

the cancellation process and reinstated the bond or trust, or that the broker has obtained a new bond or trust from another eligible surety company or financial institution, FMCSA will promptly provide written notice in the FMCSA Register on its public website that the financial failure or insolvency has been cured.

(g) *Suspension of surety company or financial institution.* (1) If a surety company or financial institution violates the requirements of this section or 49 U.S.C. 13906(b) or (c), FMCSA shall suspend the authorization of such surety company or financial institution to have its instruments filed as evidence of financial responsibility pursuant to § 387.307 for 3 years.

(2) If FMCSA initiates a suspension action pursuant to paragraph (g)(1) of this section it shall provide written notice to the surety company or financial institution, provide 30 calendar days (extended to the next business day if the final day of the period falls on a weekend or Federal holiday) for the surety company or financial institution to provide evidence contesting such proposed suspension, and then render a final decision in writing.

- 6. Amend newly redesignated § 387.307T by:
  - a. Adding introductory text; and
  - b. Revising paragraph (d)(2)(i).

The addition and revision read as follows:

**§ 387.307T Property broker surety bond or trust fund.**

This section will remain in effect until January 16, 2025.

\* \* \* \* \*

(d) \* \* \*

(2) \* \* \*

(i) *Cancellation notice.* The surety bond and the trust fund agreement may be cancelled only upon 30 days' written notice to the FMCSA, on prescribed Form BMC 36, by the principal or surety for the surety bond, and on prescribed Form BMC 85, by the trustor/broker or trustee for the trust fund agreement.

\* \* \* \* \*

Issued under authority delegated in 49 CFR 1.87.

**Robin Hutcheson,**  
*Administrator.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 217**

[Docket No. 221214–0271]

RIN 0648–BL52

**Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Revolution Wind Offshore Wind Farm Project Offshore Rhode Island; Correction**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule; correction.

**SUMMARY:** This document contains corrections to a final rule. The document being corrected is the regulations governing the Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Revolution Wind Offshore Wind Farm Project Offshore Rhode Island, published on October 20, 2023.

**DATES:** Effective on November 20, 2023.

**FOR FURTHER INFORMATION CONTACT:** Carter Esch, Office of Protected Resources, NMFS, (301) 427–8401.

**SUPPLEMENTARY INFORMATION:**

**Background**

NMFS published a final rule in the **Federal Register** on October 20, 2023 (88 FR 72562) announcing the promulgation of regulations governing the incidental take of marine mammals incidental to Revolution Wind, LLC's (Revolution Wind), construction of the Revolution Wind Offshore Wind Energy Project in Federal and State waters offshore Rhode Island, specifically within the Bureau of Ocean Energy Management (BOEM) Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS) Lease Area OCS–A–0486 and along two export cable routes to sea-to-shore transition points, valid for 5 years from the date of effectiveness.

The regulations, which allow for the issuance of a Letter of Authorization to Revolution Wind for the incidental take of marine mammals during the specified activities within the specified geographical region during the effective dates of the regulations, prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, as

well as requirements pertaining to the monitoring and reporting of such taking. NMFS refers the reader to the final rule (88 FR 72562, October 20, 2023) for background information concerning the regulations. The regulations contained a codification error requiring correction. Specifically, 50 CFR 217.274(b)(8) was promulgated twice (*i.e.*, two different measures were both designated as 217.274(b)(8), necessitating renumbering), and, therefore, a correction is necessary to properly number 50 CFR 217.274(b).

**Correction**

■ Effective November 20, 2023, in rule document 2023–22056 at 88 FR 72659 in the issue of October 20, 2023, on page 72662, in the first column, in amendatory instruction 2, paragraph (b) is corrected to read as follows:

**§ 217.274 [Corrected]**

(b) *Vessel strike avoidance measures.* LOA Holder must comply with the following vessel strike avoidance measures, unless an emergency situation presents a threat to the health, safety, or life of a person or when a vessel, actively engaged in emergency rescue or response duties, including vessel-in-distress or environmental crisis response, requires speeds in excess of 10 kn (11.5 miles per hour (mph)) to fulfill those responsibilities, while in the specified geographical region:

