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**DEPARTMENT OF THE INTERIOR**

**Bureau of Ocean Energy Management**

**[Docket No. BOEM 2022-0034]**

**Notice of Intent to Prepare a Programmatic Environmental Impact Statement for Future Wind Energy Development in the New York Bight**

**AGENCY:** Bureau of Ocean Energy Management (BOEM), Interior.

**ACTION:** Notice of intent (NOI) to prepare a programmatic environmental impact statement (PEIS); request for comments.

**SUMMARY:** Consistent with the regulations implementing the National Environmental Policy Act (NEPA), BOEM announces its intent to prepare a PEIS to analyze the potential impacts of wind energy development activities in the New York Bight (NY Bight), as well as the change in those impacts that could result from adopting programmatic avoidance, minimization, mitigation, and monitoring (AMMM) measures for the NY Bight. This NOI announces the scoping process BOEM will use to identify significant issues and potential alternatives for consideration in the NY Bight PEIS. Detailed information can be found on BOEM's website at:

<https://www.boem.gov/renewable-energy/state-activities/new-york-bight>.

**DATES:** Comments received by [PLEASE INSERT DATE 30 DAYS

AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], will be considered.

BOEM will hold virtual public scoping meetings for the NY Bight PEIS at the following dates and times (eastern time):

- Thursday, July 28, 5:00 p.m.
- Tuesday, August 2, 5:00 p.m.

- Thursday, August 4, 1:00 p.m.

Registration for the public meetings may be completed here:

<https://www.boem.gov/renewable-energy/state-activities/new-york-bight> or by calling (202) 517-1249. The virtual meetings are open to the public and free to attend.

**ADDRESSES:** Written comments can be submitted in any of the following ways:

- Delivered by mail or delivery service, enclosed in an envelope labeled, “NY BIGHT PEIS” and addressed to Chief, Division of Environmental Assessment, Office of Environmental Programs, Bureau of Ocean Energy Management, 45600 Woodland Road VAM-OEP, Sterling, Virginia 20166; or
- Through the regulations.gov web portal: Navigate to [www.regulations.gov](http://www.regulations.gov) and search for Docket No. BOEM-2022-0034. Select the document in the search results on which you want to comment, click on the “Comment” button, and follow the online instructions for submitting your comment. A commenter’s checklist is available on the comment webpage. Enter your information and comment, then click “Submit.”

**FOR FURTHER INFORMATION CONTACT:** Jill Lewandowski, BOEM Office of Environmental Programs, 45600 Woodland Road, Sterling, Virginia 20166, telephone (703) 787-1703, or email [boemnybightpeis@boem.gov](mailto:boemnybightpeis@boem.gov).

**SUPPLEMENTARY INFORMATION:**

**Purpose of and Need for the Proposed Action**

In February 2022, through a competitive leasing process under 30 CFR 585.211, BOEM awarded Commercial Leases OCS-A 0537, 0538, 0539, 0541, 0542, and 0544 covering an area offshore New York and New Jersey known as the NY Bight and totaling over 488,000 acres. The leases grant the lessees the exclusive right to submit construction and operation plans

(COPs) to BOEM proposing the construction, operation, and conceptual decommissioning of offshore wind energy facilities in the lease areas. Through an intergovernmental renewable energy task force that included the States of New York and New Jersey and numerous Federal agencies and Tribal and local governments, BOEM identified these lease areas for consideration in development of commercial-scale offshore wind energy projects, subject to the appropriate reviews and approvals.

Potential development of the leaseholds would assist with meeting several State mandates for renewable energy. New Jersey's goal of 7.5 gigawatts (GW) of offshore wind energy generation by 2035 is outlined in New Jersey Executive Order No. 92, issued on November 19, 2019. New York's goal of 9.0 GW of offshore wind energy generation by 2035 is outlined in the Climate Leadership and Community Protection Act, signed into law on July 18, 2019. Based on a conservative power ratio of 3 megawatts per square kilometer, BOEM estimates that full development of leases in this area has the potential to create up to 5.6 to 7 GW of offshore wind energy.

