maine through Virginia) 866-755-6622 with the observation information provided below.
  - c. Observation information: Report the following information: the time (note time format), date (MM/DD/YYYY), location (latitude/longitude in decimal degrees; coordinate system used) of the observation, number of whales, animal description/certainty of observation (follow up with photos/video if taken), reporter's contact information, and project name.
  - d. If unable to report via the template or the regional hotline, enter the sighting via the WhaleAlert app (<http://www.whalealert.org/>). If this is not possible, report the sighting to the USCG via Channel 16. The report to the USCG must include the same information as would be reported to the Hotline (see above).
2. If a non-North Atlantic right whale large whale is observed, report the sighting via WhaleAlert app (<http://www.whalealert.org/>) as soon as possible.

DOE has considered the scale, duration, and nature of proposed activities to determine potential impacts on resources, including those of an ecological, historical, cultural, and socioeconomic nature. DOE does not anticipate impacts on these resources which would be considered significant or require DOE to consult with other agencies or stakeholders aside from the consultation that has already been mentioned.

Any work proposed to be conducted at a federal facility may be subject to additional NEPA review by the cognizant federal official and must meet the applicable health and safety requirements of the facility.

## NEPA PROVISION

DOE has made a final NEPA determination.

Include the following condition in the financial assistance agreement:

The abbreviated Essential Fish Habitat (EFH) consultation and Biological Opinion are contingent upon each Reasonable and Prudent Measure (RPM), Terms and Condition, and Conservation Recommendation being properly implemented by all award participants. A failure to implement the proposed action as proposed in the Biological Assessment, including exceeding incidental take numbers, may render the conclusions of the Biological Opinion and the take exemption inapplicable to the activities carried out, and may require DOE to reinstate consultation with National Marine Fisheries Service (NMFS).

Coonamessett Farm Foundation, Inc. (CFF) proposed mitigation and reporting measures in which NMFS considers part of the proposed action:

1. Vessel Strike Avoidance (note that all vessels will operate at speeds of less than 10 knots at all times, including during transit):
  - a. Maintain vigilant watch for protected species during transit and execute vessel slow down and avoidance procedures when sightings occur.
  - b. Brief all crew members on the identification of protected species, along with regulations and best practices for avoiding collisions.
  - c. Have a minimum of one trained lookout on the vessel that will serve as an Endangered Species Act (ESA)-listed species lookout and all people on the vessel will have access to binoculars to assist the lookout.
  - d. If the trained lookout is a vessel crew member, this must be their designated role and primary responsibility while the vessel is transiting.

