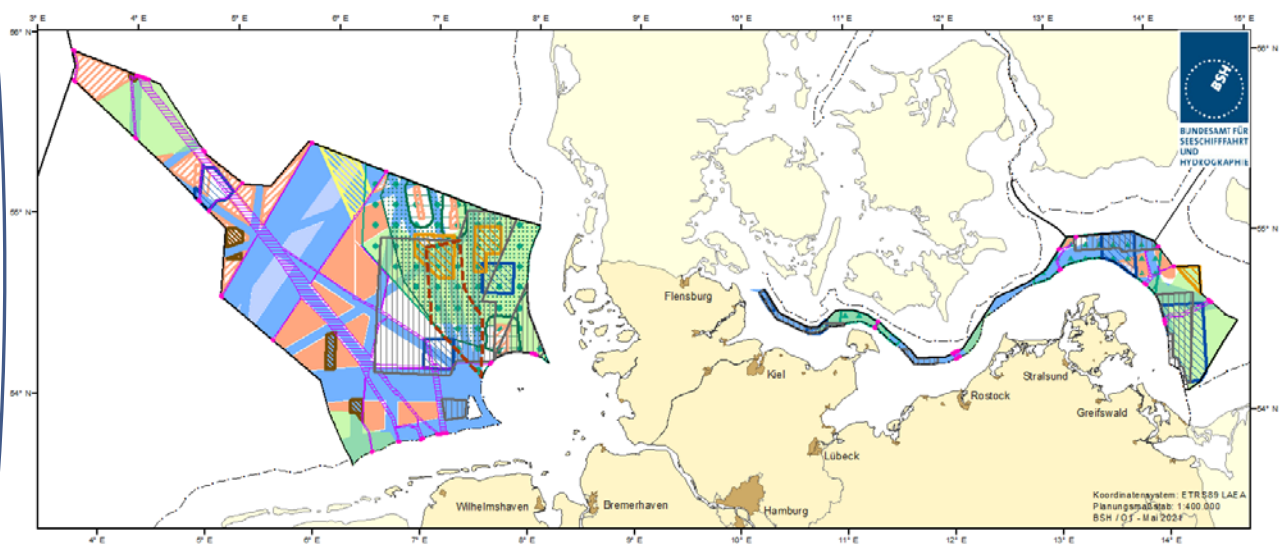


**Draft**  
**Maritime Spatial Plan for the German**  
**Exclusive Economic Zone**  
**in the North Sea and Baltic Sea**  
**- unofficial translation -**



**2 June 2021**



## Content

<b>1</b>	<b>Vision</b>	<b>1</b>
<b>2</b>	<b>Designations</b>	<b>3</b>
2.1	Ensuring the safety and efficiency of navigation (Section 17 subsection 1 sentence 2 number 1 ROG)	3
2.2	Other economic uses (Section 17 subsection 1 sentence 2 number 2 ROG)	6
2.2.1	General requirements for economic uses	6
2.2.2	Offshore wind energy	11
2.2.3	Cables and pipelines	16
2.2.4	Raw material extraction	18
2.2.5	Fisheries and marine aquaculture	20
2.3	Scientific uses (Section 17 subsection 1 sentence 2 number 3 ROG)	21
2.4	Protection and improvement of the marine environment (Article 17 subsection 1 sentence 2 number 4 ROG)	22
2.5	Other concerns to be taken into account	28
2.5.1	National and NATO defence	28
2.5.2	Air traffic	30
2.5.3	Recreation	30
2.5.4	Representation for information purposes only	31
<b>3</b>	<b>Appendix</b>	<b>32</b>

## List of figures

Figure 1: Designations for shipping in the North Sea. ....	32
Figure 2: Designations for navigation in the Baltic Sea. ....	32
Figure 3: Designations for offshore wind energy in the North Sea. ....	33
Figure 4: Designations for offshore wind energy in the Baltic Sea. ....	33
Figure 5: Designations for pipelines and border corridors in the North Sea. ....	34
Figure 6: Designations for pipelines and border corridors in the Baltic Sea. ....	34
Figure 7: Designations for raw material extraction in the North Sea. ....	35
Figure 8: Designations for raw material extraction in the Baltic Sea. ....	35
Figure 9: Designation for Norway lobster fisheries in the North Sea. ....	36
Figure 10: Designations for research in the North Sea. ....	36
Figure 11: Designations for research in the Baltic Sea. ....	37
Figure 12: Designations for nature conservation in the North Sea. ....	37
Figure 13: Designations for nature conservation in the Baltic Sea. ....	38
Figure 14: Designation for divers in the North Sea. ....	38
Figure 15: Designation for harbour porpoises in the North Sea. ....	39
Figure 16: Exclusion of turbines above the water surface in the North Sea. ....	39
Figure 17: Bird migration corridors "Fehmarn Lolland" and "Rügen Schonen" in the Baltic Sea. ...	40
Figure 18: Military training areas in the North Sea. ....	40
Figure 19: Military training areas in the Baltic Sea. ....	41
Figure 20: Fehmarnbelt fixed link in the Baltic Sea. ....	41

## List of abbreviations

AIS data	Data from the Automatic Identification System in shipping
BALTBOX	Baltic Sea Box Survey (Thünen Institute for Baltic Sea Fisheries)
BBergG	Federal Mining Act
BGBI.	Federal Law Gazette
BMU	Federal Ministry for the Environment, Nature Conservation and Nuclear Safety
BNatSchG	Federal Nature Conservation Act
BNetzA	Federal Network Agency
BSH	Federal Maritime and Hydrographic Agency
EEG	Renewable Energy Sources Act
EEZ	Exclusive economic zone
EU	European Union
FEP	Site development plan
FFH	Flora Fauna Habitat
GDWS	Federal Waterways and Shipping Administration
GSBTS	German Small-Scale Bottom Trawl Survey
GW	Gigawatt
HELCOM	Convention on the Protection of the Marine Environment of the Baltic Sea Area
ICES	International Council for the Exploration of the Sea
IMO	International Maritime Organisation
km	Kilometres
m	Metre
MARPOL	International Convention for the Prevention of Pollution from Ships, 1973
MRO	Maritime spatial planning
MSFD	Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a Framework for Community Action in the field of Marine Environmental Policy (Marine Strategy Framework Directive)
NM	Nautical mile
OSPAR	OSPAR Convention for the Protection of the Marine Environment of the North-East Atlantic
OWP	Offshore wind farm
ROG	Spatial Planning Act
SAR	Search and Rescue
SeeAnIG	Offshore Installations Act
sm	Sea mile
UNCLOS	United Nations Convention on the Law of the Sea
VTG	Traffic separation zone
WindSeeG	Offshore Wind Energy Act



# 1 Vision

## Using and preserving the sea in all its diversity

The ocean is a special space that combines multiple functions. Healthy seas provide for biodiversity, make an important contribution to climate protection and offer a variety of ecosystem services. The responsible use of maritime resources is the foundation for a sustainable maritime economy that contributes to prosperity for present and future generations. The sea and its diverse uses connects people, habitats and markets and creates opportunities for an open exchange between countries and cultures. Climate-friendly technologies in the sea, especially offshore wind energy and other renewable energies, support energy security and the achievement of national and international climate goals. The sea also offers space for traditional uses such as shipping, fishing, recreation and leisure, and harbours traces of former human activity that can have cultural and historical significance.

Maritime spatial planning preserves the natural structures and functions of the seas. It provides for the diverse current and future uses of marine space and protects marine space in a European context. It balances different demands and interests by carefully weighing ecological, economic and social concerns in accordance with the United Nations Sustainable Development Goals.

The vision is embodied in the following guiding principles:

- Support of coherent international marine spatial planning and territorial cooperation through cooperation with other countries and at a regional seas level,
- Consideration of land-sea relationships and transport and value chains by closely working with the coastal federal states for coherent planning,
- Securing the foundation for a maritime economy that is in line with sustainable development goals:
  - o Ensuring orderly spatial development by coordinating current and future spatial use requirements,
  - o Prioritisation of sea-specific uses and maxims of sparing and optimised use of space as well as reversibility of fixed installations,
  - o Applying the precautionary principle and the ecosystem approach, which enables an integrated view of the different activities in the sea with their impacts, interactions and cumulative effects.
- Maritime spatial planning coordinates different aspects related to use and protection. It supports according to sec. 17 para. 1 sentence 2 ROG
  - o The safety and efficiency of navigation,
  - o Other economic uses, especially renewable energies,
  - o The scientific uses, in particular marine research, and
  - o Safety aspects, in particular National and NATO defence.
- At the same time, according to sec. 17 para. 1 sentence 2 ROG, it contributes to protecting and improving the marine environment and climate protection through

- Appropriate spatial designations for the marine environment<sup>1</sup>; and
- Provisions for avoiding or reducing harmful impacts and pollution resulting from the afore-mentioned uses.

The following designations apply within the context of European and international law, in particular the United Nations Convention on the Law of the Sea<sup>2</sup>.

The medium-term guiding function of the maritime spatial plan makes it possible to adapt designations to changing situations should this become necessary, in line with the guiding principle of maritime spatial planning, namely to enable sustainable and future-oriented spatial development taking into account economic, social and ecological aspects. In this regard, all sectoral concerns will be continuously evaluated. The Federal Maritime and Hydrographic Agency maintains close contact with the respective competent ministries.

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<sup>1</sup> Reference is made to § 45a of the Federal Water Act (Wasserhaushaltsgesetz).

<sup>2</sup> of 10 December 1982, Federal Law Gazette 1994 II p. 1798.



## 2 Designations

Spatial planning objectives are marked with (O), spatial planning principles with (P).

Priority areas have the legal character of spatial planning objectives, reservation areas that of spatial planning principles.

### 2.1 Ensuring the safety and efficiency of navigation (Section 17 subsection 1 sentence 2 number 1 ROG)

#### Goals and principles

- |     |   |  |
|-----|---|--|
| (1) | <p>Areas SN1 to SN18 and SO1 to SO4, shown in Figure 1 and Figure 2 in the Appendix, are identified as priority areas for shipping.</p> <p>Where priority areas for shipping overlap with priority areas for nature conservation, shipping enjoys priority in accordance with the provisions of UNCLOS under international law. (O)</p>   | Priority areas shipping                              |
| (2) | <p>The temporary priority area for shipping within SN10 shown in Figure 1 the Appendix, is designated until 31 December 2035, after which it becomes a reservation area.</p>  | Temporary priority area shipping                     |
| (3) | <p>Area SN19, shown in Figure 1 in the Appendix, is designated as a temporary reservation area for shipping until 31 December 2030. The time limit ceases to apply if, by 31 December 2025, the Federal Ministry responsible for shipping proves to the Federal Ministry responsible for marine spatial planning that this area is required for shipping for compelling reasons of safety and efficiency of navigation.</p> <p>The area SO5 shown in Figure 2 in the Appendix is designated as a temporary reservation area for shipping until 31 December 2025. The time limit ceases to apply if, by 30 June 2022, the Federal Ministry responsible for shipping proves to the Federal Ministry responsible for spatial planning that this area is required for shipping for compelling reasons of safety and efficiency of navigation.</p> | Temporary reservation areas shipping                 |
| (4) | <p>Shipping should consider sustainability, hence the impacts of shipping on the marine environment should be reduced. In addition to observing the regulations of the International Maritime Organisation (IMO), best environmental practice in accordance with international conventions on marine protection and the state of the art in science and technology are to be taken into account. (P)</p>  | Sustainability, protection of the marine environment |

## Justification

### *Preliminary remark*

As a coastal state under UNCLOS, the Federal Republic of Germany does not exercise sovereignty; rather it only has functional sovereign rights in the EEZ. Similarly, freedom of navigation in accordance with Article 58 paragraph 1 UNCLOS applies in principle within the EEZ. Freedom of navigation must therefore be given special consideration when organising the functions of the EEZ over which the coastal State exercises sovereign rights. In particular, according to Article 60 paragraph 7 UNCLOS, artificial islands, installations and structures and the safety zones surrounding them shall not be constructed where they may impede the use of recognised shipping lanes important for international navigation. Accordingly, the ROG as well as various specialised laws give high priority to the safety and efficiency of navigation in respect of use of the EEZ. The main purpose of the requirements for ensuring the safety and efficiency of navigation is therefore to keep important shipping routes clear of uses which could impede their use.

In particular, the traffic separation zones in the North Sea and Baltic Sea designated by the IMO must be taken into account. In addition, the actual shipping lanes determined on the basis of AIS traffic analyses as well as the lanes identified as being important in the future are also taken into account.

### *Justification of the objectives and principles*

#### *Re (1) Priority areas shipping:*

Maritime transport to the German seaports on the North Sea and Baltic Sea coasts is an important economic factor for the Federal Republic of Germany as an international trading nation. Global trade cannot flourish without safe and efficient shipping.

The spatial planning provisions for shipping serve in particular to provide additional spatial planning safeguards for basic nautical requirements on important routes. Any requirements going beyond this (nautically necessary extension of shipping routes/manoeuvring space etc.) remain unaffected.

The width of the designated areas is based in particular on the need to spatially secure a shipping route network. Here, nautical considerations are important. The priority areas represent the basic framework which must be kept free of all incompatible uses, in particular installations above the seabed.

From a planning point of view, this will safeguard the safety and efficiency of navigation into the future, and vessels will be able to use all regularly used routes with the necessary ease.

In the North Sea EEZ, the Terschelling German Bight and German Bight Western Approach traffic separation zones are designated as priority areas (SN1 and SN2) over their entire width, including corresponding safety zones. In addition, the main shipping lanes identified based on their traffic level are defined as having a width of 3 nautical miles (1 nautical mile (NM) corresponds to 1.852 km) (SN3 - SN17, with the exception of SN10). The width of 3 NM is based on the shipping routes designated in the 2009 plan, which essentially comprise a 1 NM wide priority area and reservation areas flanking it on both sides, also each 1 NM wide. A differentiation between priority area and reservation area is now dispensed with, since the areas of the former reservation areas are also necessary for sustainably safe shipping and therefore it must not be possible for other uses to

supplant them.

An exception is Route SN10, which in the south takes up traffic from existing traffic separation schemes in the Netherlands and essentially acts as a transit route through the German EEZ to the Danish EEZ and from there to the Baltic Sea. In contrast to the other main shipping routes outside traffic separation schemes, the route is much more heavily used and the traffic is also widely distributed due to the traffic inlets and outlets. Against this background, priority areas are designated here based on the recorded traffic flows.

The German EEZ in the Baltic Sea is a very busy shipping area due to its tightly-meshed spatial interdependencies.

The current traffic observation based on AIS data essentially confirms the picture of 2009, so that the priority and reservation areas designated so far continue to exist. In addition, a designation (SO4) will be made to adapt to the traffic flows and the provisions in the draft Swedish maritime spatial plan.

By respecting existing traffic flows, the operational objective UZ2-03 to prevent and combat marine pollution and to improve maritime emergency preparedness and management of the MSFD are also supported.

