

To: Jolie Harrison, Chief
Permits and Conservation Division
Office of Protected Resources
National Marine Fisheries Service

From: Craig Rucker
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<https://www.cfact.org/>

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Re NMFS proposal for Atlantic Shores Wind IHA at <https://www.federalregister.gov/documents/2023/03/30/2023-06594/takes-of-marine-mammals-incident-to-specified-activities-taking-marine-mammals-incident-to>

We respectfully submit the following comments on this proposal.

This proposal is premature because the Atlantic Shores Wind project has yet to be approved and may never be approved. Harassments should not be authorized for speculative projects.

Moreover the proposed survey area is enormously larger than the lease survey area, at roughly 2,300 square miles. There is nothing about the Atlantic Shores Wind project that supports such a huge survey area. There is no justification for this huge and potentially damaging survey.

This proposal requires a full scale Environmental Impact Assessment under NEPA. The proposal's cursory environmental impact assessment is far too simple. NMFS itself predicts that a great many marine mammals will be subjected to unsafe levels of survey noise. See https://www.fisheries.noaa.gov/s3/2023-03/AtlanticShoresHRG_2023_Proposed_IHA_OPR1.pdf

NOAA predicts the number of adverse impacts by species, but here are the large numbers by category:

42 Whales

2,534 Dolphins

142 Porpoises

1,472 Seals

Total = 4,190 adversely impacted marine mammals

Here is NOAA's basic argument: "...only Level B harassment is proposed for authorization, which NMFS expects would be of a lower severity, predominately in the form of avoidance of the sound sources that may cause a temporary abandonment of the location during active source use that may result in a temporary interruption of foraging activities for some species. NMFS does not expect that the proposed activity will have long-term or permanent impacts as the acoustic source would be mobile and would leave the area within a specific amount of time for which the animals could return to the area."

In short these thousands of large animals will get out of the way and come home when the survey is over, in a year or so. Apparently NMFS thinks this massive forced relocation is harmless. Here are two obviously harmful possibilities, among many.

First, the site is deliberately in a relatively low ship traffic area, surrounded by high traffic zones. This is one of the busiest ship traffic areas in the world. Being forced to relocate into higher

traffic areas is very likely to increase the incidence of fatal ship strikes. This effect can be modeled.

Second, moving this many animals into territory already occupied by similar animals should increase the population densities for each species. But the food supply remains the same, which could lead to food scarcity. This effect can be modeled.

The treatment of the severely endangered North Atlantic Right Whale is especially egregious. NOAA says this: "...the size of the survey area (5,868 km²) in comparison with the entire migratory habitat for the North Atlantic right whale (BIA of 269,448 km²) is small, representing 2.11 percent of the entire migratory corridor."

Right Whales migrate through the area twice a year, going between offshore Georgia and New England so the "corridor" is indeed large, but this is irrelevant. What is crucial is that the survey area is about 35 miles wide East to West and almost all of the migrating whales presently pass through this space. Thus the survey has the potential effect of blocking the migration, or at least seriously disrupting it, taking nearly 100% of the needed space not 2.11%.

Despite all of the above predicted and potential impacts, NOAA maintains that this proposed authorization is exempt from the environmental impact assessment requirements of NEPA. They specifically claim there is "no anticipated serious injury or mortality". They should anticipate a little harder. NEPA requires assessment if injury is reasonably likely. Injury and death certainly are reasonably likely here, potentially to supposedly protected marine mammals, including the severely endangered Right Whales.

Moreover, full scale NEPA Environmental Impact Assessment is not limited to cases of serious injury or mortality. Harassment itself is an adverse impact, plus there are the deleterious effects of harassment, none of which have been assessed. NMFS has extensive scientific resources and these need to be applied to modeling these effects. Such an analysis would also help resolve the issue of the role of offshore wind development in the recent whale deaths in the area.

For the reasons stated above we request that this proposed IHA (and any others for offshore wind projects) not be granted until a proper assessment has been done.

Respectfully submitted,

Craig Rucker