The Proposed Action for the PEIS is the adoption of programmatic AMMM measures that BOEM may require as conditions of approval for activities proposed by lessees in COPs submitted for the NY Bight unless the COP-specific NEPA analysis shows that implementation of such measures is not warranted or effective. BOEM may require additional or different measures based on subsequent, site-specific NEPA analysis or the parameters of specific COPs. These AMMM measures are considered programmatic insofar as they may be applied to COPs within the whole NY Bight area, not because they necessarily will apply to COPs under BOEM's renewable energy program outside of the NY Bight area. The PEIS will analyze the potential impacts of development in the NY Bight and how those impacts can be avoided, minimized, or

mitigated by AMMM measures. However, the Proposed Action will not result in the approval of any activities.

The purpose of the Proposed Action is to identify, analyze, and adopt, as appropriate, issues, degree of potential impacts, and AMMM measures. The site-specific NEPA analyses and consultations for each proposed wind energy project will focus on the impacts of approving a particular COP, including identification of AMMM measures that are best suited for consideration in the COP-specific NEPA analysis. The Proposed Action is needed to help BOEM make timely decisions on COPs submitted for the NY Bight. Timely decisions further the United States policy to make Outer Continental Shelf (OCS) energy resources available for expeditious and orderly development, subject to environmental safeguards (43 U.S.C. 1332(3)) and other requirements listed at 43 U.S.C. 1337(p)(4), including protection of the environment, among several other factors. Project-specific NEPA analysis for individual COPs will tier to or incorporate by reference this PEIS and could apply additional or different AMMM measures as needed.

A broader approach to the NEPA analysis for the six COPs expected for the NY Bight is consistent with Executive Order 14008, “Tackling the Climate Crisis at Home and Abroad,” issued on January 27, 2021. In that order, President Biden stated that the policy of his administration is “to organize and deploy the full capacity of its agencies to combat the climate crisis to implement a Government-wide approach that reduces climate pollution in every sector of the economy; increases resilience to the impacts of climate change; protects public health; conserves our lands, waters, and biodiversity; delivers environmental justice; and spurs well-paying union jobs and economic growth, especially through innovation, commercialization, and deployment of clean energy technologies and infrastructure.” To support the goals outlined in

Executive Order 14008, the administration has also announced plans to increase renewable energy production, with a goal of 30 GW of offshore wind energy capacity by 2030.

Through the development of this PEIS, BOEM will address the following objectives:

- Analysis of the impacts expected from a representative project in the NY Bight that is informed by input provided by the lessees on the type of projects they intend to develop;
- Analysis of programmatic AMMM measures for the NY Bight;
- Focused, regional cumulative analysis;
- Identification of minor or negligible impacts so that site-specific reviews can focus on moderate or major impacts; and
- Tiering of project-specific environmental analyses.

The analysis in this PEIS will provide a framework for its integration with site-specific NEPA reviews. The framework will provide a way for project-specific analyses to determine whether the project will have greater, equal, or fewer impacts than those that were analyzed in the PEIS by considering the level of action analyzed and the particularities of the site. Future COP-specific NEPA documents will make impact determinations for the specific project and affected resources and will focus on moderate to major impacts. The COP-specific NEPA analyses of potential impacts to resources will not generally revisit resources for which the PEIS analysis has indicated that the impact is likely to be negligible to minor. However, these impacts may be revisited if warranted by particular characteristics of the site or proposed project that suggest that the impact determination might shift to moderate or major.

### **Proposed Action and Preliminary Alternatives**

As noted above, the Proposed Action does not include the approval of any activities. The Proposed Action is the adoption of programmatic AMMM measures that BOEM may require as

conditions of approval for activities proposed by lessees in COPs submitted for the NY Bight. BOEM may require additional or modified measures based on subsequent, site-specific NEPA analysis or the parameters of specific COPs. The analysis of the Proposed Action considers the change in potential impacts resulting from the AMMM measures. The analysis of the Proposed Action assumes that a representative project will be developed for the NY Bight and considers the potential impacts of that development on the environment. The activities scenario upon which analysis of the Proposed Action is based is that of a representative project, including associated export cables, within a range of design parameters informed by lessees. By developing the activities scenario based on a representative project design envelope created with the input of the lessees that will be submitting the COPs for the NY Bight, BOEM avoids engaging in speculative analysis of potential impacts. The Proposed Action does not itself require any actions by BOEM or lessees.