*Re (2) Temporary priority area shipping:*

The internationally recognised shipping route Den Helder - Skagen (SN10) is navigated by more than 16,000 ships per year with a continuing upward trend and has a high lateral distribution, with a high proportion of tanker traffic in the western and a high proportion of cargo traffic in the eastern part of SN10. The increase in traffic requires appropriate areas dedicated to shipping to ensure the safety and efficiency of navigation. Therefore, the SN 10 shipping route is designated as a priority area.

However, in conjunction with the Netherlands and Denmark, the Federal Government is currently investigating traffic-directing measures, such as a traffic separation zone in the area of the current shipping route SN 10. If the results of this investigation are positive, corresponding international initiatives, e.g. negotiations in the IMO, will be launched. If these initiatives are positive, the traffic management measures would increase safety and security, since they could, among other things, segregate vessels travelling in opposing directions and in this way possibly reduce the space required for shipping. In this case, a further update of the spatial plan could result in areas no longer required for shipping being allocated for other uses. In this case, utilisation by offshore wind energy could be considered in order to achieve national and European climate objectives. Accordingly, any areas within SN 10 that may no longer be necessary at a later stage are defined in designation 2 as temporary priority areas until 2035. However, in order to ensure that the safety and ease of navigation will continue to be guaranteed even in the event of the failure of internationally coordinated trafficmanagement measures, a reservation for shipping from 31 December 2035 is also designated for these areas.

*Re (3) Temporary reservation areas shipping:*

SN19 and SO5 are designated as temporary reservation areas for shipping. This ensures sufficient time is available for analysing the situation in the areas and to examine whether designation is necessary. The BSH, in consultation with the BMVI and the Directorate-General for Waterways

and Shipping (GDWS), is to commission appropriate expert reports (numerical evaluations, simulations of risk scenarios, etc.), providing the federal ministry responsible for shipping with a means to prove whether the areas will still be necessary for the safety and efficiency of navigation beyond the time limit. The countries bordering the North Sea and the Baltic Sea will be involved in the study and evaluation.

*Re (4) Protection of the marine environment:*

International agreements on the prevention of marine pollution, in particular the International Convention for the Prevention of Pollution from Ships<sup>4</sup>, the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR Convention)<sup>5</sup>, and the Convention on the Protection of the Marine Environment of the Baltic Sea Area (Helsinki Convention) aim to ensure that shipping causes the least possible damage to the marine environment. In addition to the mandatory regulations of the IMO, best environmental practice under the OSPAR Convention and the Helsinki Convention of 1992 with its updates (last update on 1 July 2014) and the respective state of the art must be taken into account.

Compliance with the limit values for sulphur oxide (SO<sub>x</sub>) emissions and nitrogen oxide (NO<sub>x</sub>) emissions as part of the International Convention for the Prevention of Pollution from Ships (MARPOL) also supports environmental objective 1 developed by Germany according to sec.10 of the MSFD: oceans that are not impaired by the effects of anthropogenic eutrophication.

## 2.2 Other economic uses (Section 17 subsection 1 sentence 2 number 2 ROG)

### 2.2.1 General requirements for economic uses

#### **Objectives and principles**

- |       |  |  |
|-------|--|--|
| (1)   | Economic uses should be sustainable and as spatially efficient as possible. (P)  | Sustainability and economic use of space |
| (2)   | Fixed installations are to be dismantled at the end of their use. Further or deviating legal regulations remain unaffected. (O)  | Dismantling                              |
| (3)   | Economic uses should interfere with other uses as little as possible.<br><br>This applies equally to: <ul style="list-style-type: none"> <li>– the safety and efficiency of navigation,</li> <li>– other economic uses,</li> <li>– scientific research,</li> <li>– national and NATO defence, and</li> <li>– cultural heritage. (P)</li> </ul> | Mutual consideration                     |
| (4.1) | Threats to the marine environment through economic uses, in particular adverse impacts on natural functions of the marine  | Avoiding threats to the marine           |

ecosystem, are to be avoided as far as possible. This also includes consideration of species-specific periods during which species are particularly susceptible to disturbance, and consideration of the ecological interrelationships between animal and plant species.

environment

Best environmental practice in accordance with international conventions on marine protection and the state of the art in science and technology are to be taken into account. This is intended to stimulate development in line with the precautionary principle. In this context, no measures will be demanded that are technically unfeasible or cannot be justified in terms of cost-benefit ratios. Technical clauses deviating from the state of the art in science and technology remain unaffected. (P)

Best environmental practice

- (4.2) Findings on the impact of uses on the marine environment obtained during monitoring carried out at project level in accordance with sectoral legislation are to be made available to the Federal Maritime and Hydrographic Agency. (P)

Monitoring

## Justification

### *Justification of the objectives and principles*

#### *Re (1) Sustainability and economic use of space:*

Marine spatial planning is guided by the principle of sustainable spatial development, cf. sec. 1 para. 2 ROG. This also includes using the limited resource of space as efficiently as possible. In the case of competing uses, this means that the individual uses must be as sustainable and spatially efficient as possible. The German EEZ is very limited in size, but at the same time its area is of great importance for various uses and for the marine environment. Spatial efficiency is therefore accorded great importance. This equally applies to all uses.

Preserving natural resources is a prerequisite for their use. Economic uses should therefore be sustainable in the sense of intergenerational justice. This includes fixed and mobile uses in the EEZ. It also includes underground storage technologies, as well as associated transport facilities and installations that support energy security and climate protection, provided they do not spatially interfere with the expansion of renewable energies and offshore wind energy.

In particular, fish stocks are to be managed sustainably in order to ensure long-term fisheries use.

#### *Re (2) Dismantling:*

Sparing use of space also means that areas must be available again for possible subsequent uses when a particular use comes to its end. Due to the limited space available, it is therefore essential for the sustainable use of the EEZ that facilities no longer in use are dismantled. This requirement directly implements the idea of sustainability a core function of spatial planning as expressed in the vision.

This basic idea of dismantling is already expressed in various sectoral legislation and in UNCLOS. The provisions of the sectoral laws and their concerns remain unaffected.

The second sentence of Article 60 paragraph 3 UNCLOS already provides for an obligation under international law to dismantle all abandoned or no longer used installations or structures in order to ensure the safety of navigation, taking into account the generally accepted international standards established in this regard by the competent international organisation.

The dismantling of installations, cables and pipelines creates new space for subsequent use. Follow-on use in this sense also includes the renewed use of areas by offshore wind energy and other energy generation facilities.

*Re (3) Mutual consideration:*

The sustainable development of space also means that in the case of competing uses, spatial planning should work to ensure that the individual uses can develop as best as they can, but that this occurs in a way that affects other uses as little as possible.

Due to the large number of existing and planned economic uses in the EEZ, the sometimes high rate of usage and the resulting pressure of use, it is necessary to plan the economic uses in such a way that they affect each other as little as possible. This principle applies to all uses and requires mutual consideration and coordination. This can be implemented, for example, by coordination in terms of time or by maintaining distances between uses. Thus, this general principle takes up the requirement of the 2009 maritime spatial plan that a sufficient distance from existing pipelines and submarine cables for safe operation and maintenance must be maintained during measures of raw material extraction. The determination of an appropriate distance is the subject of sectoral planning (e.g. the Site Development Plan for offshore wind) or the individual approval procedure.

*Safety and efficiency of navigation:*

This requirement takes into account the requirements of international law, in particular Articles 58 paragraph 1 and 60 paragraph 7 UNCLOS. These requirements have already been specified in some specialised legislation, such as sec. 48 para. 4 no. 2 WindSeeG and sec. 5 para. 3 no. 2 SeeAnIG.

*Scientific research:*

Various research institutes for marine and fisheries research, but also e.g. the BSH, carry out extensive research activities in the EEZ, often regularly and over long periods of time, on recurring routes and at the same locations. These activities should be impeded by economic uses as little as possible, and in the event of potential conflicts, early coordination on possible solutions should take place with the research institutes concerned.

At stationary measuring stations with permanently installed measuring equipment of authorities and research institutes, continuous long-term measurements are usually performed. In order not to jeopardise the series of investigations for basic research and environmental monitoring, uses that could interfere with these measurements should maintain an appropriate distance.

In areas of wind energy, the aim is also to continue to enable marine scientific research not directly related to the planning, construction and operation of wind farms. To this end, the interests of the research institutions are to be taken into account as early as possible in the approval procedures



for wind farm projects, ideally in such a way that there are no negative impacts or delays in the operation of the installations. The interests of research, such as accessing offshore wind farms by research vehicles, should be taken into account as far as possible at subsequent planning and decision-making levels. From the perspective of maritime spatial planning, it would be desirable to draw up appropriate access regulations at subordinate planning levels.

*National and NATO defence:*

With regard to national and NATO defence, military interests and the functional capability of the Bundeswehr must be safeguarded (see also 2.5.1).

A technical legal concretisation is already found in sec. 48 para. 4 no. 3 WindSeeG and sec. 5 para. 3 no. 3 SeeAnIG.

*Cultural heritage:*

Underwater cultural heritage includes all traces of human existence that are of cultural, historical or archaeological significance and either lie on the seabed or in the substrate. This includes submerged landscapes with artefacts, buildings and human and animal remains, as well as plant and geological/geomorphological evidence that has been influenced by human activity. Underwater cultural heritage also includes the wrecks of seagoing vessels, aircraft and other vehicles, parts of wrecks and associated equipment, cargoes and inventories.

The general principle of minimising adverse effects of economic uses on the underwater cultural heritage aims to ensure that appropriate measures are taken at an early stage, in consultation with the technical authorities, to avoid or minimise negative impacts.

The early involvement of the competent authorities for heritage management and archaeology in the context of projects in the EEZ is intended to ensure that the technical classification and appropriate assessment and safeguarding of finds can be carried out in good time and that, where appropriate, existing findings of the competent authorities can be taken into account when planning investigations in the context of projects. This applies in particular to those uses which may directly result in finds or damage to cultural heritage, such as exploration of the seabed. In addition to cultural heritage sites for which knowledge is already available, previously unknown sites and sites newly discovered in the course of economic use should also be taken into account.

*Re (4.1) Avoiding threats to the marine environment:*

Under Section 17 subsection 1 sentence 1 number 4 ROG, the maritime spatial plan is to lay down provisions which serve to protect and improve the marine environment. Any threat to the marine environment is to be avoided as much as possible. Unavoidable impacts are to be reduced as far as possible. This principle also takes up existing technical regulations and generalises them in the interests of sustainable use of the EEZ using the ecosystem approach.

For wind energy at sea or in power cables, for example, the avoidance of hazards to the marine environment is already an assessment criterion in sectoral planning and in the individual approval procedure. Under Section 48 subsection 4 WindSeeG, the plan may only be adopted if the marine environment is not endangered. A similar provision is contained in Section 49 BBergG. According

to sec. 3 of the Mining Ordinance for Coastal Waters and the Continental Shelf (<sup>3</sup>Offshore Mining Ordinance), care must be taken to ensure that adverse effects on the marine environment are avoided or kept as low as possible during mining activities.

Impacts on legally protected biotopes according to sec. 30 BNatSchG should be avoided during the planning, construction and operation of energy generation plants and cables. To avoid negative impacts on sensitive habitats, cables should be planned and laid outside nature conservation areas wherever possible. Further technical and nature conservation regulations remain unaffected.

*Best environmental practice:*

Not all negative environmental impacts can be avoided in the actual economic use. In the interests of minimisation, existing best environmental practice in accordance with the OSPAR and Helsinki Conventions and the state of the art in science and technology should therefore be taken into account. The concrete implementation, e.g. the consideration of species-specific periods of time particularly susceptible to disturbance, is to be regulated, if available, at downstream planning levels, in particular individual approval procedures taking into account the special features of the project area. In this context, no measures will be required whose application is technically unfeasible or which cannot be justified in terms of cost-benefit ratios.

The use of the state of the art in science and technology as a benchmark is made in order to take account of the existing uncertainty and the lack of knowledge at sea in many places, in accordance with the precautionary principle and the ecosystem approach. Technical regulations, such as those in the Offshore Mining Ordinance (OffshoreBergV), remain unaffected. Where the state of the art does not yet exist, the state of science and technology should also be taken into account. This has long been the case, for example, with the minimisation of pile driving noise in the BMU concept for the protection of harbour porpoises from noise pollution during the construction of offshore wind farms in the German North Sea (noise protection concept of 2013). Where recognised rules of technology or a state of the art have been developed, these can be used.

*Re (4.2) Monitoring:*

In order to ensure that the EEZ is used in the most environmentally sound manner possible, the impacts of economic uses on the marine environment, which are obtained in the course of project-related monitoring, are to be made available to the BSH. The intended monitoring can be regulated by corresponding designations of the approval authority and corresponds to the existing approval practice of the sectoral authorities. For the investigation and monitoring of the impacts of wind turbines, the BSH's standard investigation concept regulates the type and scope of the required project-related investigations. The results obtained at project level are used for monitoring the implementation of the maritime spatial plan.

At the same time, monitoring serves to gain further knowledge and thus enables future sustainable use using the ecosystem approach.

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<sup>3</sup> Of 3 August 2016, Federal Law Gazette I p. 1866.



## 2.2.2 Offshore wind energy

### Objectives and principles

- |       |   |   |
|-------|---|---|
| (1)   | <p>The areas EN1 to EN3, EN6 to EN13 and EO1 to EO3 shown in Figure 3 and Figure 4 in the Appendix are designated as priority areas for offshore wind energy.</p> <p>The area EN13-North shown in Figure 3 in the Appendix becomes a priority area for offshore wind energy on 1 January 2030, unless the Federal Ministry responsible for shipping proves to the Federal Ministry responsible for spatial planning by 31 December 2025 that this area is required for shipping for compelling reasons of safety and efficiency of shipping traffic.</p>  | <p>Priority areas offshore wind energy</p> <p>Conditional priority area offshore wind energy</p>        |
| (2)   | <p>The areas EN4, EN5, and EN14 to EN19 shown in Figure 3 and Figure 4 in the Appendix are designated as reservation areas for offshore wind energy.</p> <p>The area EO2-West shown in Figure 4 in the Appendix becomes a reservation area for wind energy at sea on 1 January 2025 unless the Federal Ministry responsible for shipping proves to the Federal Ministry responsible for spatial planning by 30 June 2022 that this area is required for shipping for compelling reasons of safety and efficiency of shipping traffic.</p> <p>The area EN20 shown in Figure 3 becomes a reservation area for offshore wind energy on 1 January 2027 unless the Federal Ministry responsible for fisheries research proves to the Federal Ministry responsible for spatial planning by 31 December 2026 that keeping the area free of offshore wind turbines is essential for fisheries research.</p> | <p>Reservation areas offshore wind energy</p> <p>Conditional reservation areas offshore wind energy</p> |
| (3)   | <p>Where offshore wind energy areas EO2 West and EN20 overlap with reservation areas for research FoN3 and FoO3, fisheries research is to remain possible for type and scope of research that has been carried out to date. (P)</p>   | <p>Multiple use</p>   |
| (4)   | <p>Fishing vessels should be able to pass through wind farms on their way to fishing grounds. Passive fishing with fish traps and baskets should be possible in the safety zones surrounding wind farms; however, this does not apply to the area bounded by the external installations of the wind farm and not in the immediate vicinity of the outer turbines. Sentences 1 and 2 apply insofar as the construction, operation and maintenance of the wind farms are impeded as little as possible, and subject to conflicting regulations under technical law. (P)</p>   | <p>Fishing</p>  |
| (5.1) | <p>Wind farms and their safety zones may be passed through by</p>   | <p>Defence</p>  |

vehicles of the Bundeswehr in accordance with the principles of good seamanship, provided that the operation and maintenance of the wind farms are not or only insignificantly impaired. (O)

- (5.2) The Bundeswehr is to be given the possibility to install and operate fixed facilities such as transmitters and receivers on energy generation facilities. Sentence 1 applies subject to the proviso that the operation of military installations on wind turbines is necessary for national and NATO defence, and that the operation of wind turbines is impaired by such installations as little as possible. (P)

- (6) In accordance with the state of the art in science and technology, the introduction of noise into the marine environment during the construction of installations for energy generation should be avoided.

