

UNITED STATES DEPARTMENT OF THE INTERIOR
Bureau of Ocean Energy Management
Office of Renewable Energy Programs

**DRAFT Information Needed for Issuance of a Notice of Intent (NOI) Under
the National Environmental Policy Act (NEPA) for a Construction and
Operations Plan (COP)**

Guidance Disclaimer

Except to the extent that the contents of this document derive from requirements established by statute, regulation, lease, contract, or other binding legal authority, the contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding legal requirements, related agency policies, and technical issues.

The Bureau of Ocean Energy Management’s (BOEM’s) regulations describe the requirements for a COP at subpart F (30 CFR 585.620 – 585.629). BOEM’s decision to approve, disapprove, or approve with modifications a COP requires environmental reviews and consultations under NEPA and other applicable Federal statutes. Previously, BOEM published guidance to assist applicants in preparing their COP filings.¹ However, BOEM recognizes that, for a variety of reasons, it may not be possible or practicable for applicants to provide BOEM with an initial COP submission that meets all data and information requirements under subpart F. Accordingly, BOEM may begin processing incomplete COP submissions, subject to a BOEM-reviewed “supplemental filing schedule” for submitting the remaining required information in time to inform the requisite environmental analyses and COP decisions.

This guidance, known as the “NOI Checklist,” revises the current process for partial COP submissions to: (1) improve the efficiency and effectiveness of reviews; (2) provide clarity to COP applicants and cooperating agencies participating in BOEM’s NEPA analysis; (3) avoid delays to the NEPA analysis after the NOI, which are particularly disruptive to applicants, cooperating agencies, and BOEM’s decision making. The revised approach identifies the minimum threshold for a partial COP submission that an applicant generally should meet before BOEM will initiate the NEPA analysis through publication of an NOI. Moreover, BOEM will consider conformance with the NOI Checklist when considering acceptance of FAST-41 initiation notices and setting timelines within Coordinated Project Plans, where applicable.²

¹ <https://www.boem.gov/sites/default/files/documents/about-boem/COP%20Guidelines.pdf>

² FAST-41 is title 41 of the Fixing America’s Surface Transportation Act. The proponent of a large or complex infrastructure project may seek to initiate the FAST-41 process to improve government-wide coordination, transparency, and accountability by submitting a FAST-41 initiation notice to the Permitting Council’s executive director and the applicable facilitating Federal agency. For more information, see OMB and CEQ memo M-17-14 entitled *Guidance to Federal Agencies Regarding the Environmental Review and Authorization Process for Infrastructure Projects*, available at <https://www.permits.performance.gov/sites/permits.dot.gov/files/2019-10/Official%20Signed%20FAST-41%20Guidance%20M-17-14%202017-01-13.pdf>

Going forward, BOEM generally would not publish an NOI until the applicant’s COP submission includes the minimum content described in the attachment to this document, subject to limited exceptions. Absent extenuating circumstances, BOEM expects to complete the EIS/EA with a record of decision within 2 years of an NOI publication. However, BOEM cannot guarantee a certain timeframe for NOI publication after the NOI Checklist is met, due the participation of several other federal agencies in the EIS/EA schedule development.

Overall, BOEM will seek to minimize exceptions. However, BOEM retains the discretion to publish an NOI absent one or more items from the attached checklist if, for example, the applicant agrees to delay the record of decision beyond 2 years from the NOI publication. Likewise, BOEM may occasionally publish NOIs for COPs that include provisions for case-by-case supplemental filings as detailed in the attachment to this guidance document. Failure to meet the schedule for supplemental filings will lead to delays in processing the COP, including delays to the schedule for environmental review.

In the past, BOEM advised applicants on the development of their COP before it was submitted; provided courtesy reviews of incomplete COP submissions; and sometimes began formal reviews without all the necessary information for completing the reviews.

Going forward, BOEM will continue to provide courtesy reviews, subject to staff availability and other workload considerations. However, formal technical and environmental reviews may not begin, or may be paused, until the necessary information that is needed to adequately continue, or complete, the review of the COP has been submitted. In the attachment, BOEM has endeavored to describe the minimum information and deadlines—for example, it has established a latest date by which revisions that narrow the project design envelope may be accepted without causing delays to the review schedule (six months after publication of the NOI).