- e. For HabCam survey activities that run during the night, a minimum of one pair of night-vision goggles will be onboard for a lookout to continue operations after dark.
  - f. Maintain 200 meters (m) distance from all whales, and 500 m from North Atlantic right whales.
  - g. If a large whale is identified within the forward path of any vessel (1000 m), the vessel operator will steer a course away from the whale at 10 knots (18.5 kilometers/hour) or less until the minimum separation distance has been established. Vessels may also shift to idle if feasible.
  - h. If a large whale is sighted within 200 m of the forward path of a vessel, the vessel operator will reduce speed to under 4 knots and steer a course away from the whale. If stationary, the vessel will not engage engines until the large whale has moved beyond 500 m.
  - i. If a sea turtle is sighted within the operating vessel's forward path, the vessel operator will slow down to 4 knots (unless unsafe to do so) and steer away as possible. The vessel may resume normal operations once the vessel has passed the individual.
  - j. During times of year when sea turtles are known to occur in the survey area, vessels will avoid transiting through areas of visible jellyfish aggregations or floating vegetation (e.g., Sargassum lines or mats). In the event that operational safety prevents avoidance of such areas, vessels must slow to 4 knots or less while transiting through such areas.
  - k. Abide by Dynamic Management Areas and Seasonal Management Areas speed restrictions, including compliance with 10 knot speed restrictions in these areas by all survey vessels.
  - l. Check for information regarding mandatory or voluntary ship strike avoidance areas and daily information regarding North Atlantic right whale sighting locations before the trip starts and during the trip as information is available using the National Oceanic and Atmospheric Association (NOAA) North Atlantic right whale sightings page (<https://www.fisheries.noaa.gov/resource/map/north-atlantic-right-whale-sightings>), NOAA weather radio, U.S. Coast Guard (USCG) NAVTEX and Channel 16 broadcasts, Notices to Mariners, the Whale Alert app, or WhaleMap website (<https://whalemap.org/>). The chief scientists will also monitor the sea turtle sighting hotline ([www.seaturtlesightings.org](http://www.seaturtlesightings.org)) prior to each trip and report any observations of sea turtles in the vicinity of the planned transit to all vessels.
2. HabCam v3 Survey Specific Measures:
- a. Maintain tension on the tether from the vessel to the HabCam v3 to prevent entanglement and make every effort to keep it above the seafloor.
3. Stationary Camera Specific Measures:
- a. Follow Project Design Criteria 6 (Minimize Risk During Buoy Deployment, Operations, and Retrieval) for protected species (Bureau of Ocean Energy Management. 2021. Project Design Criteria and Best Management Practices for Protected Species Associated with Offshore Wind Data Collection. November 22, 2021.).
  - b. Keep soak time for anchored cameras short (under 90 minutes).
  - c. Pause deployment and retrieve anchored camera systems if any ESA-listed species is spotted with 500 m (or 1000 m for North Atlantic right whales) and only resume testing after no listed species have been observed for 30 minutes.
  - d. Surveys will only be conducted during the months of May, August, and September to avoid putting any vertical lines in the water during months when fishing gear with vertical lines are prohibited in the South Island Restricted Area (February-April).
  - e. Use weak links approved for offshore lobster fisheries on ropeless cameras to minimize risk to listed species if the vertical lines release prematurely.
4. Trawl Survey Specific Measures:
- a. Closed codend trawls will be no more than 30% of total trawls and trawl times no more than 20 minutes long.
  - b. If any listed species are observed in the video feed during closed codend tows, the tow will be immediately terminated, and the net will be hauled back to allow rapid release of any listed species caught.
  - c. The same procedure will be followed during open codend tows if the live video feed does not show a listed species passing through safely and completely.
  - d. ESA-listed species will only be handled by science staff or vessel captain and crew who have received dedicated training on identifying and handling listed species.
5. Reporting Measures:
- a. Departure and return dates and times for all field activities will be reported to the DOE Project Officer immediately before departure and upon return to port.
  - b. All North Atlantic right whale sightings will be immediately reported to the USCG (Channel 16) and additional reports made to NOAA Fisheries Stranding Hotline (866-755-6622) and WhaleAlert (<http://www.whalealert.org/>) as soon as possible including date, location, and number of animals, evidence of distress or entanglement and photographs, when possible.
  - c. Any sturgeon or sea turtles caught during trawl surveys will be handled according to sturgeon and sea turtle standard operating procedures. Handling times will be minimized to limit the amount of stress placed on the animals. Takes will be documented with the required measurements and photographs, and all vessels will be equipped with a Passive Integrated Transponder (PIT) tag reader to scan for previously implanted tags. Sturgeon will be PIT tagged when possible if no PIT tags are present. A NMFS Take Report Form (<https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-take-reporting-programmatics-greater-atlantic>) will be filled out for each individual sturgeon and sea turtle. In addition, and when possible, fin clips will be taken from all captured Atlantic sturgeon following approved procedures for obtaining sturgeon fin clips.
  - d. Any sightings of sea turtles or sturgeon from the vessel or in the live video feeds will be documented with details on the species included, when possible, the number of animals sighted, and the location based on vessel coordinates.



The sightings data will be shared with appropriate agencies after each trip concludes.

Abbreviated EFH Recommended Conservation Measure:

1. No permanent impacts to rocky habitats. To adhere to this conservation measure, CFF has agreed to do the following:
  - a. Not towing in an area with known obstructions, including rocks and boulders, based on the vessel captain's knowledge. Tow locations will be discussed with the vessel captain prior to trip departure, and if a planned tow is in known rocky habitat, an alternative tow location will be selected.
  - b. Monitoring the vessel sounder for the presence of obstructions, including rocks and boulders, during a tow. If an obstruction is isolated (e.g., a single rock pile or boulder), the trawl net will be raised while the net passes over the obstruction. If the bottom looks continuously rocky, the tow will be terminated, and an alternative tow location will be selected.

