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# VINEYARD WIND

## Draft Construction and Operations Plan

### Volume I

## Vineyard Wind Project

September 30, 2020

**Submitted by**

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700 Pleasant Street, Suite 510  
New Bedford, Massachusetts 02740

**Submitted to**

**Bureau of Ocean Energy Management**  
45600 Woodland Road  
Sterling, Virginia 20166

**Prepared by**

**Epsilon Associates, Inc.**  
3 Mill & Main Place, Suite 250  
Maynard, Massachusetts 01754

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*Submitted to:*

**BUREAU OF OCEAN ENERGY MANAGEMENT**  
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*In Association with:*

Baird & Associates	JASCO Applied Sciences
Biodiversity Research Institute	Morgan, Lewis & Bockius LLP
C2Wind	Public Archaeology Laboratory, Inc.
Capitol Air Space Group	RPS
Clarendon Hill Consulting	Saratoga Associates
Ecology and Environment	Swanson Environmental Associates
Foley Hoag	Wood Thilsted Partners Ltd
Geo SubSea LLC	WSP
Gray & Pape	

September 30, 2020

**Section 5.0**

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Regulatory Framework

## 5.0 REGULATORY FRAMEWORK

Table 5-1 below lists the expected federal, Massachusetts, regional (county), and local level reviews and permits for the Project. Filing dates are provided for those permit applications or review documents that have already been submitted.

**Table 5-1 Required Environmental Permits for the Project**

Agency/Regulatory Authority	Permit/Approval	Status
<i>Federal</i>		
Bureau of Ocean Energy Management	Site Assessment Plan (“SAP”) approval	SAP filed March 31, 2017, deemed complete and sufficient November 21, 2017. SAP approved May 2018.
	Construction and Operations Plan (“COP”) approval	COP filed with BOEM December 19, 2017.
	National Environmental Policy Act (NEPA) Environmental Review	Draft Environmental Impact Statement (DEIS) published in the Federal Register December 7, 2018.
	Consultation under Section 7 of the Endangered Species Act with National Marine Fisheries Service and US Fish and Wildlife Service, coordination with states under the Coastal Zone Management Act, government-to-government tribal consultation, consultation under Section 106 of the National Historic Preservation Act, and consultation with National Marine Fisheries Service for Essential Fish Habitat (EFH).	To be initiated by BOEM.
US Environmental Protection Agency	National Pollutant Discharge Elimination System (“NPDES”) General Permit for Construction Activities	To be filed (“TBF”) immediately before start of construction.
	Outer Continental Shelf Air Permit	Notice of Intent (“NOI”) to apply for an air permit filed on December 11, 2017. Permit application submitted August 17, 2018. Supplemental Air Operating Permit Application filed April 18, 2019. Draft OCS Air Permit issued June 28, 2019.

**Table 5-1 Required Environmental Permits for the Project (Continued)**

Agency/Regulatory Authority	Permit/Approval	Status
<i>Federal</i>		
US Army Corps of Engineers	Individual Clean Water Act Section 404 (Required for side-casting of dredged material and placement of foundations, scour protection, and cable protection)  Rivers and Harbors Act of 1899 Section 10 Permit (Required for all offshore structures and dredging activities)	Joint permit application submitted November 27, 2018.
US National Marine Fisheries Service	Marine Mammal Protection Act (MMPA) Authorization/ Incidental Harassment Authorization (IHA)/Letter of Authorization (LOA)	NMFS concurrence that no Incidental Harassment Authorization (IHA) required for 2017 survey activities received March 9, 2017. NMFS concurrence that no IHA required for 2018 survey activities received February 28, 2018.  IHA request for pile-driving activities submitted September 7, 2018 and an updated version was filed on January 16, 2019. Draft IHA issued April 30, 2019..
US Coast Guard	Private Aids to Navigation authorization	TBF
Federal Aviation Administration	No Hazard Determination	TBF
<i>State/Massachusetts (for portions of the project within state jurisdiction)</i>		
Massachusetts Environmental Policy Act Office	Certificate of Secretary of Energy and Environmental Affairs on Final Environmental Impact Report	Environmental notification form (“ENF”) filed on December 15, 2017. Secretary’s Certificate on ENF issued on February 9, 2018.  Draft Environmental Impact Report (“DEIR”) filed on April 30, 2018. Secretary’s Certificate on DEIR issued on June 15, 2018.  Supplemental Draft Environmental Impact Report (SDEIR) filed on August 31, 2018. Secretary’s Certificate on SDEIR issued on October 12, 2018.  Final Environmental Impact Report (FEIR) filed December 17, 2018. Secretary’s Certificate on FEIR issued on February 1, 2019.