Applicants historically have provided significant additional information and background in the initial COP submitted to BOEM beyond what is required in the regulations. BOEM strongly encourages applicants to continue to do so, and the attached checklist should not be interpreted as precluding an applicant from doing so. Moreover, the attached checklist clarifies but does not supersede BOEM’s regulations governing COPs or its previous guidance regarding COPs.

Submission of Comments

Before finalizing this guidance document, BOEM welcomes input from all stakeholders during a 45-day comment period ending on December 12, 2022. Comments submitted through the regulations.gov web portal: Navigate to <https://www.regulations.gov/> and search for BOEM-2022-0056. Click on the “Comment” button below the document link. Enter your information and comment, then click “Submit Comment.”

Comments may be submitted in written form by mail, enclosed in an envelope labeled “NOI Checklist” and addressed to Program Manager, Office of Renewable Energy, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, VA 20166.

For Further Information Contact

Emily Hildreth, BOEM Office of Renewable Energy Programs, 45600 Woodland Road, Sterling, Virginia 20166, (571) 491-7505 or Emily.hildreth@boem.gov.

The final guidance will be posted at <https://www.boem.gov/guidance> in Q1 of calendar year 2023.

BOEM Guidance Document Statement

This guidance document sets forth BOEM’s general policy to provide the public with additional information regarding the agency’s approach to managing its renewable energy program. This guidance does not have the force and effect of law and does not bind the public or BOEM in any way. Lessees are encouraged to contact BOEM with questions or concerns related to the guidance or to site-specific permitting.

Paperwork Reduction Act Statement

These guidelines provide clarification, description, or interpretation of requirements contained in 30 CFR part 585, subpart F. An agency may not conduct or sponsor a collection of information unless it displays a currently valid information collection control number issued by the Office of Management and Budget (OMB). OMB has approved the information collection requirements in the 30 CFR part 585, subpart F regulations under OMB Control Number 1010-0176, respectively. These guidelines do not impose additional information collection requirements subject to the Paperwork Reduction Act of 1995.

Attachment

Checklist of Information Needed for Issuance of a Notice of Intent (NOI) Under the National Environmental Policy Act (NEPA) for a Construction and Operations Plan (COP) (“NOI Checklist”)

This section describes the COP components that, pursuant to 30 CFR part 585, BOEM generally will insist on receiving with adequate time to review before publishing an NOI to start the NEPA analysis. Each of the submissions provided by the applicant and discussed in this document should be deemed “sufficient” by BOEM for the purposes of issuing an NOI prior to NOI publication.³ Moreover, BOEM will consider the status of the COP components listed in this document when considering acceptance of FAST-41 initiation notices and setting timelines within coordinated project plans (CPP), where applicable.⁴ If phased development is proposed in the COP, then the NOI Checklist only applies to phase 1.

a. The NOI Checklist and FAST-41

Many COPs potentially qualify as “covered projects” under FAST-41. Applicants are increasingly submitting FAST-41 initiation notices (FINs) to the Federal Permitting Improvement Steering Council (FPISC) with the goal of getting their project designated a “covered project” and posted to the Permitting Dashboard. A CPP must be developed within 60 days of posting a project to the Permitting Dashboard.⁵ Historically, BOEM coordinated with FPISC to accept FINs for COPs that were neither complete nor sufficient under BOEM’s regulations at 30 CFR § 585.627 and § 585.628. However, BOEM found that this practice resulted in an inefficient permitting program because applicants and cooperating agencies lacked clarity about what information was needed to commence the environmental and technical reviews necessary under NEPA and other Federal statutes (e.g., Outer Continental Shelf Lands Act (OCSLA), Endangered Species Act, National Historic Preservation Act) after publication of an NOI. BOEM requires these reviews to make a formal decision on whether to approve, approve with modifications, or disapprove a COP. This lack of clarity resulted in disruptive delays to these reviews and BOEM’s formal decision-making.