Protection of the marine environment

There should be overall coordination of the construction work of installations for energy generation and of installations which are spatially related to them. (P)

## Justification

### *Preliminary remark*

Maritime spatial planning brings together the interests of different uses and makes provisions for uses and the diverse functions of the sea.

The maritime spatial plan designates priority and reservation areas and sets out other objectives and principles for various uses at a supraordinate planning level. In addition, there is a staged planning and approval process for offshore wind energy. Relevant sector planning comprises the site development plan, determining the suitability of areas and the concrete approval of wind energy plants.

The site development plan for offshore wind (FEP), which is drawn up and updated by the BSH, serves as a specialist planning instrument for wind energy. The FEP was published for the first time on 28 June 2019 and serves to implement the expansion target for offshore wind energy in accordance with the WindSeeG. The plan mainly specifies areas and sites for wind turbines, the expected capacity to be installed on the sites and the order in which the sites are to be put out to tender. In addition, the FEP defines routes, route corridors, locations and planning and technical principles. Pursuant to Section 5 subsection 3 number 1 WindSeeG, designations in the FEP are inadmissible in particular if they do not comply with the requirements of spatial planning pursuant to Section 17 subsection 1 of the ROG. In this respect, designations in sectoral and spatial planning need to be aligned.

### *Justification of the objectives and principles*

#### *Re (1) Priority areas offshore wind energy:*

Safeguarding areas for offshore wind farming is an expression of the spatial planning vision for sustainable development that protects the climate. In particular, it enables implementation of the guiding principles of climate-friendly energy, energy security and the attainment of national and international climate goals, including the greenhouse gas neutrality target for 2050 set out under the Green New Deal.

The starting point for the definition of priority areas for wind energy are the areas O-1 and O-3 (Baltic Sea), N-1 to N-3 and N-6 to N-13 (North Sea) as defined in the FEP 2020. These areas are defined as priority areas EN1 to EN3 and EN6 to EN13 (North Sea) and EO1 to EO3 (Baltic Sea).

The designation of area EN13 North as a priority area for offshore wind energy from 1 January 2030 is subject to the proviso that the federal ministry responsible for shipping does not prove to the federal ministry responsible for spatial planning by 31 December 2025 that this area is required for shipping for compelling reasons of safety and efficiency of navigation. This gives sufficient time to analyse maritime traffic in the area and to examine whether it will be required instead for shipping.

The extent of the unconditional priority areas for offshore wind energy seeks to ensure an installed capacity of up to 28 GW, and secures offshore wind energy expansion up to 2035 in areas EN11 to EN13. The designated priority areas for offshore wind energy thus also serve to achieve the expansion target for offshore wind energy of 20 GW by 2030 as specified in the Integrated National Energy and Climate Plan<sup>4</sup> and as a contribution to the decarbonisation of the electricity sector by 2050. Section 1(3) of the Renewable Energy Sources Act (EEG) states that all electricity generated or consumed within the territory of the Federal Republic of Germany, including the German exclusive economic zone, should be generated in a carbon-neutral manner by 2050.

By way of clarification, the following is pointed out: Whether an offshore wind farm is permissible in offshore wind farming areas in the specific manner requested is decided by the approval authority. A spatial designation for offshore wind has the effect that this area is kept free from incompatible uses and that it is considered fundamentally suitable for the priority use.

#### *Re (2) Reservation areas offshore wind energy:*

The unconditional reservation areas for offshore wind energy secure areas for up to 15 GW of installed capacity in support of the continued expansion of offshore wind energy. Similarly, the designation of conditional reservation areas serves to consider spatial potential closer to the coast and to secure further expansion based on the best possible data, particularly with regard to competing uses.

The WindSeeG sets an expansion target of 40 GW by 2040.

Similarly, the 2021 - 2035/2040 scenario framework of the transmission system operators, approved by the BNetzA on 26 June 2020, envisages an installed generation capacity of 28 to 34 GW

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<sup>4</sup> Of 13 October 2016, BGBl. I p. BGBl. Jahrgang 2016 I page 2258, 2310.

by 2035 and 40 GW by 2040, depending on the scenario. Significant spatial potential for expansion beyond 35 GW is predominantly found in the area northwest of shipping route SN10. The above-mentioned objectives are to be secured by the maritime spatial plan, as they serve to develop the EEZ with a view to a sustainable energy supply for future generations. Due to the lack of conclusive findings on the environmental impacts and the time horizon beyond medium-term planning, the areas are designated as reservation areas.

In the continuous evaluation and future updating of the plan, special consideration will be given to the concerns of shipping with regard to northbound routes (possible ice-free North Pole and associated shifts in shipping routes) in order to ensure needs-adjusted transport links to the German Bight area and to enable transit through the EEZ.

The designation of EO2-West as a reservation area for offshore wind energy from 1 January 2025 is subject to the proviso that the Federal Ministry responsible for shipping does not prove to the Federal Ministry responsible for spatial planning by 30 June 2022 that this area is required for shipping for compelling reasons of safety and efficiency of navigation. This gives sufficient time to analyse maritime traffic in the area and to examine whether it will be required instead for shipping.

The designation of EN20 as a reservation area for offshore wind energy from 1 January 2027 is subject to the proviso that the Federal Ministry responsible for fisheries research proves to the Federal Ministry responsible for spatial planning by 31 December 2026 that the area layout of FoN3 as shown in Figure 10 is suitable for research. This ensures sufficient time for analysing the potential for multiple use of EN20 and reviewing its suitability for fisheries research.

*Re (3) Multiple use:*

The overlap of offshore wind energy areas EN20 and EO2 with reservation areas for research FoN3 and FoO3 takes account of both the expansion targets for renewable energies and fisheries research. In order to enable multiple use in practice, it should be ensured that fisheries research can be continued in the usual manner (including the necessary ground-based fisheries research) once wind turbines are erected.

*Re (4) Fisheries:*

The large-scale use of space for energy production and planned fisheries management measures in nature conservation areas in the EEZ are likely to deprive the fishing sector of more areas for fishing. Against this background, scientific research is to be carried out to determine whether and to what extent joint use of areas by offshore wind energy and fisheries can be made possible, taking into account safety concerns both with regard to passive and active fisheries.

*Re (5.1) Defence:*

The increase of fixed installations in the EEZ is associated with a restriction in the freedom of movement of Bundeswehr vehicles; at the same time, it is to be expected that areas with built infrastructure will become operational space in a defence situation. In order to ensure effective national defence, it is necessary to access wind farm areas already in peacetime, and the designation of wind energy areas as part of a maritime spatial plan must not impede this. Offshore wind farms should be navigated in accordance with the principles of good seamanship, i.e. they should generally be crossed to reach a destination outside the wind farms and, in particular, no exercise activi-

ties should take place within the wind farms that would impede the safe and economic operation of the wind farm.

With regard to national and NATO defence, military interests and the functional capability of the Bundeswehr need to be safeguarded.

*Re (5.2) Defence:*

According to the Bundeswehr, many of the to-be-installed new wind turbines will make reconnaissance more difficult; however, the wind farms and their ancillary facilities offer extensive possibilities for installing technical equipment. To prevent further impairment of the country and NATO defence, installation possibilities are therefore to be provided in particular for equipment used for reconnaissance.

In order to secure national and NATO defence, sufficiently large military training areas are required which are suitable for the respective purpose and can be reached without restricting operational readiness. These include areas (cf. chapter 2.5.1) on and above the sea surface, i.e. areas from airspace to the sea floor.

*Re (6) Protection of the marine environment:*

The principle supports orderly and sustainable spatial development by minimising noise immisions and by coordinating current and future spatial requirements. This takes into account the ecosystem approach, the precautionary principle and the interactions and cumulative effects of uses.

The application of noise mitigation measures in accordance with the state of the art in science and technology reduces noise emissions into the marine environment, which are often associated with the construction of wind turbines. The principle consistent with the administrative practice of the BSH and the stipulations of the FEP 2019. Already now, the use of effective technical noise mitigation systems will be required at the project level during the installation of wind turbines in order to meet species and site protection objectives. The BMU's 2013<sup>5</sup> noise mitigation concept for the North Sea should be taken into account.

In this way, MSFD environmental objective 6 "Oceans that are not impaired by anthropogenic energy inputs" and the operational objective UZ6-04 "Development and application of noise mitigation measures for the North and Baltic Seas" are both simultaneously supported.

In order to avoid or mitigate cumulative effects, an overall coordination of the timing of the construction work should be aimed for. This also includes the reduction to a minimum of shipping traffic for construction and operation and the associated acoustic and visual disturbances through optimal construction and time planning. Disproportionate additional expenditure for the expansion of renewable energy should not arise from the requirement for overall time coordination.

Details are regulated within the framework of the sectoral planning of the FEP and the individual approval procedures for offshore wind energy.

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<sup>5</sup> BMU (2013) Concept for the protection of harbour porpoises from noise pollution during the construction of offshore wind farms in the German North Sea (noise mitigation concept).

### 2.2.3 Cables and pipelines

The following objectives and principles do not apply to power-carrying submarine cables used for connection within a wind farm (farm internal cabling).

#### Objectives and principles

- |     |   |  |
|-----|---|--|
| (1) | The areas LN1 to LN15 and LO1 to LO8 shown in Figure 5 and Figure 6 in the Appendix are designated as reservation areas for subsea cables and pipelines.  | Reservation areas cables and pipelines               |
| (2) | Cables and pipelines should be routed in the designated reservation areas. (P)  |  |
| (3) | At the transition to the territorial sea, cables and pipelines are to be routed through the connecting gates GN1 to GN7 and GO1 to GO5 shown in Figure 5 and Figure 6 in the Appendix. Conflicting uses are excluded in these connecting gates. (O)   | Connecting gates to the territorial sea              |
| (4) | If the spatial capacity in the areas of the respective connective gates mentioned in designation 2.2.3 (3) with the above-mentioned routes is exhausted, the route of any additional lines that may become necessary should be bundled and, in coordination with the coastal federal state concerned, moved to suitable transition points on the border with the territorial sea. (P)   | Appropriate transition points to the territorial sea |
|     | Cables and pipelines crossing the EEZ border should be bundled and routed to the border corridors GN8 to GN19 and GO6 to GO12 (cf. Figure 5 and Figure 6) in coordination with the neighbouring state concerned. (P)  | Connecting gates to neighbouring states              |
| (5) | Cables and pipelines should be bundled as far as possible in the sense of parallel routing with existing infrastructure. Traffic separation areas, their continuations and the Kiel-Ostsee route should be crossed by the shortest route possible, insofar as routing parallel to existing structures in line with sentence 2 is not possible. Crossing of the lines among themselves should be avoided as far as possible. Subsea power and data cables should be provided with a permanent cover to protect other uses and functions. (P) | Minimising impacts                                   |
| (6) | When laying cables, overall temporal coordination must be ensured and the most non-disruptive laying procedure possible must be chosen. (P)   | Marine environment                                   |

## Justification

### *Justification of the objectives and principles*

#### *Re (1) and (2) Reservation areas cables and pipelines:*

The designation of reservation areas for cables and pipelines ensures that other uses take into account their special protection requirements. Offshore wind energy areas far from the coast require onshore connections. In addition, further expansion of cross-border undersea cables is foreseeable. The designation supports the securing of corresponding route corridors. The width and dimensioning of the reservation areas is based on forward-looking planning. Among other things, this is intended to ensure that the power generated can be transmitted.

#### *Re (3) Connecting gates to the territorial sea:*

This designation ensures that cables and pipelines are routed through certain connecting corridors to the territorial sea. In this way, the lines are concentrated as far as possible at these points and bundled for further outward routing to land. The precise route and location planning of grid connections for offshore wind turbines is the subject of sectoral planning. The same applies to cross-border power lines.

#### *Re (4) Appropriate transition points to the territorial sea:*

The principle ensures flexibility in responding to a possible change in the situation which cannot be foreseen at this stage.

#### *Connecting gates to neighbouring states:*

The pipeline route should be bundled and coordinated with the affected bordering state to the border corridors GN8 to GN19 and GO6 to GO12 at the EEZ border to ensure coherent planning with neighbouring states.

#### *Re (5) Minimising impacts:*

In order to minimise the impact on other uses and the need for coordination among and with other uses, and in line with sustainable spatial development, linear infrastructure should be bundled as far as possible. Bundling in the sense of parallel routing also reduces fragmentation effects. In accordance with the guideline of sparing use of space in the sense of minimising interventions, lines should be planned to be as space-saving as possible. Planning should take into account and make full use of the technically possible transmission capacity.

#### *Crossings:*

Avoiding crossings with other structures intends to reduce the associated environmental impacts, the risk to fishing vessels and gear, and use of space. In addition, crossing structures are more prone to failure and thus require more maintenance.

#### *Cover:*

When selecting the covering and the necessary laying depth for power and data cables, special consideration should be given to the concerns of shipping, national and NATO defence, fishing vessels and protection of the marine environment. Sufficient cover reduces the potential for conflict with other uses, such as the risk of damage from anchor drops or from trawl nets/shear boards; the



exclusion effect of cable routes for fisheries can be mitigated. Coexistence of power and data cables and shipping is only possible with adequate cover of cables. The risk of power and data cables being washed free and damaged is reduced, which means that any adverse effects on marine traffic and the environment associated with repair work can be significantly reduced. With a sufficient cover, a possible temperature increase in the upper sediment can also be limited and the effects of electromagnetic fields reduced. As a principle of spatial planning, this designation is open to consideration. One weighing criterion here is proportionality, with the consequence that the obligation to provide adequate cover at project level is limited if this would require a disproportionate effort.