(1) Prior to the start of the Project's activities involving vessels, LOA Holder must receive a protected species training that covers, at a minimum, identification of marine mammals that have the potential to occur where vessels would be operating; detection observation methods in both good weather conditions (*i.e.*, clear visibility, low winds, low sea states) and bad weather conditions (*i.e.*, fog, high winds, high sea states, with glare); sighting communication protocols; all vessel speed and approach limit mitigation requirements (*e.g.*, vessel strike avoidance measures); and information and resources available to the project personnel regarding the applicability of Federal laws and regulations for protected species. This training must be repeated for any new vessel personnel who join the Project. The dedicated visual observers must receive prior training on protected species detection and identification, vessel strike minimization procedures, how and when to communicate with the vessel captain, and reporting requirements in this subpart. Confirmation of the observers' training and understanding of the Incidental

Take Authorization (ITA) requirements must be documented on a training course log sheet and reported to NMFS;

(2) LOA Holder's vessels, regardless of their vessel's size, must maintain a vigilant watch for all marine mammals during all vessel operations and slow down, stop their vessel, or alter course to avoid striking any marine mammal;

(3) LOA Holder's underway vessels (*e.g.*, transiting, surveying) operating at any speed must have a dedicated visual observer on duty on each vessel at all times to monitor for marine mammals primarily within a 180° direction of the forward path of the vessel (90° port to 90° starboard) located at an appropriate vantage point for ensuring vessels are maintaining appropriate separation distances. Visual observers must be equipped with alternative monitoring technology (*e.g.*, night vision devices, infrared cameras) for periods of low visibility (*e.g.*, darkness, rain, fog, *etc.*). The dedicated visual observer must receive prior training on protected species detection and identification, vessel strike minimization procedures, how and when to communicate with the vessel captain, use of visual monitoring and alternative monitoring equipment, and reporting requirements in this subpart. Visual observers may be third-party observers (*i.e.*, NMFS-approved PSOs as defined in § 217.275 (a)(1)) or trained crew members;

(4) LOA Holder must continuously monitor the U.S. Coast Guard VHF Channel 16 at the onset of transiting through the duration of transiting, over which notifications of North Atlantic right whale Slow Zones (DMAs and acoustically-triggered Slow Zones) are broadcasted. At the onset of transiting and at least once every 4 hours, vessel operators and/or trained crew member(s) must also monitor the LOA Holder's Project-Wide Situational Awareness System, WhaleAlert, and relevant NOAA information systems such as the Right Whale Sighting Advisory System (RWSAS) for the presence of North Atlantic right whales;

(5) All LOA Holder's vessels must transit at 10 knots (11.5 mph) or less within any active North Atlantic right whale Seasonal Management Area (SMA) and Slow Zone (*i.e.*, Dynamic Management Areas (DMA) or acoustically-triggered Slow Zones);

(6) Between November 1 and April 30, all vessels, regardless of size, must operate port to port (specifically from ports in Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Virginia, and Maryland), and within the Lease Area and Revolution Wind Export Cable (RVEC) corridor, at 10 knots (11.5 mph) or less, except for vessels

transiting in Narragansett Bay or Long Island Sound;

(7) All LOA Holder's vessel(s) (including crew transfer vessels) are restricted from traveling over 10 knots (11.5 mph), unless traveling in a frequently traveled transit corridor (*e.g.*, crew transfer corridor) between port to the Lease Area while LOA Holder monitors the transit corridor to detect large whales (including North Atlantic right whales) in real-time with PAM prior to and during transits. This measure only applies when no other vessel speed restrictions are in place;

(8) All LOA Holder's vessels, regardless of size, must immediately reduce speed to 10 knots (11.5 mph) or less for at least 24 hours when a North Atlantic right whale is sighted at any distance by any project-related personnel or acoustically detected by any project-related PAM system. Each subsequent observation or acoustic detection in the Project area must trigger an additional 24-hour period of operating at 10 knots (11.5 mph) or less. If a North Atlantic right whale is reported via any of the monitoring systems (see (b)(4) of this section) within 10 kilometers (km; 6.2 miles (mi)) of a transiting vessel(s), that vessel must operate at 10 knots (11.5 mph) or less for 24 hours following the reported detection;

(9) LOA Holder's vessels, regardless of size, must immediately reduce speed to 10 knots (11.5 mph) or less when any large whale (other than a North Atlantic right whale) is observed within 500 meters (m; 1,640 ft) of an underway vessel;