NMFS issued a Biological Opinion for the proposed action on 04/01/2024 which included an Incidental Take Statement (ITS). CFF must comply with all RPMs, Terms and Conditions, and Conservation Recommendations as found in sections 10.3 and 11.0 of the NMFS Biological Opinion. CFF must assume responsibility for complying with all requirements specifically mandated by NMFS upon DOE, as identified below. PLEASE NOTE: A copy of the ITS must be on board all survey vessels.

RPMs:

1. DOE must notify NMFS Greater Atlantic Regional Fisheries Office, Protected Resources Division (GARFO-PRD) before annual sampling commences and again upon completion of the sampling activities for the year.
2. Effects to ESA-listed species must be minimized during survey activities. Sea turtles and Atlantic sturgeon caught during the surveys must be handled and resuscitated according to established procedures.
3. Effects to, or interactions with, ESA-listed species must be documented during all phases of the proposed action, and all incidental take must be reported to NMFS GARFO-PRD.

Terms and Conditions:

1. To implement RPM #1, DOE must contact NMFS GARFO-PRD ([nmfs.gar.incidental-take@noaa.gov](mailto:nmfs.gar.incidental-take@noaa.gov)) within 48 hours of beginning and ending of annual sampling.
2. To implement the requirement of RPM #2, at least one of the survey staff onboard the trawl survey vessels must have completed NMFS Northeast Fisheries Observer Program (NEFOP) training within the last 5 years or other training in protected species identification and safe handling (inclusive of taking genetic samples from Atlantic sturgeon); documentation of training must be submitted to NMFS GARFO-PRD ([nmfs.gar.incidental-take@noaa.gov](mailto:nmfs.gar.incidental-take@noaa.gov)) at least 7 calendar days prior to the start of the trawl surveys and at any later time that a different NEFOP trained observer is deployed on the survey. If CFF will deploy non-NEFOP trained survey personnel in lieu of NEFOP-trained observers, CFF must submit a plan to NMFS GARFO-PRD describing the training that will be provided to those survey observers. This Observer Training Plan for Trawl Surveys must be submitted as soon as possible after issuance of this Biological Opinion but no later than 15 calendar days prior to the start of trawl surveys for which a non-NEFOP trained observer will be deployed. CFF must obtain NMFS GARFO-PRD's concurrence with this observer training plan prior to the deployment of the non-NEFOP trained observer on any trawl surveys. This plan must include a description of the elements of the training (i.e., curriculum, virtual or hands on, etc.) and identify who will carry out the training and their qualifications. Once the training is complete, confirmation of the training and a list of trained survey staff must be submitted to NMFS GARFO-PRD; this list must be updated if additional staff are trained for future surveys. In all cases, a list of trained survey staff must be submitted to NMFS GARFO-PRD at least one business day prior to the beginning of the survey.
3. To implement the requirements of RPM #2, any sea turtles or Atlantic sturgeon captured, collected, or entangled in the trawl survey gear must be identified and prioritized for safe handling. Any sea turtles or Atlantic sturgeon must be documented as outlined below. Obtaining biological data and samples for sturgeon or turtles brought onto the survey vessel must occur as outlined below. Live, uninjured animals should be returned to the water as quickly as possible after completing the required handling and documentation. Annually, consult <https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-take-reporting-programmatics-greater-atlantic> for any updates to relevant forms.
  - a. Reference materials for identification, disentanglement, safe handling, and genetic sampling procedures must be available on board the survey vessel (available at: <https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-take-reporting-programmatics-greater-atlantic>).
  - b. The Sturgeon and Sea Turtle Take Standard Operating Procedures must be followed (<https://www.fisheries.noaa.gov/s3/2023-09/Sturgeon-Sea-Turtle-Take-SOPs-external-09132023.pdf>).
  - c. Survey vessels must have a PIT tag reader onboard capable of reading 134.2 kilohertz (kHz) and 125 kHz encrypted tags (e.g., Biomark GPR Plus Handheld PIT Tag Reader) and this reader must be used to scan any captured sea turtles and sturgeon for tags. Any recorded tags must be recorded on the take reporting form (see below).
  - d. Genetic samples must be taken from all Atlantic sturgeon brought back to the survey vessel (alive or dead) to allow for identification of the distinct population segment (DPS) of origin of captured individuals and tracking of the amount of incidental take. This must be done in accordance with the Procedures for Obtaining Sturgeon Fin Clips (<https://www.fisheries.noaa.gov/s3/2023-09/Sturgeon-Genetics-Sampling-Revised-September-2023.pdf>).

