

Atlantic Scientific Review Group

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*Established under the Marine
Mammal Protection Act to advise
the National Marine Fisheries
Service and U.S. Fish and Wildlife
Service on the status of marine
mammal stocks off the Atlantic and
Gulf Coasts.*

Ms. Amanda Lefton
Director
Bureau of Ocean Energy Management
1849 C Street, NW
Washington, D.C. 20240

Ms. Janet Coit
Assistant Administrator for NOAA Fisheries
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1315 East-West Highway
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Dear Director Lefton and Administrator Coit:

The Atlantic Scientific Review Group (ASRG) thanks BOEM and NOAA Fisheries for the time and attention it has been spent preparing the proposed “North Atlantic Right Whale and Offshore Wind Strategy” (BOEM-2022-0066-0003). As required by section 117(d) of the Marine Mammal Protection Act (MMPA)(16 U.S.C. §1386(d)), the Secretary of Commerce established the ASRG to advise the Secretary on scientific and management issues relating to marine mammals that occur in waters off the Atlantic coast, Gulf of Mexico, and U.S. Territories. The North Atlantic right whale is one these marine mammal species that the ASRG has been most deeply involved with in providing advice to the Secretary as well NOAA Fisheries managers and scientists.

We are pleased, then, that NOAA Fisheries and BOEM have proactively partnered on this Strategy, which aims to “promote the recovery of the North Atlantic right whale while responsibly developing offshore wind energy.” The clear articulation of the pathways by which offshore wind development could potentially impact right whales, and of specific goals and actions to address those concerns, sends a clear signal of the agencies’ intention to work towards reducing risk to the species.

Before commenting on specific elements of the Strategy, please consider some overarching concerns about the Strategy. Perhaps our greatest concern is that it is unclear how this Strategy will mitigate the near term impact of Offshore Wind development on NARW recovery. This is unlike NOAA Fisheries’ Vessel Speed

Rule and Atlantic Large Whale Take Reduction Plan, both of which implement immediate, direct actions to reduce serious injuries and mortalities to NARW. These Rules/Plans provide for time and area restrictions to shipping and fishing activities when NARW are present. Yet with the NARW-Offshore Wind Strategy, we see no consideration of zones in these same areas which could buffer NARW and their habitat from wind farm development. An example of such a zone is NOAA's recent proposal of 10 nm conservation zones — or area of no wind turbines — adjacent to the Nantucket shoals to buffer NARW from the offshore wind development there. From the ASRG's perspective it would appear prudent that BOEM evaluate a reduction in its projects' overlap with some of the highest documented densities of North Atlantic right whale aggregations in New England waters. We have similar concerns about proposed projects in the NARW migratory corridor to the west and south of the Nantucket Shoals area, and yet we see no reference to a timely evaluation or implementation of these actions in the Strategy.

Another overarching concern with the Strategy is the structure of the report. We would expect the body of the report to focus on the Strategy, and yet the Strategy constitutes only seven pages of the 57 page report. One needs to dive into the appendices to comprehend what is being proposed. We understand that there was considerable discussion between BOEM and NOAA about the level of detail that should be provided in this Strategy with the final decision being to be general rather than specific. We believe this was a mistake. We suggest that much of the superfluous discussion in the Strategy section of the body of the report be replaced with a subset of the materials listed in Appendix A. The activities in Appendix A have the appearance of a "laundry list" and, as such, consideration should be given to presenting only those actions that can be reasonably expected to be supported **and** completed within the near term (e.g., 5-10 years).

We also suggest that performance measures be developed for each Goal, and that a timeline for completion of key activities of the Strategy be provided. Without including these, it will be difficult to monitor the Strategy's effectiveness and implementation.

Beyond these higher level concerns, we also provide the following recommendations for improvement and effective implementation of the Strategy:

Clear thresholds should be established as triggers for adaptive management—In the 2022 ASRG letter to NOAA, we recommended that a mechanism for adaptive management be implemented so that data and lessons gleaned from monitoring efforts are proactively used to improve the design and development of future offshore wind energy developments, to reduce risks to marine mammals and the broader marine ecosystem. We are pleased to see specific pathways for adaptive management articulated in the draft Strategy, including a statement on BOEM's authority to "suspend operations if imminent threat of serious or irreparable harm" to North Atlantic right whales occurs; and mention of re-initiation of Section 7 consultations for

existing leases and/or permits to account for new information (p. 39, para. 2). The draft Strategy is not clear, however, on the circumstances that would trigger these actions (e.g., what does imminent threat of serious or irreparable harm truly mean in practical terms, what types of “new information” would trigger re-initiation of Section 7 consultation). The ASRG recommends that specific thresholds for adaptive management be articulated now so that any decisions made are objective, transparent, and scientifically supported.