(10) If a large whale (other than a North Atlantic right whale) is detected via the transit corridor PAM system, all vessels must travel at 10 knots (11.5 mph) until the whale can be confirmed visually beyond 500 m of the vessel or 24 hours has passed;

(11) LOA Holder's vessels must maintain a minimum separation distance of 500 m (1,640 ft) from North Atlantic right whales. If underway, all vessels must steer a course away from any sighted North Atlantic right whale at 10 knots (11.5 mph) or less such that the 500-m minimum separation distance requirement is not violated. If a North Atlantic right whale is sighted within 500 m of an underway vessel, that vessel must reduce speed and shift the engine to neutral. Engines must not be engaged until the whale has moved outside of the vessel's path and beyond 500 m. If a whale is observed but cannot be confirmed as a species other than a North Atlantic right whale, the vessel operator must assume that it is a North Atlantic right whale and take the vessel

strike avoidance measures described in this paragraph;

(12) LOA Holder's vessels must maintain a minimum separation distance of 100 m (328 ft) from sperm whales and non-North Atlantic right whale baleen whales. If one of these species is sighted within 100 m of a transiting vessel, LOA Holder's vessel must reduce speed and shift the engine to neutral. Engines must not be engaged until the whale has moved outside of the vessel's path and beyond 100 m (328 ft);

(13) LOA Holder's vessels must maintain a minimum separation distance of 50 m (164 ft) from all delphinid cetaceans and pinnipeds with an exception made for those that approach the vessel (*i.e.*, bow-riding dolphins). If a delphinid cetacean that is not bow riding or a pinniped is sighted within 50 m of a transiting vessel, LOA Holder's vessel operator must shift the engine to neutral, with an exception made for those that approach the vessel (*e.g.*, bow-riding dolphins). Engines must not be engaged until the animal(s) has moved outside of the vessel's path and beyond 50 m (164 ft);

(14) When a marine mammal(s) is sighted while LOA Holder's vessel(s) is transiting, the vessel must not divert or alter course to approach any marine mammal and must take action as necessary to avoid violating the relevant separation distances (*e.g.*, attempt to remain parallel to the animal's course, slow down, and avoid excessive speed or abrupt changes in direction until the animal has left the area). If a separation distance is triggered, any vessel underway must avoid abrupt changes in course direction and take appropriate action as specified in paragraphs (b)(11) through (13) of this section. This measure does not apply to any vessel towing gear or any situation where respecting the relevant separation distance would be unsafe (*i.e.*, any situation where the vessel is navigationally constrained);

(15) LOA Holder is required to abide by other speed and approach regulations. Nothing in this subpart exempts vessels from any other applicable marine mammal speed and approach regulations;

(16) LOA Holder must check, daily, for information regarding the establishment of mandatory or voluntary vessel strike avoidance areas (*i.e.*, DMAs, SMAs, Slow Zones) and any information regarding North Atlantic right whale sighting locations;

(17) LOA Holder must submit a North Atlantic Right Whale Vessel Strike Avoidance Plan to NMFS Office of Protected Resources for review and

approval at least 90 days prior to the planned start of vessel activity. The plan must provide details on the vessel-based observer and PAM protocols for transiting vessels. If a plan is not submitted or approved by NMFS prior to vessel operations, all project vessels transiting, year round, must travel at speeds of 10 knots (11.5 mph) or less. LOA Holder must comply with any approved North Atlantic Right Whale Vessel Strike Avoidance Plan; and

(18) Speed over ground will be used to measure all vessel speed restrictions.

Dated: November 13, 2023.

**Samuel D. Rauch, III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 230810–0190]

RTID 0648–XD514

#### Fisheries of the Northeastern United States; Northeast Multispecies Fishery; White Hake Trimester Total Allowable Catch Area Closure for the Common Pool Fishery

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; area closure.

**SUMMARY:** This action closes the White Hake Trimester Total Allowable Catch Area to Northeast multispecies common pool vessels fishing with trawl gear, sink gillnet gear, and longline/hook gear, except Handgear A and Handgear B vessels, through December 31, 2023. The closure is required because the common pool fishery is projected to have caught 90 percent of its Trimester 2 quota for white hake. This closure is intended to prevent an overage of the common pool's quota for this stock.