*Crossing of shipping routes:*

Some of the shipping routes in the German EEZ are very busy. In the North Sea, these are mainly designed as traffic separation schemes, in the Baltic Sea only partly. Due to their high importance for international shipping, a conflict of use between cables and shipping should be avoided by minimising the overlap of cables and pipelines with the highly frequented shipping routes. This minimises potential conflicts during laying, operation and possible removal of cables and pipelines.

*Re (6) Marine environment:*

When laying cables and pipelines, possible adverse effects on the marine environment should be minimised.

*Timed overall coordination and gentle installation procedure:*

Overall time coordination is to be strived for when laying adjoining submarine cables. Thus, the number of disruptive interventions can be reduced and possible cumulative effects can be avoided or reduced.

To minimise possible negative impacts on the marine environment caused by the laying of cables and pipelines, the laying method which is expected to have the least impact and adverse effects on the marine environment should be chosen. Disproportionate additional expenditure for the expansion of renewable energy should not arise from the need for overall temporal coordination.

## 2.2.4 Raw material extraction

### Objectives and principles

- |     |   |   |
|-----|---|---|
| (1) | The areas SKN1, SKN2 and SKO1 shown in Figure 7 and Figure 8 in the Appendix are designated as reservation areas for sand and gravel extraction, and the areas KWN1, KWN2, KWN3, KWN4 and KWN5 as reservation areas for hydrocarbons. | Reservation areas raw material extraction |
|-----|---|---|



## Justification

### *Justification of the objectives and principles*

#### *Re (1) Reservation areas raw material extraction:*

The spatial designation as reservation areas serves to secure space for raw material extraction and supports mineral raw material security in accordance with the Raw Materials Strategy of the Federal Republic of Germany of 2010 and the 2020 update.

The onshore deposits of sand and gravel are not sufficient to meet the needs of industry, especially the construction industry. In Germany, supply bottlenecks are already occurring because raw material extraction is restricted by competing uses such as national and European water, nature and landscape conservation areas as well as built-up areas, agriculture and groundwater extraction.

Sand and gravel extraction in the sea has special site conditions that are not comparable with those on land. Moreover, the raw materials are limited, localised and cannot be increased.

The starting point for defining the reservation areas of sand and gravel are the licences BSK 1, OAM III and Adlergrund Nordost in accordance with Section 8 BBergG. Mining licences are issued upon application and entitle the licence holders to exploration and extraction of the respective mineral resources (Section 8 BBergG).

The location in the priority nature conservation areas Sylter Außenriff - Östliche Deutsche Bucht (Sylt Outer Reef - Eastern German Bight) and Pommersche Bucht - Rönnebank (Pomeranian Bight - Rönnebank) does not fundamentally preclude raw material extraction from a spatial planning point of view. The exact form of mining operation will be determined in the mining law procedure.

The basis for the designation of the hydrocarbon reservation areas are the licence fields NE3-0002-01, NE3-0001-01 and B 20 008/71 according to Section 7 BBergG. The basis for the designation of KWN1 is the German North Sea A6/B4 licence pursuant to Section 8 BBergG.

The location in the Dogger Bank nature conservation priority area does not preclude raw material extraction from a spatial planning point of view. The exact design of extraction will be determined in the mining law procedure.

The spatial designations for the extraction of hydrocarbons help to secure raw materials in the Federal Republic of Germany.

## 2.2.5 Fisheries and marine aquaculture

### Principles

- |     |   |  |
|-----|---|--|
| (1) | The area FiN1 in the area of the Southern Mudflats shown in Figure 9 in the Appendix is designated as a reservation area for Norwegian lobster fisheries.   | Fishery reservation area Norwegian lobster |
| (2) | Aquaculture facilities should be set up in close proximity to or in combination with other existing or under-construction installations. The maintenance and operation of such facilities should be affected as little as possible by the construction and operation of aquaculture facilities. Environmentally friendly types and forms of aquaculture should be chosen (P). | Site combination with other installations  |

### Justification

#### *Justification of the objectives and principles*

##### *Re (1) Reserved fishing area:*

Fishing is carried out throughout the EEZ of the North Sea and Baltic Sea. Data on fishing effort show focal areas, but also often strong spatial variability from year to year depending on the target species, fishing gear or vessel origin. Against this background, it does not seem appropriate to define spatial areas to take account of the concerns of specific fisheries.

An exception is the Norway lobster (*Nephrops norvegicus*) fishery in the German EEZ of the North Sea. In the area of the Southern Mudflats, the sediment there makes for a particularly suitable habitat for this species which can be spatially delimited.

The designation of the reservation area spatially safeguards Norway lobster fishing in this area. It must be given special consideration when weighing it against other spatially significant plans, measures and projects.

##### *Re (2) Site combination with other installations:*

In line with efficient use of marine space, a framework is provided for possible future marine aquaculture projects. In order to create synergy effects, proximity to existing installations, such as wind turbine foundations, is a useful consideration for the construction of marine aquaculture facilities. Existing installations are necessary for attaching of longlines or cages, for example. The smooth maintenance and operation of the existing installations should be ensured. As a result of research projects, locations close to the coast, e.g. north of Borkum, appear to be particularly suitable for marine aquacultures.

## 2.3 Scientific uses (Section 17 subsection 1 sentence 2 number 3 ROG)

### Marine research

#### Principles

- |     |  |   |
|-----|--|---|
| (1) | The areas FoN1 to FoN3 and FoO1 to FoO4 shown in Figure 10 and Figure 11 in the Appendix are designated as reservation areas for research.   | Reservation areas<br>research                           |
| (2) | Research activities should be carried out in such a way that the safety and efficiency of navigation, the development of offshore wind energy, national and NATO defence and cultural heritage are affected as little as possible. (P) | Minimising interference with other uses                 |
| (3) | Research should be conducted with sustainability in mind. Best environmental practice in accordance with international conventions on marine protection should be taken into account. (P)  | Sustainability and protection of the marine environment |

#### Justification

##### *Justification of the objectives and principles*

##### *Re (1) Reservation areas for research:*

In areas designated as reservation areas for research, research is given special weight in the context of other uses in order to ensure continuation of research activities. The areas correspond in size to the GSBTS boxes (North Sea), which are located wholly or partly in the EEZ, and the updated BALTBOX areas (Baltic Sea) of the Thünen Institute, in which large-scale studies on the abundance and composition of fish fauna near the sea bed are carried out in long-term research series. The results of the trawl surveys carried out are included in the annual ICES stock survey, but also in monitoring for the MSFD. The continuity of these research activities could be jeopardised by incompatible uses, in particular by structural installations.

##### *Re (2) Minimising interference with other uses:*

In principle, research in the EEZ enjoys the freedom guaranteed under Article 238 UNCLOS, but on the premise that other permitted uses must not be unjustifiably interfered with (Article 240 UNCLOS). This is in line with the guiding principle of sustainable spatial development and is therefore supported by this principle.

With regard to maritime and air transport, research activities are to be carried out in such a way that the safety and free flow of traffic are affected as little as possible.

With regard to national and NATO defence, military interests and the functional capability of the Bundeswehr must be safeguarded.

Certain marine research may have adverse effects on national and NATO defence through the collection of sensitive data. Due to the special physical properties of the planning area, these impacts are also of relevance to spatial planning. The principle therefore serves to protect national and NATO defence against adverse effects. It has already been specified in some cases

in technical terms, cf. Section 1 subsection 2 number 4 in conjunction with Sections 6 subsection 1 and 7 number 2 SeeAnlG.

The early involvement of the authorities responsible for heritage management and archaeology in the context of research projects in the EEZ is intended to ensure that the technical classification and the appropriate evaluation and preservation of finds can be carried out in good time and that, where appropriate, existing knowledge of the relevant authorities can be taken into account in the preparation of research projects. The principle is intended to ensure that - in consultation with the relevant authorities - appropriate measures are taken at an early stage to avoid negative impacts as far as possible.

For the rest, reference is made to the justification for designation 2.2.1 (7).

*Re (3) Protection of the marine environment:*

The concrete design of marine scientific research should seek to avoid adverse effects on the marine environment and in particular on the natural functions in the area as far as possible. Best environmental practice in accordance with the OSPAR and Helsinki Conventions, other relevant international agreements and the state of the art in science and technology should be taken into account.

## 2.4 Protection and improvement of the marine environment (Article 17 subsection 1 sentence 2 number 4 ROG)

### Nature Conservation / Seascape / Open Space

#### Objectives and principles

- (1) The national marine protected areas in the EEZ Borkum Riffgrund<sup>6</sup>, Dogger Bank<sup>7</sup>, Sylt Outer Reef - Eastern German Bight<sup>8</sup> in the North Sea and Fehmarn<sup>9</sup> Belt<sup>10</sup>, Kadet Trench and Pomeranian Bay - Rönne Bank<sup>11</sup> in the Baltic Sea shown in Figure 12 and Figure 13 in the Appendix are designated as priority areas for nature conservation in accordance with their conservation objectives. Sentence 1 does not apply to the area of the northern approach and the outer roadstead of the ports of
- Priority areas  
nature conservation

<sup>6</sup> Ordinance on the designation of the nature reserve "Borkum Riffgrund" of 22 September 2017, BGBl. I p. 3395.

<sup>7</sup> Ordinance on the designation of the "Doggerbank" nature reserve of 22 September 2017, BGBl. I p. 3400.

<sup>8</sup> Ordinance on the designation of the nature reserve "Sylt Outer Reef - Eastern German Bight" of 22 September 2017 (BGBl. I p. 3423)

<sup>9</sup> Ordinance on the designation of the "Fehmarnbelt" nature reserve of 22 September 2017, BGBl. I p.3405.

<sup>10</sup> Ordinance on the designation of the "Kadetrinne" nature reserve of 22 September 2017, BGBl. I p.3410.

<sup>11</sup> Ordinance on the designation of the nature reserve "Pommersche Bucht - Rönnebank" of 22 September 2017, Federal Law Gazette I p. 3415.

Szczecin and Świnoujście shown on the map.

The area shown in Figure 14 in the Appendix is designated as a priority area for divers.

Priority area  
divers

In the priority areas for nature conservation and divers, raw material extraction and military uses are not excluded from a spatial planning perspective in areas defined as reservation areas for raw material extraction (Figure 7) or defence (Figure 18) (O)

Where priority areas for nature conservation or divers overlap with priority areas for shipping, shipping enjoys priority within the framework of the international legal requirements of UNCLOS. (O)

- |      |   |   |
|------|---|---|
| (1a) | The areas StN1 to StN3, shown in Figure 14 in the Annex, are designated as reservation areas for divers.  | Reservation areas<br>divers                         |
| (2)  | Military use should interfere with the conservation objective of the priority area for divers as little as possible. In the period from 1 March to 15 May of any given year, there should be no interference by sand and gravel extraction. The Bundeswehr and the competent authority for nature conservation should come to an agreement with respect to military use. (P)  | Multiple use, priority<br>area divers               |
| (3)  | The main summer concentration area of harbour porpoises in the North Sea EEZ identified in the BMU's 2013 noise mitigation concept (cf. Figure 15) is designated as a seasonal reservation area for harbour porpoises (May to August). (P)  | Seasonal reserva-<br>tion area harbour<br>porpoises |
| (4)  | In the area shown in Figure 16 construction of installations above the water surface is precluded until 31 December 2022. (O)   | Temporary<br>exclusion of<br>installations          |
| (5)  | The areas of the bird migration corridors "Fehmarn-Lolland" and "Rügen-Schonen" shown in Figure 17 in the Appendix can in principle be used by wind energy, provided they are designated as priority or reservation areas for wind energy. During mass migration events, wind turbines should not operate in bird migration corridors if other measures are insufficient to prevent a demonstrated significantly increased collision risk of birds with wind turbines. Under the same conditions, no construction and maintenance work should take place. (P) | Bird migration corri-<br>dors                       |
| (6)  | The EEZ should be permanently preserved and developed as a natural area, taking account of its typical natural forms and interactions, in order to preserve biodiversity. Natural resources should be used sparingly and carefully in accordance with principle of sustainability outlined in the vision. Adverse effects on the ecological balance are to be avoided and reduced as far as   | Preservation of the<br>EEZ as a natural<br>area     |

possible, taking into account the objectives of the Federal Nature Conservation Act, the precautionary principle and the ecosystem approach. (P)

- |     |   |  |
|-----|---|--|
| (7) | Barrier effects in the sea to migratory species should be avoided. (P)  | Migratory species                        |
| (8) | The seascape and its uniqueness and typical large-scale open character should be preserved. The EEZ should be permanently preserved and developed extensively as an ecologically intact open space. Its importance for functioning seabeds, marine waters, flora and fauna (biodiversity) and the climate is to be safeguarded as much as possible. (P) | Safeguarding and preserving the seascape |

## Justification

### *Preliminary remark*

In contrast to the other types of use, marine nature conservation is not a use in the narrower sense, but a fundamental spatial function that covers a wide area. It highlights the special importance of marine nature and the marine ecosystem, and must be taken into account by other uses. The environmental objectives of relevant international agreements and directives as well as national regulations are taken as a foundation. The European legal framework for marine environmental protection and nature conservation, in particular the Maritime Spatial Planning Directive and the Marine Strategy Framework Directive, is explained in more detail in the environmental reports. The transboundary character of marine nature should also be emphasised. Given that landscape planning, which is typical for terrestrial environments, is lacking in the EEZ, marine spatial planning has a special responsibility for nature conservation.

### *Justification of the objectives and principles*

#### *Re (1) Priority areas for nature conservation and priority area for divers:*

The designation of priority areas for nature conservation is designed to support the protection purposes of marine protected areas and to safeguard them through spatial planning. The Borkum Reef Ground, Dogger Bank, Sylt Outer Reef - Eastern German Bight, Fehmarn Belt, Kadet Trench and Pomeranian Bay – Rønne Bank nature reserves are of outstanding importance for nature conservation, particularly for the protection of marine mammals, seabirds and Natura 2000 habitat types.

Germany has brought forward its aim to be climate neutral to 2045, requiring considerable added expansion of renewable energies. More areas will therefore be needed in the EEZ for use by offshore wind farming. The Dogger Bank is well suited to offshore wind farming and is to deliver an added potential of 4-6 GW if this can be achieved in an ecologically sound way. The Federal Government will therefore commission studies on offshore wind farming on the Dogger Bank in line with nature conservation objectives. The ministry responsible for maritime spatial planning, together with the ministries responsible for environment and energy, will present a report to Cabinet by 31 December 2024.

The main distribution area of divers - delineated in the "Position Paper of the Federal Environment Ministry's Department on the Cumulative Assessment of Diver Habitat Loss due to Offshore Wind Farms" (2009) - is of outstanding conservation importance for the protection of diver species which are sensitive to disturbance. The main concentration area of divers takes into account the period that is particularly important for the species, which is spring. To meet legal requirements for species conservation, significant cumulative impact on this important diver habitat in the North Sea EEZ is to be avoided. Particular consideration should be given to the fact that offshore wind turbines will lead to avoidance effects and permanent loss of habitat. The designation of the nature conservation priority areas also supports MSFD environmental objective 3 "Seas with marine species and habitats unaffected by impacts of human activities".