If any reasonable alternatives to the Proposed Action are identified during the scoping period, BOEM will evaluate those alternatives in the draft PEIS, which will also include a no action alternative (NAA). The NAA considers no development of the lease areas in the NY Bight. This alternative provides analysis for tiering at the COP-specific NEPA stage, including context that can be used in COP-specific NEPA analyses and against which proposed actions at the COP-specific stage may be compared. In addition, the analysis of the adoption of AMMM measures for the NY Bight is predicated upon an understanding of the impacts of development, which in turn are predicated on an understanding of the impacts of no development.

The draft PEIS will also include an alternative that analyzes the impacts of not adopting the programmatic AMMM measures for a representative project in the NY Bight. This alternative will facilitate comparison of the potential impacts from a representative project with

and without the AMMM measures. In addition, this alternative will provide analyses that can be incorporated at the COP-specific stage and allow the analysis at that stage to focus on issues particular to the specific COP.

### **Summary of Potential Impacts**

Potential impacts to resources may include adverse or beneficial impacts on air quality, water quality, bats, benthic habitat, essential fish habitat, invertebrates, finfish, birds, marine mammals, terrestrial and coastal habitats and fauna, sea turtles, wetlands and other waters of the United States, commercial fisheries and for-hire recreational fishing, cultural resources, demographics, employment, economics, environmental justice, land use and coastal infrastructure, navigation and vessel traffic, other marine uses, recreation and tourism, and scenic and visual resources. These potential impacts will be analyzed in the draft and final PEIS.

Based on a preliminary evaluation of these resources, BOEM expects potential impacts on certain marine life from underwater noise caused by construction and on marine mammals from collisions with project-related vessel traffic. Structures installed by the projects could permanently change benthic and fish habitats (e.g., creation of artificial reefs). Commercial fisheries and for-hire recreational fishing could be impacted. Project structures above the water could affect the visual character defining historic properties and recreational and tourism areas. Project structures also would pose an allision and height hazard to vessels passing close by, and vessels would, in turn, pose a hazard to the structures. Additionally, the projects could cause conflicts with military activities, air traffic, land-based radar services, cables and pipelines, and scientific surveys. Beneficial impacts are also expected by facilitating achievement of State renewable energy goals, increasing job opportunities, improving air quality, and reducing carbon emissions.

## **Anticipated Authorizations and Consultations**

Neither the PEIS nor the resulting programmatic record of decision (ROD) will authorize any activities or approve any individual applications. The PEIS and ROD will provide a programmatic environmental analysis and framework to support future decision-making on individual COP submittals. When COPs are submitted to BOEM, the site-specific characteristics of the project will be evaluated by preparing additional environmental analyses that may tier from this PEIS or may incorporate it by reference. Based on the site-specific applications and evaluations, BOEM may then reach a site-specific determination and approve, approve with modifications, or deny individual COPs. This PEIS will inform future BOEM decisions on COP submittals but will not approve or authorize any applications or plans. Therefore, neither this PEIS nor its resulting ROD would constitute a final agency action authorizing or approving any individual COPs.

In conjunction with this PEIS, BOEM will undertake various consultations in accordance with applicable Federal laws, such as the Endangered Species Act, Magnuson-Stevens Fishery Conservation and Management Act, National Historic Preservation Act, Marine Mammal Protection Act, Rivers and Harbors Act, Clean Water Act, and the Coastal Zone Management Act. However, it may be determined that some of these consultations are better suited for the COP-specific decision stage. BOEM will also conduct government-to-government Tribal consultations.

## **Decision-Making Schedule**

After the draft PEIS is completed, BOEM will publish a notice of availability (NOA) and request public comments on the draft PEIS. BOEM currently expects to issue the NOA in September 2023. After the public comment period ends, BOEM will review and respond to



comments received and will develop the final PEIS. BOEM currently expects to make the final PEIS available to the public in June 2024. BOEM would issue any ROD no sooner than 30 days after the final PEIS is made available.

The ROD for the NY Bight PEIS is expected to (1) identify certain programmatic AMMM measures that BOEM may require as conditions of approval on COPs in the NY Bight, (2) identify the AMMM measures that should (or should not) be considered in a COP-specific NEPA analysis, and (3) require BOEM to use a tiered review process that relies on the analyses in the PEIS for the COPs expected to be filed for the six leases issued in the NY Bight.