- i. Fin clips must be sent to a NMFS approved laboratory capable of performing genetic analysis and assignment to DPS of origin. To the extent authorized by law, DOE is responsible for the cost of the genetic analysis. DOE has arrangements in place to cover the costs of shipping and analysis of any samples. Results of genetic analysis, including assigned DPS of origin must be submitted to NMFS GARFO-PRD within 6 months of the sample collection.
  - ii. Subsamples of all fin clips and accompanying metadata form must be held and submitted to the Atlantic Coast Sturgeon Tissue Research Repository on a quarterly basis. The Sturgeon Genetic Sample Submission Form is available for download at: [https://media.fisheries.noaa.gov/2021-02/Sturgeon%20Genetic%20Sample%20Submission%20sheet%20for%20S7\\_v1.1\\_Form%20to%20Use.xlsx?null](https://media.fisheries.noaa.gov/2021-02/Sturgeon%20Genetic%20Sample%20Submission%20sheet%20for%20S7_v1.1_Form%20to%20Use.xlsx?null).
  - e. All sea turtles and Atlantic sturgeon brought back to the survey vessel must be documented with required measurements and photographs. The animal's condition and any marks or injuries must be described. This information must be entered as part of the record for each incidental take. A NMFS Take Report Form must be filled out for each individual sturgeon and sea turtle (<https://www.fisheries.noaa.gov/s3/2023-11/Take-Report-Form-11142023.pdf>) and submitted to NMFS GARFO-PRD as described below.
4. To implement the requirements of RPM #2, all sea turtles and Atlantic sturgeon entangled, captured, or collected in the trawl gear must be handled and resuscitated (if unresponsive) according to established protocols and whenever at-sea conditions are safe for those handling and resuscitating the animal(s) to do so. Specifically:
    - a. Priority must be given to the handling and resuscitation of any sea turtles or sturgeon that are captured in the trawl gear being used, if conditions at sea are safe to do so. Handling times for these species should be minimized (i.e., kept to 15 minutes or less) to limit the amount of stress placed on the animals.
    - b. All survey vessels must have copies of the Sea Turtle Handling & Resuscitation Measures found at 50 CFR 223.206(d)(1) prior to the commencement of any on-water activity ([https://media.fisheries.noaa.gov/dammigration/sea\\_turtle\\_handling\\_and\\_resuscitation\\_measures.pdf](https://media.fisheries.noaa.gov/dammigration/sea_turtle_handling_and_resuscitation_measures.pdf)). These handling and resuscitation procedures must be carried out any time a sea turtle is incidentally captured and brought onboard the vessel during the proposed actions.
      - i. If the link above does not work, the Sea Turtle Handling & Resuscitation Measures can be found here: <https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-take-reporting-programmatics-greater-atlantic#biological-opinion---take-reporting>.
    - c. If any sea turtles that appear injured, sick, or distressed, are caught and retrieved in fisheries survey gear, survey staff must immediately contact the Greater Atlantic Region Marine Animal Hotline at 866-755-6622 for further instructions and guidance on handling the animal, and potential coordination of transfer to a rehabilitation facility. If unable to contact the hotline (e.g., due to distance from shore or lack of ability to communicate via phone), the USCG should be contacted via VHF marine radio on Channel 16. If required, hard-shelled sea turtles (i.e., non-leatherbacks) may be held on board for up to 24 hours following handling instructions provided by the Hotline, prior to transfer to a rehabilitation facility.
    - d. Attempts must be made to resuscitate any Atlantic sturgeon that are unresponsive or comatose by providing a running source of water over the gills as described in the Sturgeon Resuscitation Guidelines ([https://media.fisheries.noaa.gov/dammigration/sturgeon\\_resuscitation\\_card\\_06122020\\_508.pdf](https://media.fisheries.noaa.gov/dammigration/sturgeon_resuscitation_card_06122020_508.pdf)).
      - i. If the link above does not work, the Sturgeon Resuscitation Guidelines can be found here: <https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-take-reporting-programmatics-greater-atlantic#biological-opinion---take-reporting>.
    - e. Provided that appropriate cold storage facilities are available on the survey vessel, following the report of a dead sea turtle or sturgeon to NMFS GARFO-PRD, and if NMFS GARFO-PRD requests, any dead sea turtle, or Atlantic sturgeon must be retained on board the survey vessel for transfer to an appropriately permitted partner or facility on shore as safe to do so.
    - f. Any live sea turtles or Atlantic sturgeon caught and retrieved in gear used in any fisheries survey must ultimately be released as quickly as possible following the required handling and documentation.
  5. To implement the requirements of RPM #3, CFF must notify NMFS GARFO-PRD as soon as possible following any interactions with or observations of listed species, including entanglement, capture, or collection in the trawl gear for both open and closed codend tows. Specifically:
    - a. NMFS GARFO-PRD must be notified within 24 hours of any interaction with a sea turtle or sturgeon ([nmfs.gar.incidental-take@noaa.gov](mailto:nmfs.gar.incidental-take@noaa.gov)). If notifying GARFO via email within 24 hours is not feasible due to communication constraints, the information can be reported via phone to NMFS GARFO-PRD (978-281-9328) and followed up via email. The report must include at a minimum: (1) survey name and applicable information (e.g., vessel name, station number); (2) GPS coordinates describing the location of the interaction (in decimal degrees); (3) gear type involved; (4) tow time, gear configuration and any other pertinent gear information; (5) time and date of the interaction; and (6) identification of the animal to the species level. Additionally, the e-mail must transmit a completed NMFS Take Report Form (<https://www.fisheries.noaa.gov/s3/2023-11/Take-Report-Form-11142023.pdf>) and a photographs or videos of the animal. Reports of Atlantic sturgeon take must include a statement as to whether a fin clip sample for genetic sampling was taken. Fin clip samples are required in all cases to document the DPS of origin; the only exception to this requirement is when additional handling of the sturgeon would result in an imminent risk of injury to the fish or the survey personnel handling the fish, we expect such incidents to be limited to capture and handling of sturgeon in extreme weather. If reporting within 24 hours is not possible due to distance from shore or lack of ability to communicate via phone or email, reports must be submitted as soon as possible; late reports must be submitted with an explanation for the delay.
    - b. In the event that personnel involved in the Project discover a stranded, entangled, injured, or dead ESA-listed