In the priority areas for nature conservation and the priority area for divers, uses that are incompatible with nature conservation are excluded. This supports the conservation purposes of the areas, especially with regard to potential significant impacts on protected habitat types, species or biotopes. As a matter of principle, the determination of which uses are excluded is left to the assessment of individual cases at project level.

In some areas, priority areas for shipping overlap with priority areas for nature conservation and the priority area for divers. According to the provisions of UNCLOS to be applied under Section 1 subsection 4 ROG, a restriction of shipping in the EEZ is only possible under the conditions laid down therein, so that there can be no legal conflict of interests. Furthermore, Section 57 subsection 3 number 1 BNatSchG stipulates that restrictions on shipping are not permitted in nature reserves.

In the areas where the priority area for nature conservation overlaps with reservation areas for sand and gravel extraction, raw material extraction in the existing permit areas continues to be permissible from a spatial planning perspective as comparable mining conditions cannot be found on land. Compliance with the requirements of the respective nature conservation area ordinances remains unaffected.

In those areas where priority areas for nature conservation overlap with reservation areas for the extraction of hydrocarbons, the extraction of raw materials is compatible with the respective priority area for nature conservation from a spatial planning perspective. Compliance with the requirements of the applicable nature conservation area ordinances remains unaffected.

The designation of the nature conservation priority areas also supports MSFD environmental objective 3 "Seas with marine species and habitats unaffected by impacts of human activities."

#### *Re (1a) Reservation areas divers*

The areas StN1 to StN3 shown in Figure 14 in the Annex are designated as reservation areas for divers. The offshore wind turbines already approved in these reserved areas can be operated for the duration already approved. This combined approach of priority and reservation areas for divers ensures the priority protection of the divers in large parts of the area, safeguards the special importance of the reservation area for divers, and, at the same time, takes account of the expansion of wind energy and the use of areas EN4 and EN5.

#### *Re (2) Multiple use, priority area divers:*



The priority area for divers overlaps to a large extent with reservation areas for defence. In order to safeguard military interests and to ensure the continued functioning of the Bundeswehr, the Bundeswehr authorities and the competent authority for nature conservation should reach an agreement on the use of the area during the period from 1 March to 15 May, when the occurrence of divers, which are sensitive to disturbance, is particularly high.

During this same period, there should also be no adverse effects from sand and gravel extraction. The final decision on the permissibility of raw material extraction is made at project level.

*Re (3) Reservation area harbour porpoises:*

The main concentration area of harbour porpoises in the German North Sea EEZ from May to August, as delineated in the noise mitigation concept of the Federal Environment Ministry (2013), is of outstanding conservation importance for the protection of harbour porpoises. Harbour porpoises use the area intensively in the summer months.

The spatial planning area designation is intended to ensure that sufficient suitable habitat is available for harbour porpoises. The designation of the area is limited to the sensitive period for harbour porpoises.

In order to avoid and reduce possible significant cumulative impacts on the harbour porpoise population, and to comply with species protection requirements, significant adverse effects on this important harbour porpoise habitat in the North Sea EEZ should be avoided. When erecting wind turbines, special attention should be paid at the approval level to the effectiveness of avoidance and mitigation measures, especially during the sensitive season. This applies primarily to impulse-type noise emissions.

The designation of a harbour porpoise reservation area also supports the MSFD environmental objective 3 "Seas with marine species and habitats unaffected by impacts of human activities."

*Re (4) Temporary exclusion of installations above the water surface:*

Keeping the area free of installations above the water surface serves to ensure that compensatory measures to ensure the coherence of the Natura 2000 network can be implemented, compensating for adverse effects caused by existing wind turbines in the priority area for divers. In order to enable nature conservation to develop its own compensation scheme, the temporary designation 2.4 (4) is made to provide spatial planning support, which temporarily protects the area in question from conflicting uses. This is in line with the guiding principle of sustainable spatial development: keeping the area free of other uses is part of the overall spatial concept that underlies the maritime spatial plan, which considers offshore wind energy for the purpose of climate protection and nature conservation to be necessary elements of the sustainable development of marine space.

*Re (5) Bird migration corridors:*

The designation of the bird migration corridors "Fehmarn-Lolland" and "Rügen-Schonen" takes into account the special importance of bird migration across the Fehmarn Belt, the so-called flyway, and across Rügen to Sweden.

The principle ensures targeted protection of bird migration as an essential element of the marine environment by resolving the conflict with offshore wind energy in an appropriate manner. It thus follows the precautionary principle and the ecosystem approach.



The need for avoidance and mitigation measures - this could be, for example, the shutdown during mass migration events - in the bird migration corridors "Fehmarn-Lolland" and "Rügen-Schonen" 3 supports MSFD environmental objective 3 "Seas with marine species and habitats unaffected by impacts of human activities" and contributes to the implementation of operational objective UZ3-02 "Measures for the protection of migratory species in the marine environment".

Clear and operational guidelines are needed for monitoring and shutdown systems and for what is classed as a mass migration event during spring and autumn migration. When a mass migration event is found to occur in line with these guidelines and measurements in areas with offshore wind turbines, measures for the protection of bird migration must be initiated immediately, in particular measures that prevent the collision of birds with wind turbines if there is an increased risk of collision.

*Re (6) Preservation of the EEZ as a natural area:*

Section 2 subsection 2 number 6 of the ROG formulates principles of spatial planning which are reflected in this principle, adapted to the conditions in the EEZ:

- Nature and landscape, including marine areas, are to be permanently protected, maintained, developed and - where necessary, possible and appropriate - restored.
- Natural resources are to be used sparingly and carefully.
- In the case of permanently unused areas, the substrate should be preserved or restored to its original state.

In addition, the conservation of biological diversity and the characteristic habitats and functions that determine it is just as much a part of sustainable planning in the sense of the principles of spatial planning under Section 2 subsection 2 number 6 of the ROG and of the ecosystem approach required with its integrated approach as is the consideration of negative cumulative impacts, interactions and exchange relationships.

*Re (7) Migratory species:*

Under Section 2 subsection 2 number of the ROG, open space must be protected; a large-scale, ecologically effective integrated open space system must be created.

The passability of marine space for large-scale migration of species is necessary to enable them to reach and use areas of functional importance to them; this also applies in particular to the western part of the German EEZ in the Baltic Sea up to longitude 13.5° East. Therefore, connectivity between functionally relevant areas should be maintained. Such connectivity is ensured by the area designations for the marine environment.

The principle also supports the environmental objective 3.4 MSFD<sup>12</sup> "Anthropogenic structures and activities do not endanger the natural distribution (including migration) of species for which ecologically unhampered migration corridors are key habitats" and measure M 3.5 "Ensuring connectivity

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<sup>12</sup> MSFD Programme of Measures for the Marine Protection of the German North Sea and Baltic Sea, Report pursuant to Section 45h (1) of the Federal Water Act, adopted by the North Sea and Baltic Sea Federal/Länder Committee (BLANO) on 30 March 2016, published by BMUB, 2016.

of the NSG with functional areas for its protected assets"<sup>13</sup> of the North Sea Management Plans to ensure connectivity of the nature reserve with functional areas relevant to its protected assets.

*Re (8) Safeguarding and preserving the seascape:*

Under Section 2 subsection 2 number of the ROG, open space must be protected; a large-scale, ecologically effective integrated open space system must be created. Further fragmentation of the open landscape is to be avoided as far as possible; use of open space is to be limited. The planning principle which puts this into practice is essentially aimed at preserving the character of the North Sea EEZ as a large open space.

Against this background, large parts of the EEZ are kept free of area designations for uses that may affect the open space. In addition to the priority areas for shipping, the priority areas for nature conservation also contribute to safeguarding open space because uses incompatible with nature conservation are excluded in them. Economic uses are to be implemented in a way that minimises the use of space (cf. principle (2) on the economic use of space under 2.2.1).

## 2.5 Other concerns to be taken into account

### 2.5.1 National and NATO defence

#### Principles

- |     |  |                              |
|-----|--|------------------------------|
| (1) | The military exercise areas shown in Figure 18 and Figure 19 in the Appendix are designated as reservation areas for defence according to their exercise purposes. | Reservation areas<br>defence |
|-----|--|------------------------------|

Military training areas are:

In the North Sea:

- North Sea artillery range,
- Torpedo Firing Range NW Helgoland,
- Submarine exercise areas (Alfa, Bravo, Charlie, Delta),
- Weser submarine exercise area,
- (Air) hazard areas above sea level (ED-D 44, ED-D 46, ED-D 41 A).

In the Baltic Sea:

- Western Baltic Artillery Shooting Range,
- Artillery Shooting Ranges Pomeranian Bay,
- Troll submarine exercise area,
- Valkyria submarine exercise area,

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<sup>13</sup> Management plans for the nature conservation areas "Sylter Außenriff - Östliche Deutsche Bucht", "Borkum Riffgrund" and "Doggerbank", each measure 3.5: Ensuring the connectivity of the NSG with functional areas for its protected assets, BAnz AT 13.05.2020 B11.

- NATO submarine exercise areas (Bravo 2, Bravo 3, Bravo 4),
  - Artillery shooting range West of Bornholm,
  - Military (air) hazard areas above sea level (ED-D 47 A, ED-D 47 B, ES-D 140, ED-D 19 A, ED-D 19 B).
- (2) Defence and civil protection should be carried out with sustainability in mind; they should affect cultural heritage as little as possible. (P)

Sustainability, cultural heritage

## Justification

### *Justification of the principles*

#### *Re (1) Reservation areas defence:*

Military training areas are necessary to ensure the Bundeswehr's continuing ability to function. The areas notified by the Bundeswehr at the time the plan was drawn up are designated as reservation areas for defence.

According to Section 2 subsection 2 Number 7 ROG, the spatial requirements of defence and civil protection must be taken into account. According to section 17 subsection 1 ROG, security aspects and thus defence concerns must be taken into account in spatial planning designations. This is to ensure that the Bundeswehr has sufficient and secured space for training, exercises and mission preparation, which are required in the context of national and NATO defence as well as other mandated missions.

The construction and operation of offshore wind turbines, platforms and submarine cable systems should not adversely affect the security of national and NATO defence. When choosing locations for offshore infrastructure and the routing of cables, defence concerns should be taken into account. A distinction is to be made between military training areas where military activities take place under water, on the water surface or in airspace.

The designated submarine exercise areas are designated as so-called "safe-bottoming areas"; exercises for bottoming submarines are carried out there. In the interests of sustainable spatial development, in particular the efficient co-use of space and the associated requirement to minimise mutual interference, no linear infrastructure is to be laid in the submarine exercise areas Bravo 2, Bravo 3 and Bravo 4 in the Baltic Sea in order to avoid damage to either the infrastructure or the submarines. Furthermore, the possibility of reconnaissance of submarines in these exercise areas on account of submarine cables should be avoided as far as possible.

#### *Re (2) Sustainability, cultural heritage:*

Certain national and NATO defence activities can in principle discover or damage cultural assets in the planning area. Therefore, when designing these activities, efforts should be made to minimise possible adverse effects and to preserve any cultural assets found (see also the justification for designation 2.2.1 (3) Cultural heritage).

## 2.5.2 Air traffic

### Principles

- (1) The spatial requirements of civil aviation should be taken into account by avoiding, as far as possible, impairment of the safety and smooth flow of air traffic caused by economic and scientific uses. (P) Air traffic

### Justification

#### *Justification of the principle*

#### *Re (1) Civil aviation:*

On the one hand, installations in the EEZ, especially wind turbines, act as obstacles to aviation; on the other, additional aviation-specific requirements arise, in particular due to air traffic that results from offshore wind farms.

The requirements for safe air traffic, including SAR air traffic, should therefore be taken into account when planning and carrying out economic and scientific activities.

## 2.5.3 Recreation

### Principles

- (1) The spatial requirements of recreational and water sports traffic are to be taken into account by avoiding its encroachment by economic and scientific uses as far as possible. (G) Recreational and water sports traffic

### Justification

#### *Preliminary remark*

The rules of UNCLOS apply to private and commercial recreational boating and shipping in the EEZ. Where, for reasons of installation safety, navigation is restricted in areas as part of the approval for offshore wind farms, exemptions which are also applicable to leisure and water sports traffic can only be regulated as general rulings by the Federal Waterways and Shipping Administration.

#### *Justification of the principles*

#### *Re (1) Recreational and water sports traffic:*

Recreational use in the EEZ is generally associated with the use of recreational and sports boats. Economic and scientific uses which may lead to a restriction of use by recreational and sports boats should take this into account in planning and implementation.

The installation of wind turbines in the designated areas for wind energy will reduce the space

available for general navigation and, as a consequence, vessel traffic will be concentrated in particular in the routes between the different areas reserved for this purpose. In order to allow the passage of smaller vehicles less than 24 metres in length through wind farm areas and to avoid detours through more busy shipping lanes, wind farm planning should take into account requirements for safe passage and the needs of recreational and water sports traffic.

#### **2.5.4 Representation for information purposes only**

##### **Fixed link across the Fehmarn belt**

Figure 20 shows the Fehmarnbelt fixed link for information purposes.

##### *Explanation*

The fixed link across the Fehmarn Belt is a transport link of international importance within the meaning of Section 2 subsection 2 number 8 of the ROG and constitutes a core network project pursuant to Appendix I No. 5.3 Rail Link, No. 5.4 Road Link in accordance with Regulation (EU) No. 1315/2013 of the European Parliament and of the Council (TEN-T). It is based on the State Treaty of 3 September 2008 between the Federal Republic of Germany and the Kingdom of Denmark on a fixed link across the Fehmarn Belt<sup>14</sup>.

The project has received planning approval and should therefore be taken into account in spatially significant economic, scientific and other plans, uses and measures in the EEZ.

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<sup>14</sup> Cf. also: Law on the Treaty of 3 September 2008 between the Federal Republic of Germany and the Kingdom of Denmark on a fixed link across the Fehmarnbelt of 17 July 2009, Federal Law Gazette II p. 799.