### **Scoping Process**

This NOI commences the public scoping process to identify issues and potential alternatives for consideration in the NY Bight PEIS. BOEM will hold virtual public scoping meetings at the times and dates described above under the “Dates” caption. Throughout the scoping process, Federal agencies, Tribal, State, and local governments, and the public have the opportunity to help BOEM identify significant resources and issues, impact-producing factors, and reasonable alternatives for AMMM measures (e.g., size, geographic, seasonal, or other restrictions on construction and siting of facilities and activities) to be analyzed in the PEIS, as well as to provide additional information.

BOEM will also use the NEPA comment process to initiate the section 106 consultation process under the National Historic Preservation Act (NHPA) (54 U.S.C. 300101 et seq.), as permitted by 36 CFR 800.2(d)(3). Through this notice, BOEM intends to inform its section 106 consultation by seeking public comment and input regarding the identification of historic properties affected by or potential effects to historic properties from activities associated with approval of wind energy development in the NY Bight.

Before publication of this NOI, BOEM met with NY Bight leaseholders, interested Federal agencies, Tribal governments, and other potential State partners to provide information on the NY Bight programmatic approach. Additionally, BOEM met separately with the National Marine Fisheries Service and the U.S. Army Corps of Engineers to discuss how the programmatic analysis may support and streamline their project-level approvals, as well as with the Advisory Council on Historic Preservation to discuss potential approaches to section 106 consultation.

### **NEPA Cooperating Agencies**

BOEM invites other Federal agencies and Tribal, State, and local governments to consider becoming cooperating agencies in the preparation of this PEIS. The Council on Environmental Quality (CEQ) NEPA regulations specify that qualified agencies and governments are those with “jurisdiction by law or special expertise.” Potential cooperating agencies should consider their authority and capacity to assume the responsibilities of a cooperating agency and should be aware that an agency’s role in the environmental analysis neither enlarges nor diminishes the final decision-making authority of any other agency involved in the NEPA process.

Upon request, BOEM will provide potential cooperating agencies with a written summary of expectations for cooperating agencies, including schedules, milestones, responsibilities, scope and detail of cooperating agencies’ expected contributions, and availability of pre-decisional information. BOEM anticipates this summary will form the basis for a memorandum of agreement between BOEM and any non-Department of the Interior cooperating agency. Agencies also should consider the factors for determining cooperating agency status in the CEQ memorandum entitled, “Cooperating Agencies in Implementing the

Procedural Requirements of the National Environmental Policy Act,” dated January 30, 2002.

This document is available on the Internet at:

[www.energy.gov/sites/prod/files/nepapub/nepa\\_documents/RedDont/G-CEQ-CoopAgenciesImplem.pdf](http://www.energy.gov/sites/prod/files/nepapub/nepa_documents/RedDont/G-CEQ-CoopAgenciesImplem.pdf).

BOEM, as the lead agency, does not provide financial assistance to cooperating agencies. Governmental entities that are not cooperating agencies will have opportunities to provide information and comments to BOEM during the public input stages of the NEPA process.

**Comments:** Federal agencies, Tribal, State, and local governments, and other interested parties are requested to comment on the scope of this PEIS, significant issues that should be addressed, and alternatives that should be considered. For information on how to submit comments, see the “Addresses” section above.

BOEM does not consider anonymous comments. Please include your name and address as part of your comment. BOEM makes all comments, including the names, addresses, and other personally identifiable information included in the comment, available for public review online. Individuals can request that BOEM withhold their names, addresses, or other personally identifiable information included in their comment from the public record; however, BOEM cannot guarantee that it will be able to do so. To help BOEM determine whether to withhold from disclosure your personally identifiable information, you must identify in a cover letter any information contained in your comments that, if released, would constitute a clearly unwarranted invasion of your privacy. You also must briefly describe any possible harmful consequences of the disclosure of information, such as embarrassment, injury, or other harm.