species (e.g. marine mammal, sea turtle, listed fish), CFF must immediately report the observation to NMFS GARFO-PRD via the NMFS Greater Atlantic Stranding Hotline (866-755-6622). Reports of listed fish should only be sent to [nmfs.gar.incidental-take@noaa.gov](mailto:nmfs.gar.incidental-take@noaa.gov). If notification to the hotline to report a marine mammal or sea turtle is not feasible due to communication constraints, the report can be made to the USCG via Channel 16. Additionally, DOE or CFF must report the incident to NMFS GARFO-PRD ([nmfs.gar.incidental-take@noaa.gov](mailto:nmfs.gar.incidental-take@noaa.gov)) as soon as feasible. Note, the stranding hotline may request the report be sent to the local stranding network response team. The report must include: (A) Contact information (name, phone number, organization, project, etc.), time, date, and location (coordinates) of the first discovery (and updated location information if known and applicable); (B) Species identification (if known) or description of the animal(s) involved; (C) Condition of the animal(s) (including carcass condition if the animal is dead); (D) Observed behaviors of the animal(s), if alive; (E) If available, photographs or video footage of the animal(s); and (F) General circumstances under which the animal was discovered. Staff responding to the Hotline call will provide any instructions for handling or disposing of any injured or dead animals, which may include coordination of transport to shore, particularly for injured sea turtles.