Baseline survey efforts must be robust and tailored to local- and ecosystem-level effects—

The ASRG previously recommended that NOAA implement a robust scientific survey program to establish the pre-construction ecological baseline and subsequently monitor for impacts and effects on key species and the broader ecosystem during construction, the approximately 30-year lifespan of offshore wind project operations, and during and after decommissioning. We therefore support the research and monitoring goals outlined in the draft Strategy (Goal 2), and particularly the agencies’ intention to develop studies that will provide the statistical power to detect changes in North Atlantic right whale ecology and demographics resulting from offshore wind development at various scales (including the requirement for at least three years of baseline data collection, continued and expanded data collection from visual surveys, and implementation of the regional passive acoustic monitoring network described in Van Parijs et al. 2021).

The ASRG is concerned about ecosystem-level effects of large-scale offshore wind structure and operations build out, particularly with respect to changes in local and regional hydrography (e.g., ocean circulation), and any resulting impacts on the North Atlantic right whale’s prey resources (i.e., abundance, density, energy content, and distribution of zooplankton in foraging habitat). North Atlantic right whales employ an energetically expensive foraging strategy and rely on dense aggregations of lipid-rich prey to offset the energy expenditure of foraging. Reduced feeding success will exacerbate current levels of malnutrition and negative health effects, further eroding the recovery potential for the species. It is critical that hydrographic variables are monitored in a manner that any changes can be quickly detected to inform adaptive management. As such, the ASRG recommends that research and monitoring goals 2.3.2 and 2.3.3 be considered as priority actions for the agencies.

Noise generated during offshore wind operations also has the potential to result in ecosystem-level effects. Empirical data of noise generated by operating turbines in Europe suggest that operational noise produced by turbines of the size planned for the United States may be audible and above the behavioral harassment threshold for North Atlantic right whales across the entirety of the offshore wind development area. Continuous low frequency noise has been demonstrated to have a wide range of effects on many marine taxa, including zooplankton and other invertebrates, and fish. It follows that elevated levels of low frequency noise occurring for 30 years or more across offshore wind lease areas may have deleterious effects on North Atlantic right whales and their prey, as well as overall ecosystem health. The ASRG recommends that the

research and monitoring program prioritize the assessment of operational noise levels, and any impacts on right whales and/or their prey, in a manner that can inform adaptive management.

Finally, the ASRG recommends that monitoring of mitigation effectiveness should be viewed as a top priority and essential tool for effective adaptive management.

Risk should be proactively reduced in the face of uncertainty—As offshore wind energy is a new industry in the United States there remain many unknowns in terms of risks to North Atlantic right whales, their prey, and their habitat. There is value in working to quantify those risks prior to development occurring in order to best prioritize resources and provide support for requirements of industry. However, at this early stage, and in the absence of empirical data collected from offshore wind developments in U.S. waters, the confidence intervals surrounding estimated risk levels are likely to be quite large. The ASRG supports the undertaking of risk assessments for offshore wind (such as those described in Research and Monitoring Goal 1.3), but recommends that potential risks be proactively reduced, when possible, at the outset of development (e.g., by reducing noise emissions during construction and operations at the source and/or by requiring adherence to a noise reduction standard, slowing vessels to 10 knots or less, undertaking regular marine debris removal) and that this is where resources should be prioritized in the first instance. This is particularly important for the North Atlantic right whale, for which additional stressors must be at best avoided or at least minimized if the species is to cease its decline and ultimately recover. Empirical data collected during construction and operations of the first offshore wind projects can be used to inform and improve the reliability of future risk assessments to inform adaptive management.

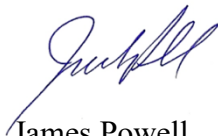
Data collected should be publicly available and managed in a coordinated manner—All data collected from research, monitoring, and mitigation for offshore wind development should be made publicly available. The ASRG supports the proposed development of a centralized, publicly accessible data portal that will “allow for data to be integrated across projects and queried to answer a range of scientific questions to inform management decisions.” However, we note that several databases are currently in development and so recommend efforts be made to coordinate data management to reduce redundancy and make the most efficient use of resources. We suggest the Northeast Ocean Data Portal be considered as a repository for these data (<https://www.northeastoceandata.org/>).

Strategy implementation should be well coordinated and adequately funded—NOAA and BOEM should continue their proactive work with other relevant agencies to develop and implement the Strategy. The ASRG supports the formation of a “joint Agency implementation group” to fulfill the goals of the Strategy and recommends that group coordinate with the Regional Wildlife Science Collaborative (RWSC). The ASRG also notes the need for significant and long-term funding to support the implementation of the Strategy and recommends that

securing these resources be viewed as a top priority by BOEM and NOAA (as well as other cooperating Federal and State agencies).

Thanks for the opportunity to review this Strategy and we look forward to its implementation!

Sincerely,

A handwritten signature in blue ink, appearing to read 'James Powell', is positioned above the printed name.

James Powell
Chair, Atlantic Scientific Review Group

CC:

Dr. William Brown, Chief Environmental Officer
BOEM

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