Additionally, under section 304 of NHPA, BOEM is required, after consultation with the Secretary of the Interior, to withhold the location, character, or ownership of historic property if it determines that disclosure may, among other things, cause a significant invasion of privacy, risk harm to the historic property, or impede the use of a traditional religious site by practitioners. Tribal entities and other parties providing information on historic resources should designate information that they wish to be held as confidential and provide the reasons why BOEM should do so.

All submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses will be made available for public inspection in their entirety.

### **Request for Identification of Potential Alternatives, Information, and Analyses Relevant to the Proposed Action**

BOEM requests data, comments, views, information, analysis, alternatives, or suggestions relevant to the analysis of the Proposed Action from the public; affected Federal, Tribal, State, and local governments, agencies, and offices; the scientific community; industry; or any other interested party. Specifically, BOEM requests information on the following topics:

1. Potential AMMM measures, including NY Bight wind energy development alternatives, and the effects these could have on –
  - a. biological resources, including bats, birds, coastal fauna, finfish, invertebrates, essential fish habitat, marine mammals, and sea turtles;
  - b. physical resources and conditions including air quality, water quality, wetlands, and other waters of the United States; and

- c. socioeconomic and cultural resources, including commercial fisheries and for-hire recreational fishing, demographics, employment, economics, environmental justice, land use and coastal infrastructure, navigation and vessel traffic, other uses (marine minerals, military use, aviation), recreation and tourism, and scenic and visual resources.
2. As part of its compliance with section 106 of the NHPA and the implementing regulations (36 CFR part 800), BOEM intends to develop a section 106 programmatic agreement (PA) through consultation with the State Historic Preservation Officers (SHPOs), federally-recognized Tribes, the Advisory Council on Historic Preservation, and consulting parties. The PA will identify a standard process for the future identification of historic properties and the evaluation, avoidance, minimization, mitigation, and monitoring of historic properties within the New York Bight. The PA may address possible programmatic AMMM measures in the NY Bight if potential adverse effects are identified during the consultation for this PA. BOEM plans to execute the PA before the PEIS ROD is issued. The PA will clarify the section 106 consultations that will be conducted for the individual COPs. The section 106 consultations for each COP will be conducted in conjunction with the NEPA reviews for each COP and will ensure consistency with the PA.

BOEM also seeks comment and input from the public and consulting parties regarding the identification of other potential consulting parties, the identification of historic properties within the NY Bight, the potential effects on those historic properties from NY Bight wind energy development alternatives including any AMMM, and any information that supports identification of historic properties under NHPA. BOEM also

solicits proposed measures to avoid, minimize, or mitigate any adverse effects on historic properties. BOEM will present available information regarding known historic properties during the public scoping period at

<https://www.boem.gov/renewable-energy/state-activities/new-york-bight>.

If any historic properties are identified, BOEM's draft PA and potential effects analysis will be available for public and consulting party comment in the draft PEIS.

3. Information on other current or planned activities in, or in the vicinity of, the NY Bight wind energy development alternatives including any AMMM measures, their possible impacts on the alternatives, and the alternatives' possible impacts on those activities.
4. Other information relevant to impacts on the human environment from potential NY Bight wind energy development alternatives, including any AMMM measures.
5. Information on the following for the development of the representative project design envelope and activities scenario: layout of turbines (analyze one or more standard layouts); setbacks identified in the leases; size (wind turbine generator nameplate capacity), dimensions (tip height, hub height, and rotor diameter) and number of turbines; offshore substation dimensions, number, and location; type of foundation; foundation installation method; scour protection; approach to cable emplacement (installation methods and disturbance corridor width); location of landfalls; onshore substation location; point of grid interconnection; ports, fabrication facilities, and staging areas; timing of onshore and offshore activities; and, associated activities such as vessel trips.

To promote informed decision-making, comments should be as specific as possible and should provide as much detail as necessary to meaningfully and fully inform BOEM of the commenter's position. Comments should explain why the issues raised are important for

consideration of the Proposed Action, as well as economic, employment, and other impacts affecting the quality of the human environment.

The draft PEIS will include a summary of all alternatives, information, and analyses submitted during the scoping process for consideration by BOEM and the cooperating agencies.

**AUTHORITY:** 42 U.S.C. 4321 et seq., and 40 CFR 1501.9.

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William Yancey Brown  
Chief Environmental Officer  
Bureau of Ocean Energy Management

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Date