c. In the event of a suspected or confirmed vessel strike of any ESA-listed species (e.g. marine mammal, sea turtle, listed fish) by any vessel associated with the Project, DOE or CFF must immediately report the incident to NMFS GARFO-PRD via the NMFS Greater Atlantic Stranding Hotline (866-755-6622). Reports of listed fish should only be sent to [nmfs.gar.incidental-take@noaa.gov](mailto:nmfs.gar.incidental-take@noaa.gov). If notifying GARFO is not feasible due to communication constraints, the report can be made to the USCG via Channel 16. Separately, DOE or CFF must report the incident to NMFS GARFO-PRD ([nmfs.gar.incidental-take@noaa.gov](mailto:nmfs.gar.incidental-take@noaa.gov)) as soon as feasible. The report must include: (A) Time, date, and location (coordinates) of the incident; (B) Species identification (if known) or description of the animal(s) involved (i.e., identifiable features including animal color, presence of dorsal fin, body shape and size); (C) Vessel strike reporter information (name, affiliation, email for person completing the report); (D) Vessel strike witness (if different than reporter) information (name, affiliation, phone number, platform for person witnessing the event); (E) Vessel name and/or Maritime Mobile Service Identities number; (F) Vessel size and motor configuration (inboard, outboard, jet propulsion); (G) Vessel's speed leading up to and during the incident; (H) Vessel's course/heading and what operations were being conducted (if applicable); (I) Part of vessel that struck the animal (if known); (J) Vessel damage notes; (K) Status of survey gear in use at time of strike; (L) If animal was seen before strike event; (M) behavior of animal before strike event; (N) Description of avoidance measures/requirements that were in place at the time of the strike and what additional measures were taken, if any, to avoid strike; (O) Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, visibility) immediately preceding the strike; (P) Estimated (or actual, if known) size and length of animal that was struck; (Q) Description of the behavior of the marine mammal immediately preceding and following the strike; (R) If available, description of the presence and behavior of any other marine mammals immediately preceding the strike; (S) Other animal details if known (e.g., length, sex, age class); (T) Behavior or estimated fate of the animal post-strike (e.g., dead, injured but alive, injured and moving, external visible wounds (linear wounds, propeller wounds, non-cutting blunt-force trauma wounds), blood or tissue observed in the water, status unknown, disappeared); (U) To the extent practicable, photographs or video footage of the animal(s); and (V) Any additional notes the witness may have from the interaction. For any numerical values provided (i.e., location, animal length, vessel length etc.), please provide if values are actual or estimated.

d. Within 60 days of completion of annual survey activities, a report must be sent to NMFS GARFO-PRD that compiles all information on any observations and interactions with ESA-listed species. This report must also contain information on all survey activities that took place during the season including vessel activity, location of gear set, duration of soak/trawl, and total effort. The report must include a summary of all ESA-listed species that are recorded on the video feed during open and closed codend trawl tows, including location, depth, and speed of net at time of observation, species identification (if known), start and end time of detection, any entanglement/interaction/contact with the trawl net, and description of behavior. The report on survey activities must be comprehensive of all activities, regardless of whether ESA-listed species were observed. This report must be submitted by email to [nmfs.gar.incidental-take@noaa.gov](mailto:nmfs.gar.incidental-take@noaa.gov).

6. To implement the requirements of RPMs #1-3, DOE must exercise its authority to assess the implementation of measures to minimize and monitor incidental take of ESA-listed species during activities described in this Biological Opinion. If any term and condition(s) is/are not being complied with, DOE, as appropriate, must immediately notify NMFS GARFO-PRD and take effective action to ensure prompt implementation.