**DATES:** This action is effective November 13, 2023, through December 31, 2023.

**FOR FURTHER INFORMATION CONTACT:** Spencer Talmage, Fishery Policy Analyst, (978) 281–9232.

**SUPPLEMENTARY INFORMATION:** Federal regulations at § 648.82(n)(2)(ii) require the Regional Administrator to close a common pool Trimester Total

Allowable Catch (TAC) Area for a stock when 90 percent of the Trimester TAC is projected to be caught. The closure applies to all common pool vessels fishing with gear capable of catching that stock, and remains in effect for the remainder of the trimester. During the closure, affected common pool vessels may not fish for, harvest, possess, or land regulated multispecies or ocean pout in or from the Trimester TAC Area for the stock.

The Trimester 2 TAC for white hake is 17,482 lb (pounds) (7.9 metric tons (mt)). Based on the best available data from this fishing year and the analyses described below, the common pool is estimated to have achieved 90 percent of the Trimester 2 TAC for white hake on or shortly after November 9, 2023.

NMFS closely monitors commercial fisheries landings on a weekly basis. Catch projections of white hake were run using data through November 7, 2023, which indicated that 87.7 percent (15,211.9 lb (6.9 mt)) of the Trimester 2 TAC was harvested. Given these projections and additional information, including that there have been up to four trips for which catch data are not yet available, NMFS estimates that 90 percent of the white hake Trimester 2 TAC has been harvested. As noted above, implementing regulations for the Northeast Multispecies FMP require the Regional Administrator to close an area when a trimester TAC is projected to reach the 90-percent trigger.

Effective November 13, 2023, the White Hake Trimester TAC Area is closed for the remainder of Trimester 2, through December 31, 2023. The White Hake Trimester TAC Area consists of statistical areas 513, 514, 515, 521, and 522. During the closure, common pool vessels fishing with trawl gear, sink gillnet gear, and longline/hook gear (except for Handgear A and Handgear B vessels), may not fish for, harvest, possess, or land regulated multispecies or ocean pout in or from this area. This closure of the White Hake Trimester TAC Area ends at the beginning of Trimester 3 of fishing year 2023 on January 1, 2024.

If a vessel declared its trip through the Vessel Monitoring System (VMS) or the interactive voice response system, and crossed the VMS demarcation line prior to November 13, 2023, it may complete its trip within the GOM Cod Trimester TAC Area. A vessel that has set gillnet gear prior to November 13, 2023, may complete its trip by hauling such gear.

If the common pool fishery exceeds its annual sub-Allowable Catch Limit (sub-ACL) for a stock in the 2023 fishing year, the overage must be deducted from

the common pool's sub-ACL for that stock for fishing year 2024.

Weekly quota monitoring reports for the common pool fishery are on our website at: <https://www.greateratlantic.fisheries.noaa.gov/ro/fso/reports/h/nemultispecies.html>. We will continue to monitor common pool catch through vessel trip reports, dealer-reported landings, VMS catch reports, and other available information and, if necessary, will make additional adjustments to common pool management measures.

#### Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3) to waive prior notice and the opportunity for public comment and the 30-day delayed effectiveness period because it would be impracticable, unnecessary, and contrary to the public interest.

The regulations require the Regional Administrator to close a trimester TAC area to the common pool fishery when 90 percent of the Trimester TAC for a stock has been caught. Updated catch information through November 7, 2023, only recently became available indicating that the common pool fishery is projected to have caught 90 percent of its Trimester 2 TAC for white hake. The time necessary to provide for prior notice and comment, and a 30-day delay in effectiveness, would prevent the immediate closure of the White Hake Trimester TAC Area. This would be contrary to the regulatory requirement and would increase the likelihood that the common pool fishery would exceed its annual quota of white hake. Any overage of the Trimester 2 TAC is deducted from the Trimester 3 TAC, and any overage of the annual quota would be deducted from common pool's quota for the next fishing year, to the detriment of this stock. This could undermine conservation and management objectives of the Northeast Multispecies Fishery Management Plan. Prior notice and comment and a 30-day delay in effectiveness are unnecessary because fishermen were provided ample notice and opportunity to comment on the regulations that require this immediate closure. Fishermen expect these closures to occur in a timely way to prevent overages and their payback requirements. Overages of the trimester or annual common pool quota could cause negative economic impacts to the common pool fishery as a result of overage paybacks deducted from a future trimester or fishing year.