### 3 Appendix

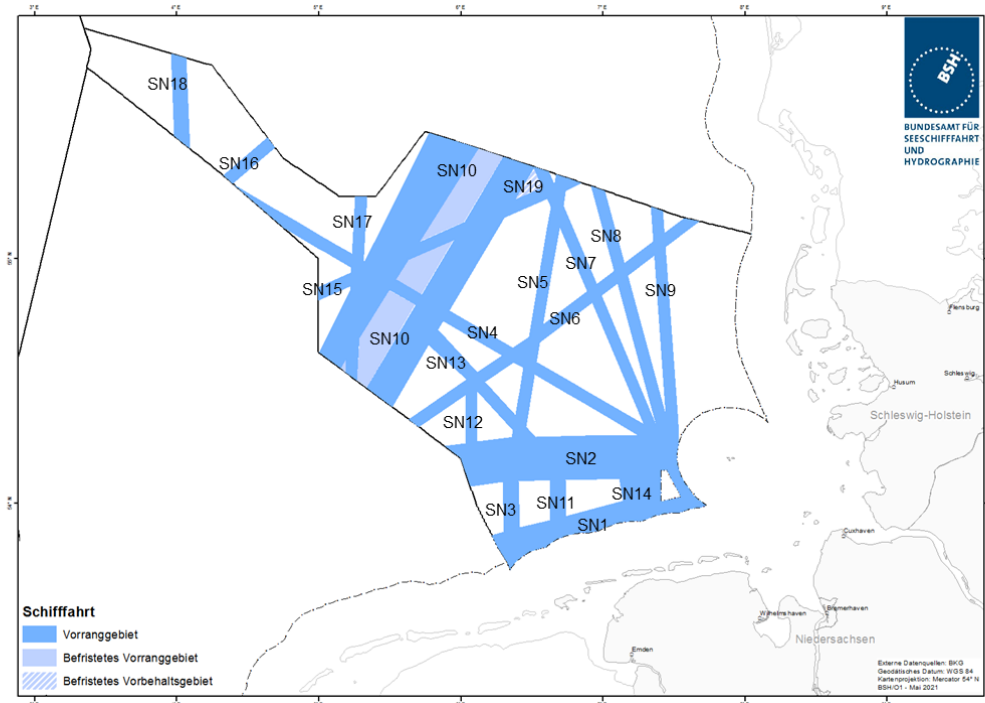


Figure 1: Designations for shipping in the North Sea.

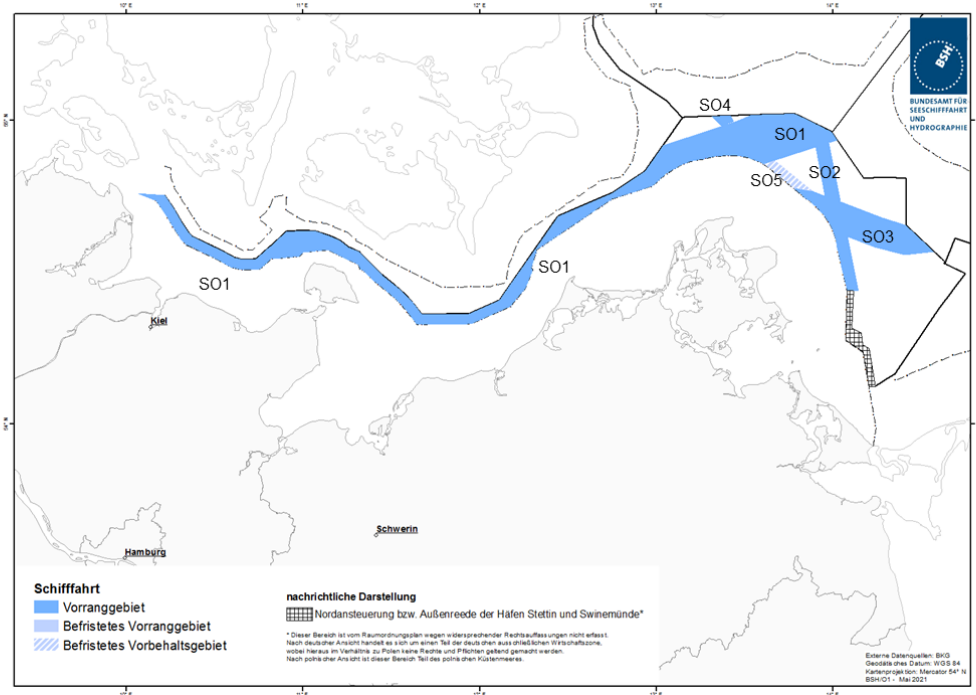


Figure 2: Designations for navigation in the Baltic Sea.

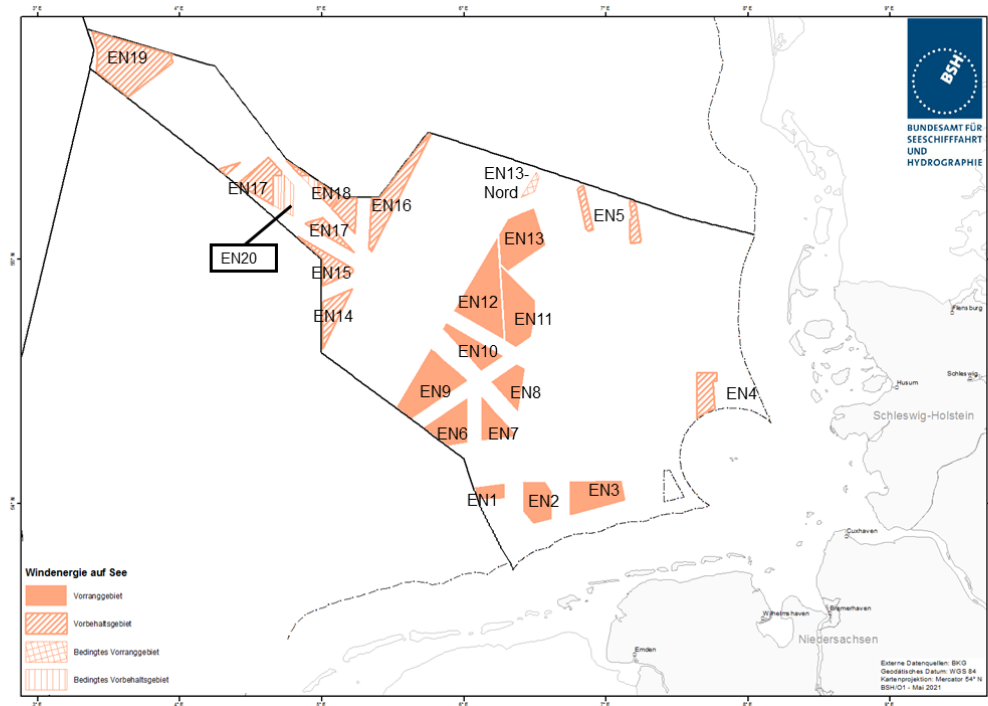


Figure 3: Designations for offshore wind energy in the North Sea.

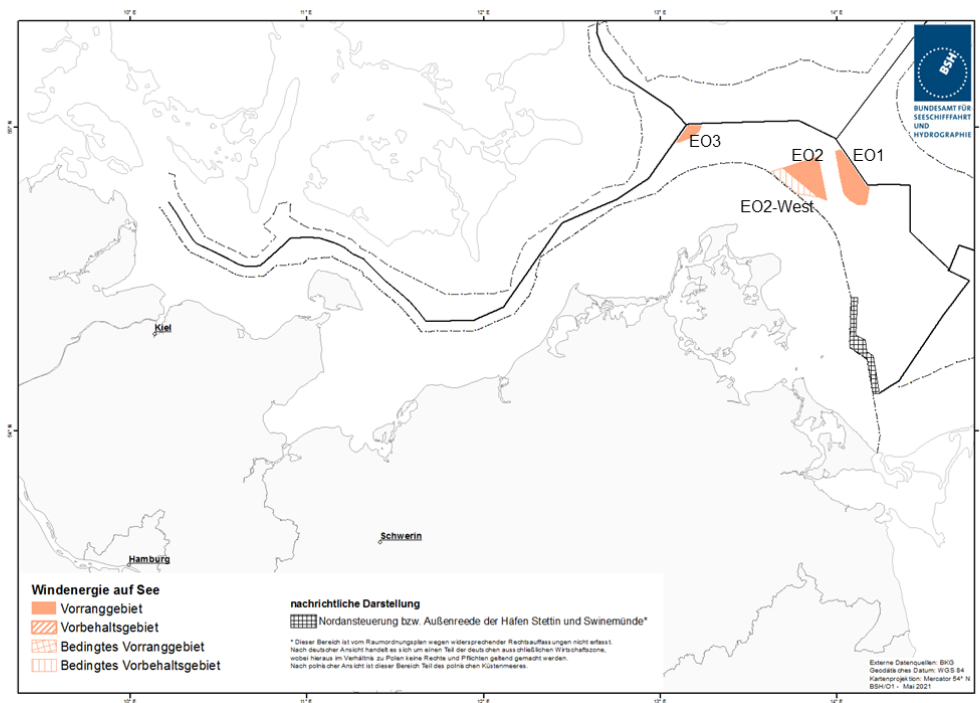


Figure 4: Designations for offshore wind energy in the Baltic Sea.

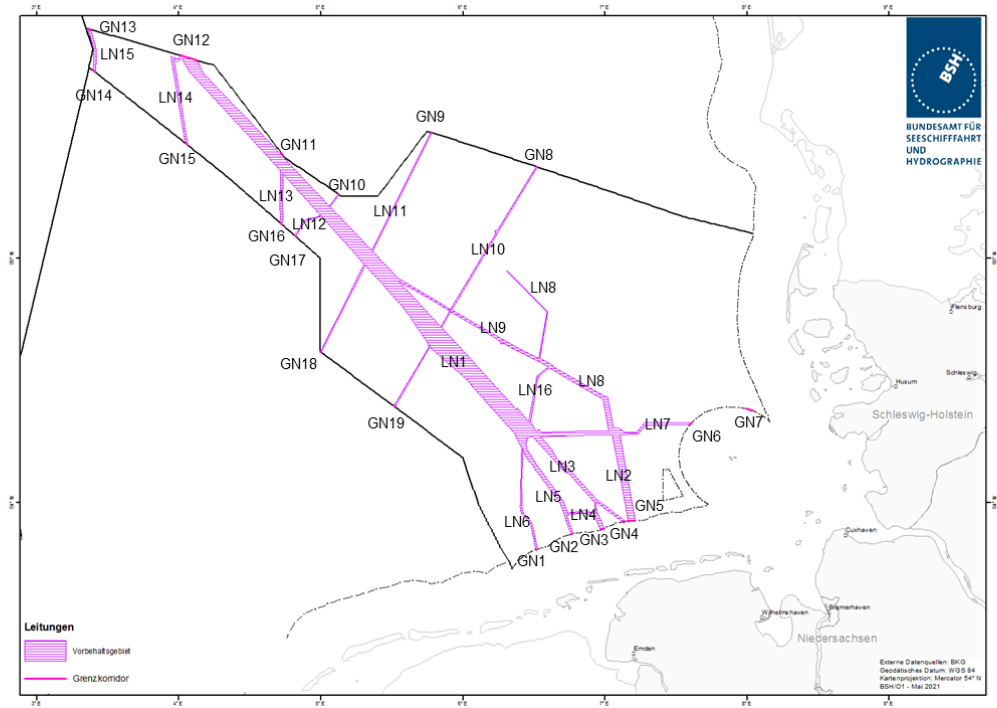


Figure 5: Designations for pipelines and border corridors in the North Sea.

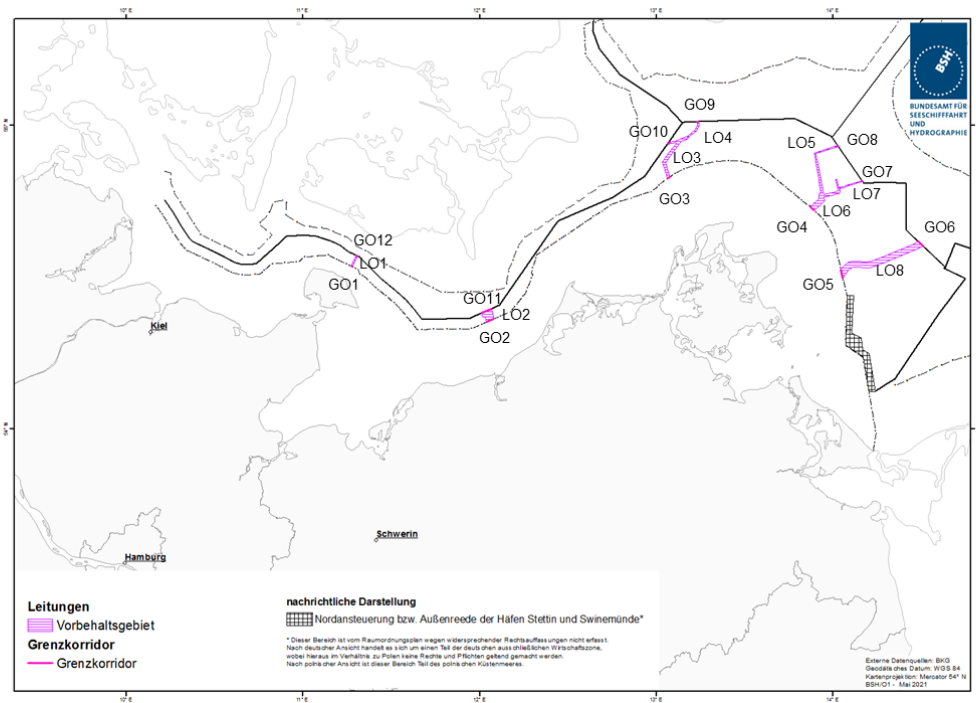


Figure 6: Designations for pipelines and border corridors in the Baltic Sea.



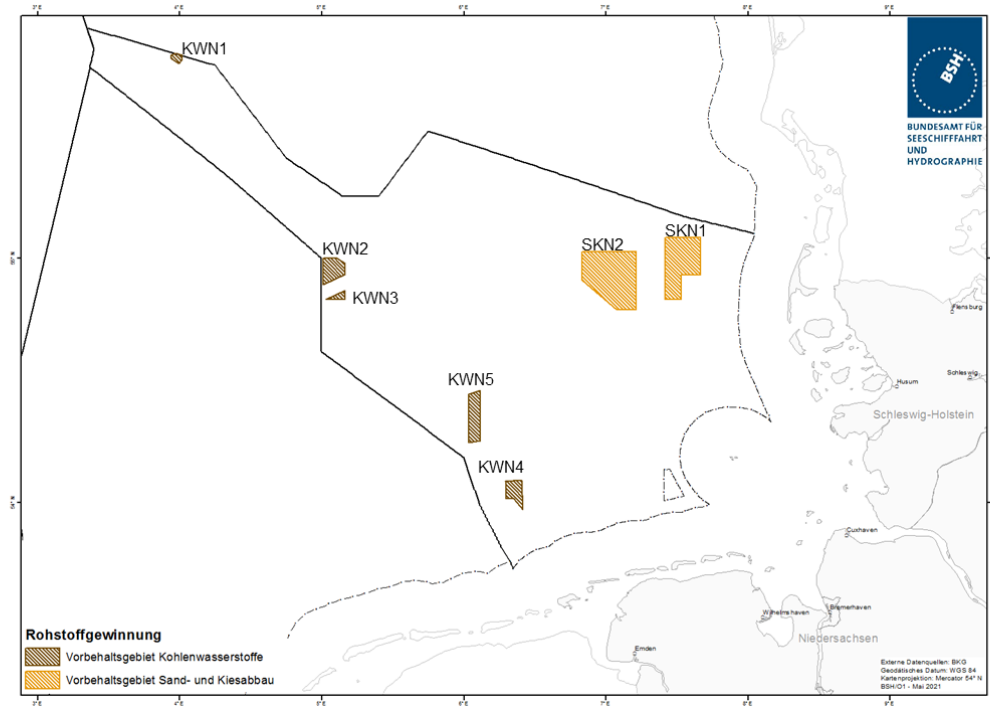


Figure 7: Designations for raw material extraction in the North Sea.