Conservation Recommendations:

1. If a North Atlantic right whale is sighted with no visible injuries or entanglement at any time by project personnel, DOE or CFF must immediately report the sighting to NMFS; if immediate reporting is not possible, the report must be submitted as soon as possible but no later than 24 hours after the initial sighting.

a. To report the sighting, download and complete the Real-Time North Atlantic Right Whale Reporting Template spreadsheet found here: <https://www.fisheries.noaa.gov/resource/document/template-datasheet-real-time-north-atlantic-right-whale-acoustic-and-visual>. Save the spreadsheet as a .csv file and email it to NMFS NEFSC-PSD ([ne.rw.survey@noaa.gov](mailto:ne.rw.survey@noaa.gov)) and NMFS GARFO-PRD ([nmfs.gar.incidental-take@noaa.gov](mailto:nmfs.gar.incidental-take@noaa.gov)).

b. If unable to report a sighting through the spreadsheet within 24 hours, call the Greater Atlantic Region Hotline (Maine through Virginia) 866-755-6622 with the observation information provided below.

c. Observation information: Report the following information: the time (note time format), date (MM/DD/YYYY), location (latitude/longitude in decimal degrees; coordinate system used) of the observation, number of whales, animal description/certainty of observation (follow up with photos/video if taken), reporter's contact information, and project name.

d. If unable to report via the template or the regional hotline, enter the sighting via the WhaleAlert app (<http://www.whalealert.org/>). If this is not possible, report the sighting to the USCG via Channel 16. The report to the USCG must include the same information as would be reported to the Hotline (see above).  
2. If a non-North Atlantic right whale large whale is observed, report the sighting via WhaleAlert app (<http://www.whalealert.org/>) as soon as.

Notes:

Wind Energy Technologies Office (WETO)  
This NEPA determination requires legal review of the tailored NEPA provisions.  
NEPA review completed by Corrin MacLuckie, 04/05/2024.

**FOR CATEGORICAL EXCLUSION DETERMINATIONS**

The proposed action (or the part of the proposal defined in the Rationale above) fits within a class of actions that is listed in Appendix A or B to 10 CFR Part 1021, Subpart D. To fit within the classes of actions listed in 10 CFR Part 1021, Subpart D, Appendix B, a proposal must be one that would not: (1) threaten a violation of applicable statutory, regulatory, or permit requirements for environment, safety, and health, or similar requirements of DOE or Executive Orders; (2) require siting and construction or major expansion of waste storage, disposal, recovery, or treatment facilities (including incinerators), but the proposal may include categorically excluded waste storage, disposal, recovery, or treatment actions or facilities; (3) disturb hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum and natural gas products that preexist in the environment such that there would be uncontrolled or unpermitted releases; (4) have the potential to cause significant impacts on environmentally sensitive resources, including, but not limited to, those listed in paragraph B(4) of 10 CFR Part 1021, Subpart D, Appendix B; (5) involve genetically engineered organisms, synthetic biology, governmentally designated noxious weeds, or invasive species, unless the proposed activity would be contained or confined in a manner designed and operated to prevent unauthorized release into the environment and conducted in accordance with applicable requirements, such as those listed in paragraph B(5) of 10 CFR Part 1021, Subpart D, Appendix B.

There are no extraordinary circumstances related to the proposed action that may affect the significance of the environmental effects of the proposal.

The proposed action has not been segmented to meet the definition of a categorical exclusion. This proposal is not connected to other actions with potentially significant impacts (40 CFR 1508.25(a)(1)), is not related to other actions with individually insignificant but cumulatively significant impacts (40 CFR 1508.27(b)(7)), and is not precluded by 40 CFR 1506.1 or 10 CFR 1021.211 concerning limitations on actions during preparation of an environmental impact statement.

The proposed action is categorically excluded from further NEPA review.

**SIGNATURE OF THIS MEMORANDUM CONSTITUTES A RECORD OF THIS DECISION.**

NEPA Compliance Officer Signature:  Andrew Montano Date: 4/5/2024  
NEPA Compliance Officer

**FIELD OFFICE MANAGER DETERMINATION**

- Field Office Manager review not required
- Field Office Manager review required

**BASED ON MY REVIEW I CONCUR WITH THE DETERMINATION OF THE NCO :**

Field Office Manager's Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Field Office Manager