**Table 5-1 Required Environmental Permits for the Project (Continued)**

Agency/Regulatory Authority	Permit/Approval	Status
<i>State/Massachusetts (for portions of the project within state jurisdiction)</i>		
Massachusetts Energy Facilities Siting Board	G.L. ch. 164, § 69 Approval	<p>Petition filed December 18, 2017; evidentiary hearings completed October 26, 2018; briefs filed November and December 2018. Final decision issued May 10, 2019.</p> <p>Petition for a Certificate of Environmental Impact and Public Interest filed July 24, 2019. Decision is expected by Spring 2020.</p>
Massachusetts Department of Public Utilities	G.L. ch. 164, § 72, Approval to Construct G.L. ch. 40A, § 3 Zoning Exemption (if needed)	Section 72 and Section 40A petitions were filed with the DPU on February 15, 2018, together with a request for consolidated review by EFSB, which was granted on April 5, 2018. Final decision issued May 10, 2019.
	Regulatory approval of the long-term power purchase contracts between Vineyard Wind and Massachusetts' electric distribution companies for Vineyard Wind 1	Approved April 12, 2019.
Massachusetts Department of Environmental Protection	Chapter 91 Waterways License and Dredge Permit; Water Quality Certification (Section 401 of the Clean Water Act)	Joint Chapter 91 and Water Quality Certification application filed January 18, 2019. WQC issued July 31, 2019. Draft Chapter 91 License issued August 12, 2019.
	Superseding Order of Conditions (Barnstable)	Issued July 18, 2019.
	Superseding Order of Conditions (Edgartown)	Issued August 5, 2019.

**Table 5-1 Required Environmental Permits for the Project (Continued)**

Agency/Regulatory Authority	Permit/Approval	Status
<i>State/Massachusetts (for portions of the project within state jurisdiction)</i>		
	<p>Adjudicatory Appeal of Superseding Order of Conditions issued for Barnstable</p> <p>Adjudicatory Appeal of Superseding Order of Conditions issued for Edgartown</p>	<p>Final Decision dismissing appeal issued January 15, 2020</p> <p>Settlement Agreement signed September 18, 2019, and Final Decision incorporating Settlement Agreement and Final Order of Conditions issued October 1, 2019.</p>
Massachusetts Department of Marine Fisheries (DMF)	Letter of Authorization and/or Scientific Permit (for surveys and pre-lay grapnel run)	TBF
Massachusetts Department of Transportation	Non-Vehicular Access Permits	Permit application filed July 1, 2019. Issued December 23, 2019.
Massachusetts Board of Underwater Archaeological Resources	Special Use Permit	Provisional permit issued May 23, 2017, final permit issued September 28, 2017 and extended on September 28, 2018
Natural Heritage and Endangered Species Program	Conservation and Management Permit (if needed)	MESA Project Review Checklist submitted December 17, 2018; TBF (if needed). Determination that the Project will not result in an adverse impact to Resource Area Habitats and will not result in a prohibited Take pursuant to MESA issued May 14, 2019.
Massachusetts Historical Commission	Field Investigation Permits (950 C.M.R. § 70.00)	<p>Reconnaissance survey permit application filed November 14, 2017 and approved.</p> <p>Permit to Conduct Archaeological Field Investigation issued September 28, 2018; field investigation at substation site completed November 2, 2018; final report submitted to MHC on January 3, 2019 (no further investigations recommended).</p> <p>Permit amended on March 5, 2020 to conduct a supplemental field investigation at expanded substation site.</p>

**Table 5-1 Required Environmental Permits for the Project (Continued)**

<b>Agency/Regulatory Authority</b>	<b>Permit/Approval</b>	<b>Status</b>
<i>State/Massachusetts (for portions of the project within state jurisdiction)</i>		
Massachusetts Office of Coastal Zone Management Rhode Island Coastal Resources Management Council	Federal Consistency Determination (15 CFR 930.57)	Joint MA/RI consistency certification filed on April 6, 2018. RI Consistency Determination received on Feb 26, 2019. MA Consistency Determination received on May 22, 2020.
<i>Regional (for portions of the project within regional jurisdiction)</i>		
Cape Cod Commission (Barnstable County)	Development of Regional Impact Review	DRI filed on February 8, 2019. Full Commission voted to approve the Project May 2, 2019, and Final Decision was issued May 2, 2019.
Martha's Vineyard Commission	Development of Regional Impact Review	Referral from Edgartown Conservation Commission to MVC occurred on December 27, 2018; DRI filed January 23, 2019. Full Commission voted to approve the Project May 2, 2019. Final Decision was issued May 16, 2019.
<i>Local (for portions of the project within local jurisdiction)</i>		
Barnstable Conservation Commission	Order of Conditions (Massachusetts Wetlands Protection Act and municipal wetland non zoning bylaws)	Filed April 24, 2019. Barnstable Order of Conditions issued May 23, 2019. Superseding Order of Conditions affirming approval issued July 18, 2019. MassDEP Adjudicatory Appeal initiated by appellant August 1, 2019 and dismissed January 15, 2020.
Barnstable DPW and/or Town Council	Street Opening Permits/Grants of Location	TBF; addressed in October 3, 2018 Host Community Agreement (HCA) with Barnstable.
Barnstable Planning/Zoning	Zoning approvals as necessary	TBF; exemption from zoning requested in EFSB filing; addressed in October 3, 2018 HCA with Barnstable.
Edgartown Conservation Commission	Order of Conditions (Massachusetts Wetlands Protection Act and municipal wetland non zoning bylaws)	Filed December 26, 2018, with denial issued July 18, 2019. Superseding Order of Conditions issued August 5, 2019. MassDEP Adjudicatory Appeal initiated by appellant August 19, 2019 with Settlement Agreement signed September 18, 2019 and Final Decision issued October 1, 2019.
Nantucket, Conservation Commission	Order of Conditions (Massachusetts Wetlands Protection Act and municipal wetland non zoning bylaws) (if needed as dictated by final submarine route)	Filed January 18, 2019 (applicable to eastern route through Muskeget Channel only). Nantucket Order of Conditions issued March 21, 2019.

A copy of the Coastal Zone Management Act Consistency Certification is included as Attachment III-P.