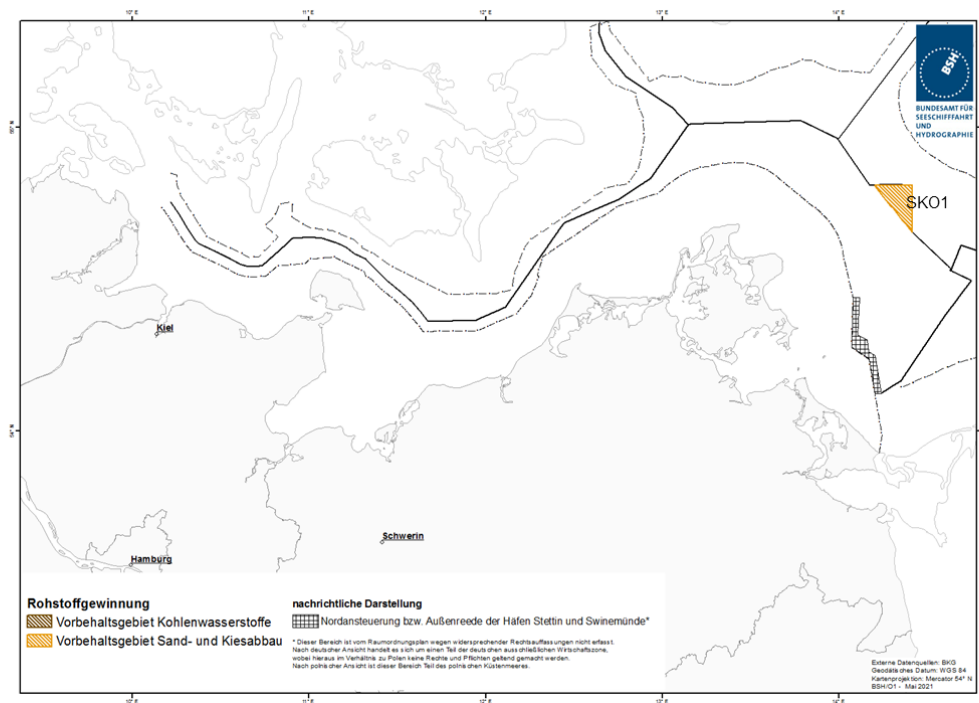


Figure 8: Designations for raw material extraction in the Baltic Sea.

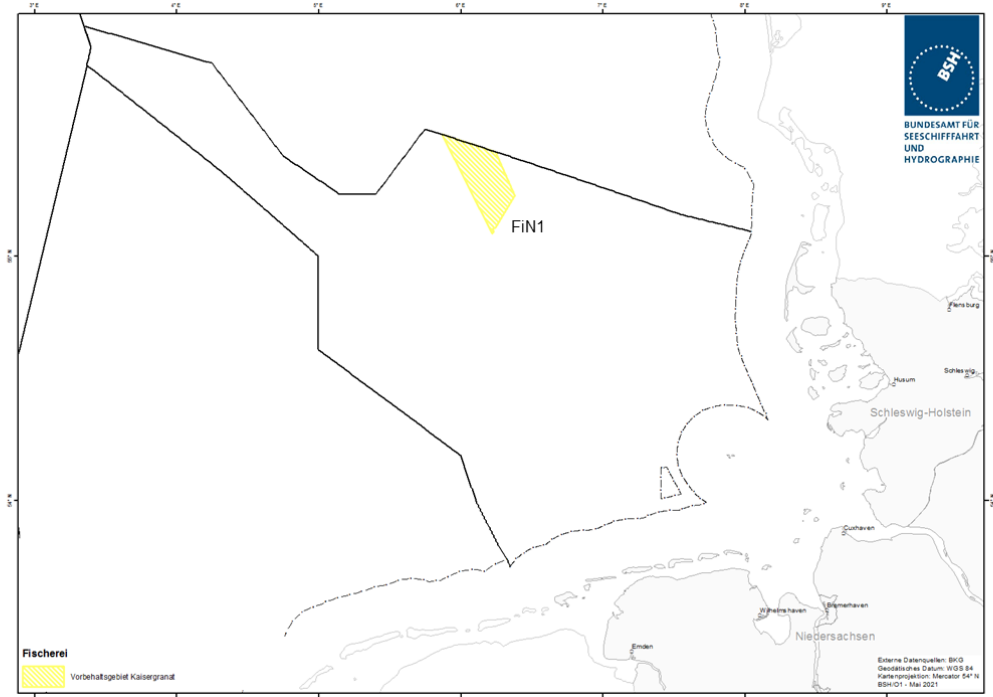


Figure 9: Designation for Norway lobster fisheries in the North Sea.

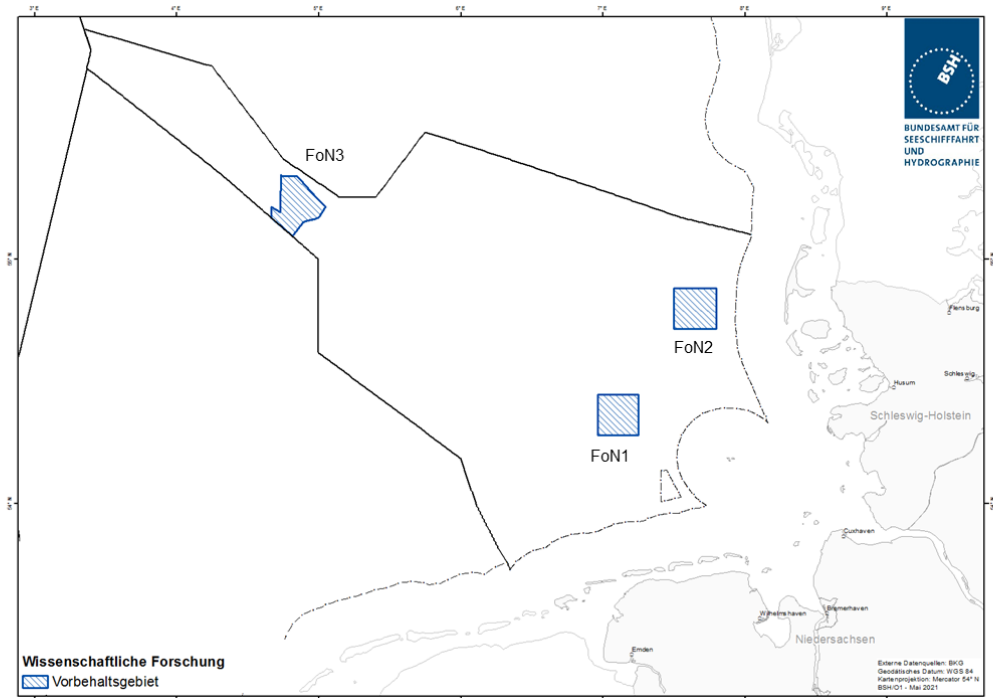


Figure 10: Designations for research in the North Sea.

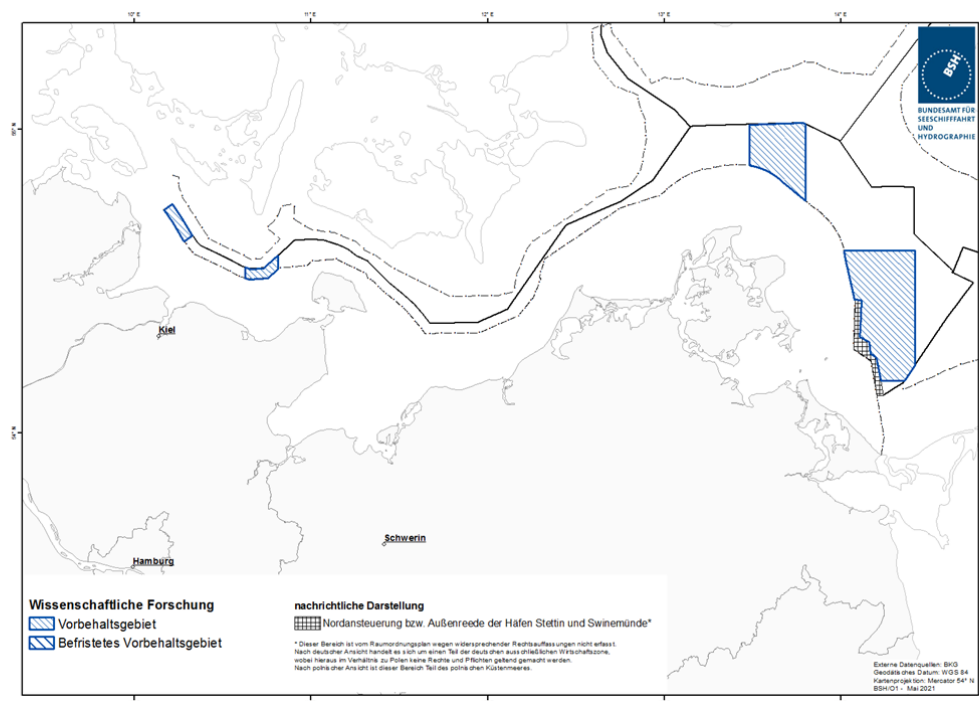


Figure 11: Designations for research in the Baltic Sea.

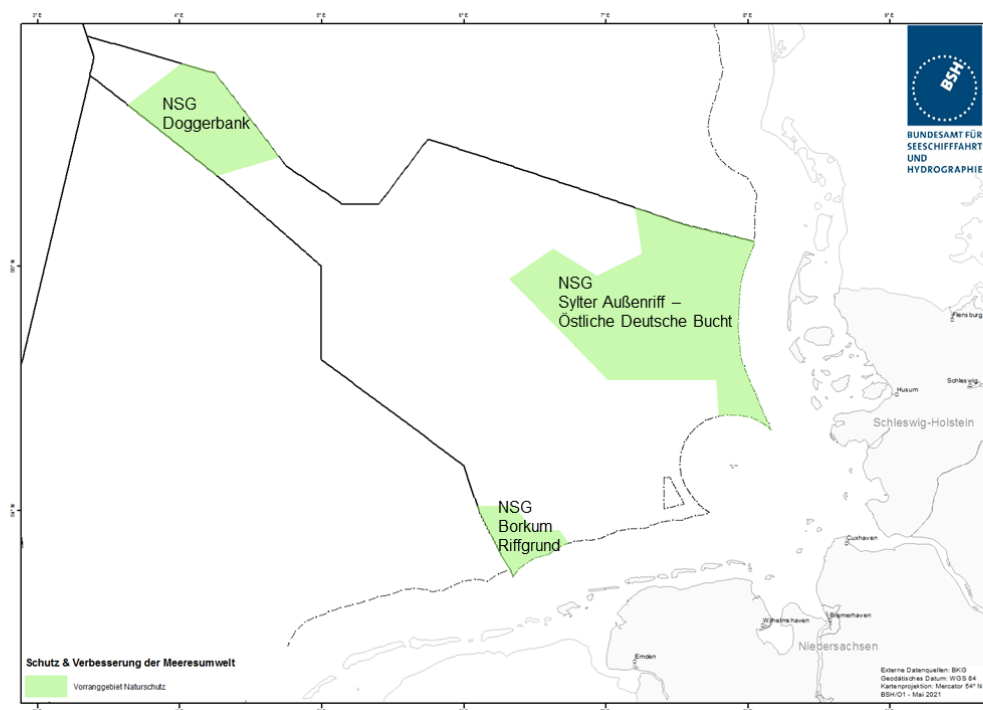


Figure 12: Designations for nature conservation in the North Sea.

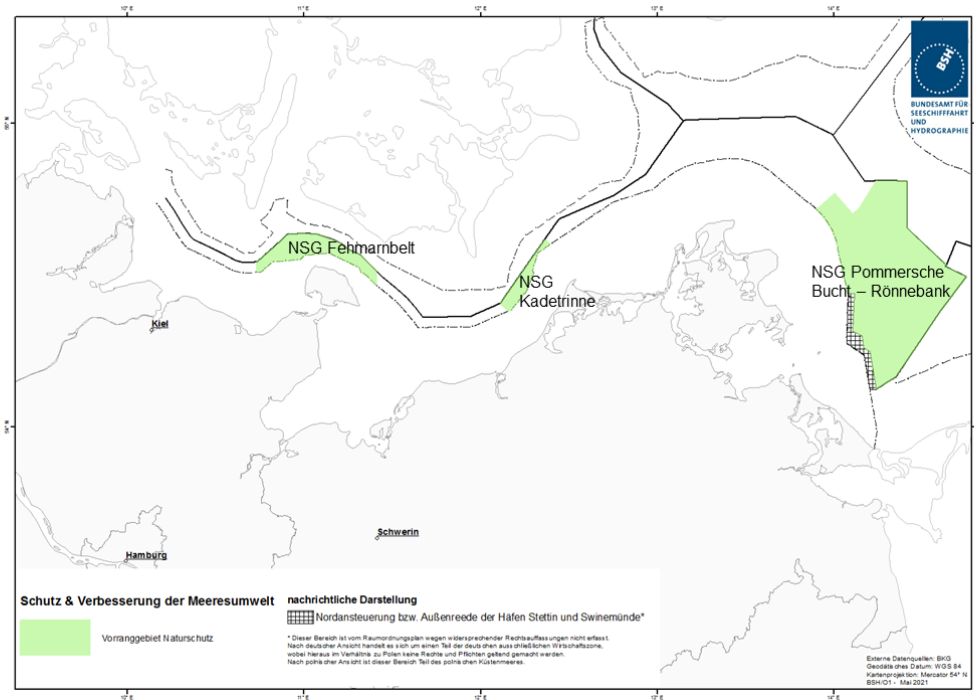


Figure 13: Designations for nature conservation in the Baltic Sea.

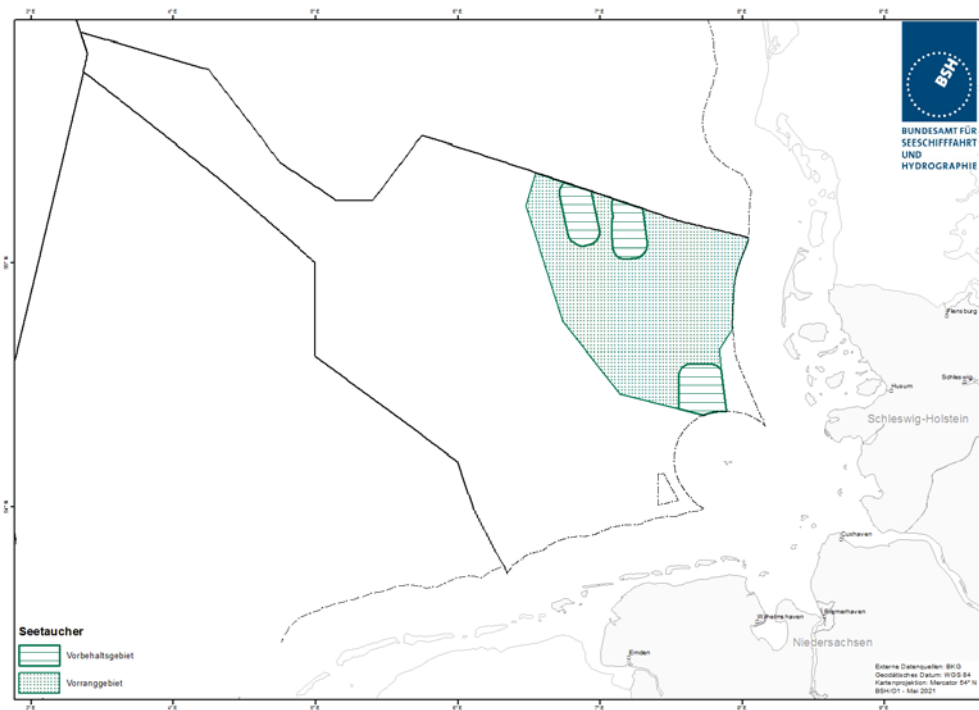


Figure 14: Designation for divers in the North Sea.

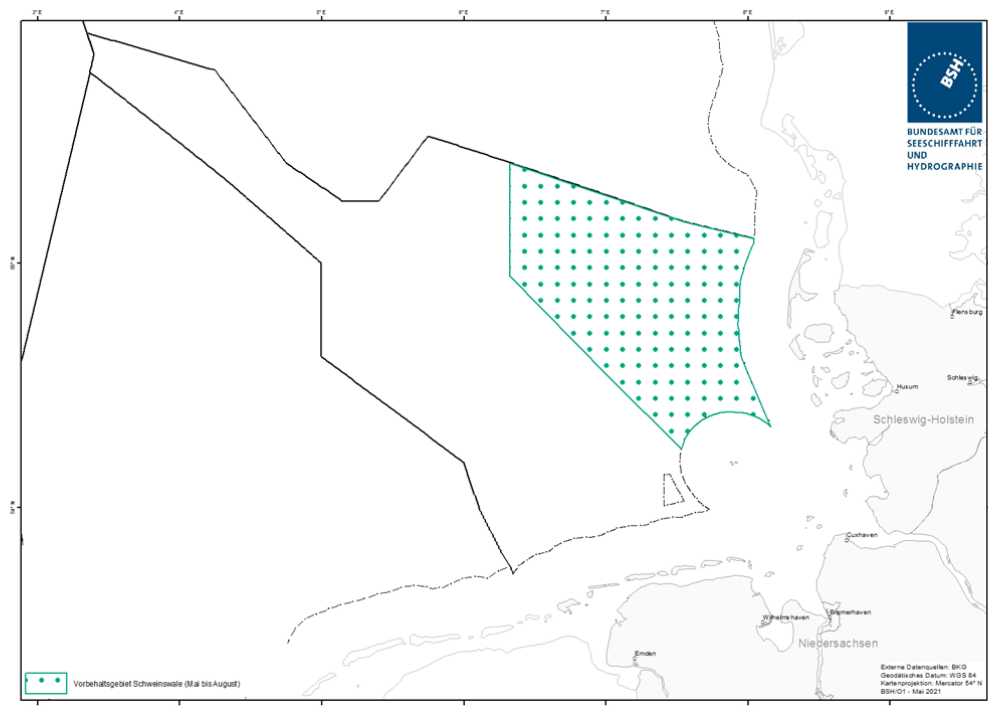


Figure 15: Designation for harbour porpoises in the North Sea.

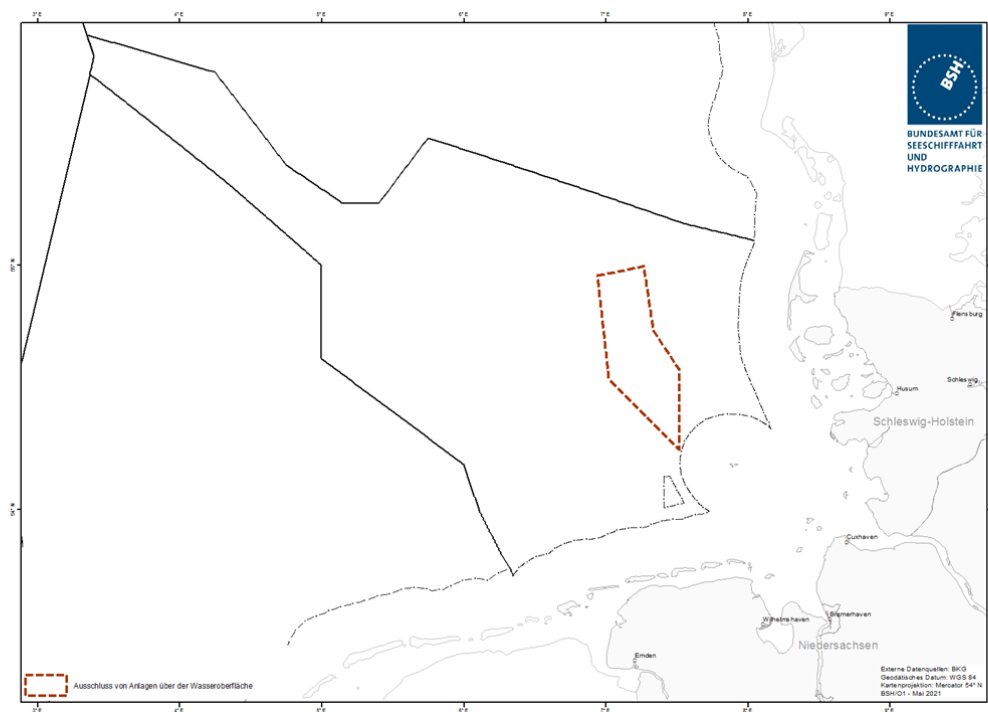


Figure 16: Exclusion of turbines above the water surface in the North Sea.

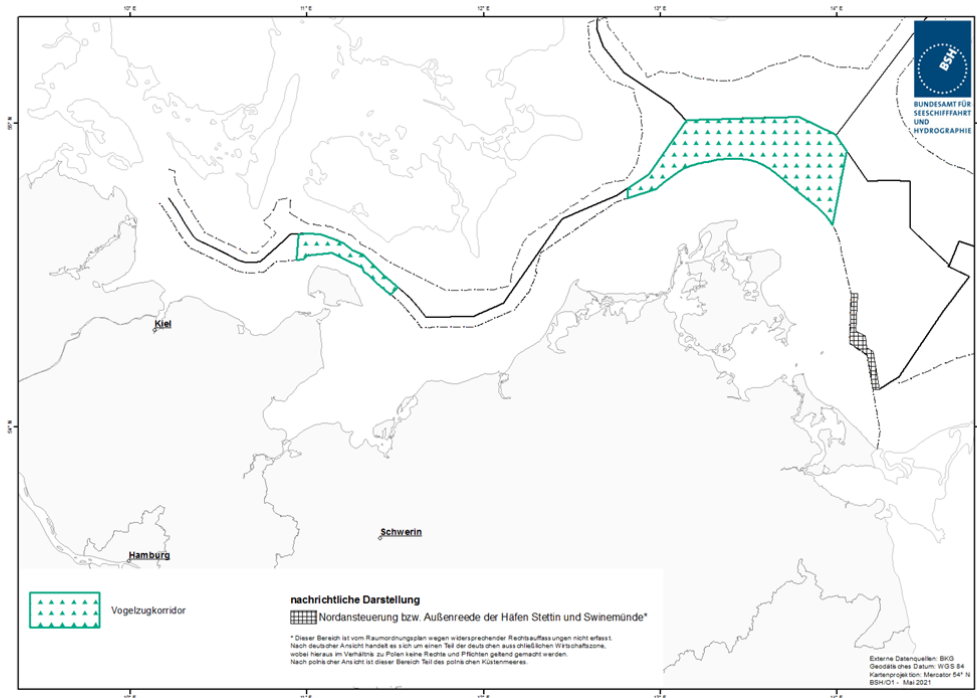


Figure 17: Bird migration corridors "Fehmarn Lolland" and "Rügen Schonen" in the Baltic Sea.

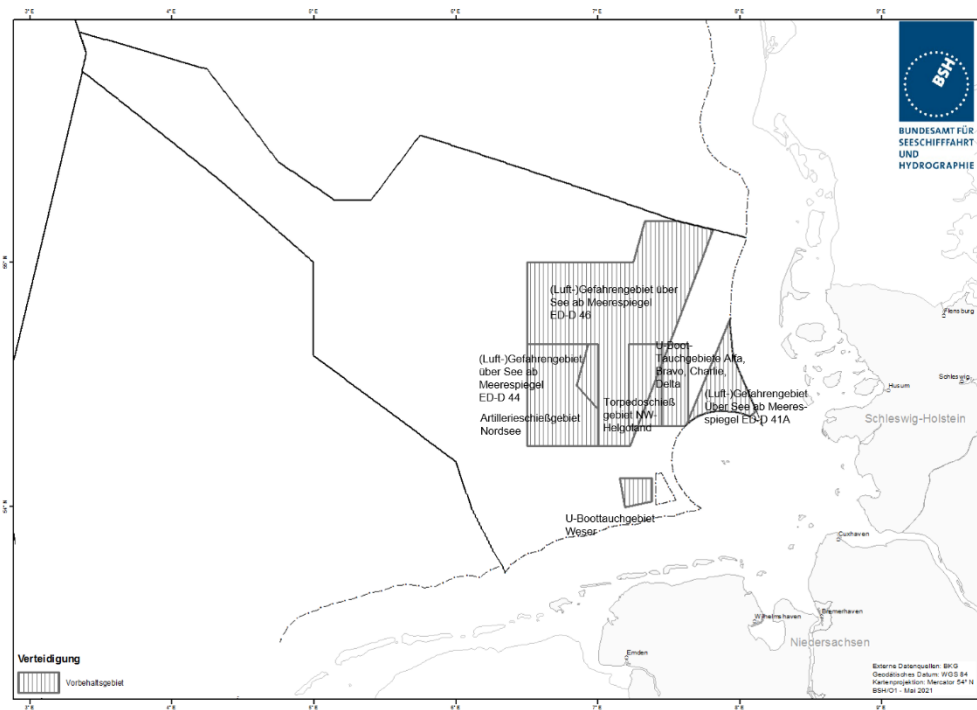


Figure 18: Military training areas in the North Sea.

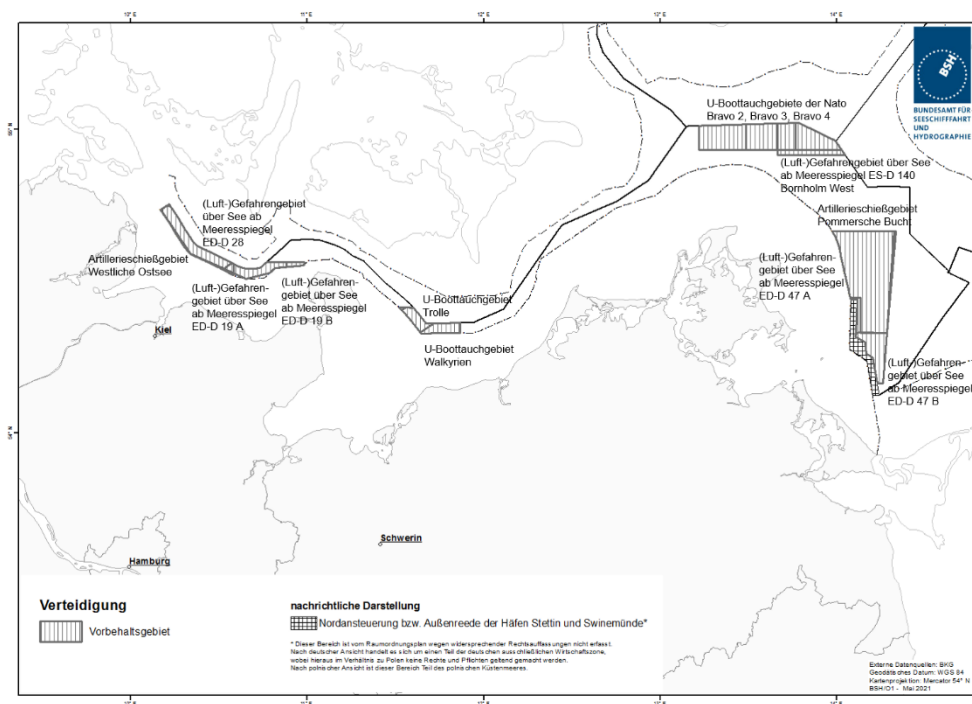


Figure 19: Military training areas in the Baltic Sea

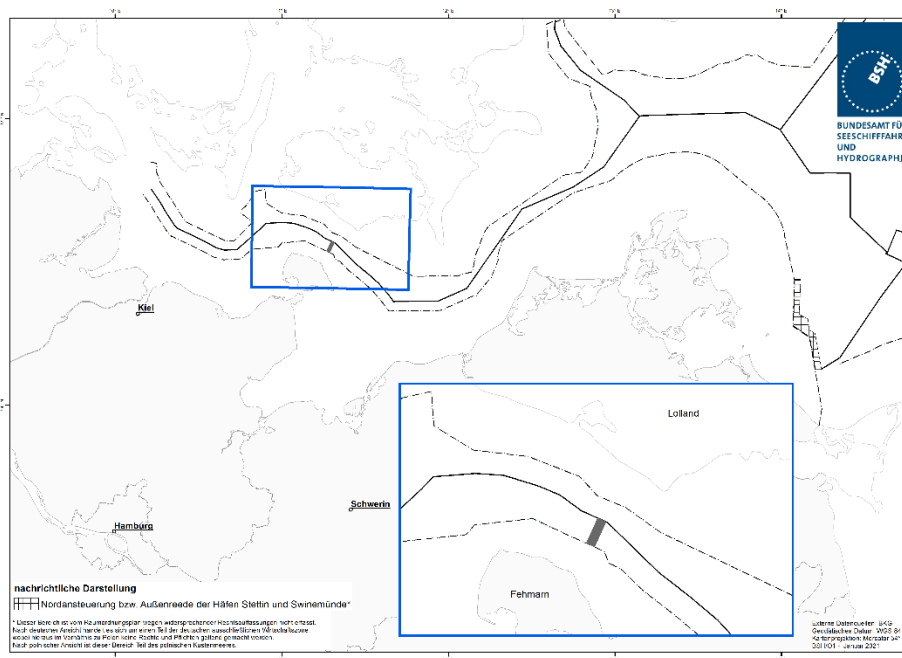


Figure 20: Fehmarnbelt fixed link in the Baltic Sea.