Therefore, going forward, BOEM will more strictly rely on its existing COP requirement regulations to determine whether a submitted COP contains the information needed to commence the environmental and technical reviews necessary to satisfy its obligations under NEPA, OCSLA, and other applicable statutes.⁶ Specifically, the regulations require that all COPs include the information outlined in 30 CFR §§ 585.626-.628, as further described in this NOI Checklist. Failure to provide this information might result in BOEM determining that the COP is not sufficient for commencing the necessary technical and environmental reviews. If BOEM deems that a COP is insufficient for the necessary technical and environmental reviews, BOEM

³ 30 CFR § 585.628(a) and (e). For more discussion of the term “sufficient” *see e.g.*, page 7 of BOEM’s COP guidelines *available at* <https://www.boem.gov/sites/default/files/renewable-energy-program/COP-Guidelines.pdf>

⁴ See note 3.

⁵ A CPP is a “concise plan for coordinating public and agency participation in, and completion of, any required Federal environmental review and authorization for the project.” 42 U.S.C. § 4370m-2(c)(1)(A).

⁶ See 30 CFR § 585.627, “What information and certifications must I submit with my COP to assist the BOEM in complying with NEPA and other relevant laws?”

will consider that the associated project is not ready to qualify as a “covered project” under FAST-41.⁷ Consequently, BOEM will not make a “covered project” determination if a COP does not meet the information requirements in 30 CFR §§ 585.626-.628, as further described in this NOI Checklist. Once BOEM deems the COP sufficient, BOEM will make its “covered project” determination.

b. Project Description

In addition to the information requirements listed in 30 CFR § 585.626,⁸ the project description should include a complete, well-defined, and illustrated description of the project, including the Project Design Envelope (PDE) and the action area.⁹ This includes all facilities you plan to construct and use for your project, including onshore and support facilities and all anticipated project easements, as well as connected actions under NEPA.¹⁰ All designs, layouts, and technologies proposed within the PDE should be described in a similar level of detail that is sufficient for BOEM to assess during the NEPA review. The project should be described consistently throughout all COP volumes and appendices. If the COP is updated, all updates should be reflected throughout the COP and its applicable appendices. BOEM will generally allow narrowing of the PDE for up to 6 months after the NOI is published. That provides BOEM sufficient time to incorporate those changes into the EIS and applicable consultation documents. However, BOEM may continue to analyze alternatives that are outside of the narrowed PDE if the alternatives otherwise follow BOEM’s *Process for Identifying Alternatives for Environmental Reviews of Offshore Wind Construction and Operations Plans pursuant to the National Environmental Policy Act*.¹¹ Expansion of the PDE after the NOI is published is likely to cause delays and disruption to the NEPA review process, which may include re-scoping.

Applicants should include a description of their goals, including any offtake agreements the project is intended to meet and any solicitations for offshore wind power for which the project will be competing. Applicants should identify the minimum amount of energy the project must generate for it to be “technically and economically practicable or feasible” for consideration by

⁷ FAST-41 guidance expressly provides that a project determined not to be ripe for NEPA review and/or a project with incomplete information relevant to its technical feasibility “cannot be a covered project.” Off. of Mgmt. & Budget and Council on Env’t Quality, Exec. Off. of the President, M-17-14, Guidance to Federal Agencies Regarding the Environmental Review and Authorization Process for Infrastructure Projects, §§ 4.6 and 4.7 (Jan. 13, 2017) [hereinafter FAST-41 Guidance]. Determining that a project with an incomplete COP can also be a “covered project” under FAST-41 would effectively negate BOEM’s regulations at §§ 585.626-628 and would unreasonably interfere with BOEM’s administration of its permitting program by creating disruptive delays, all of which is legally impermissible under the limitations clause in FAST-41. See FAST-41 Guidance at § 3.9 (“The implementation of FAST-41 cannot have the effect of limiting the ability of an agency from meaningfully carrying out its obligations under other authorities.”)

⁸ 30 CFR § 585.626(b)(3) and (6).

⁹ “Action area” for Endangered Species Act purposes is defined at 50 CFR § 402.02 as: “all areas to be affected directly or indirectly by the federal action and not merely the immediate area involved in the action.”

For more information on the project design envelope see BOEM’s “Guidance Regarding the Use of a Project Design Envelope in a Construction and Operations Plan” available at <https://www.boem.gov/sites/default/files/renewable-energy-program/Draft-Design-Envelope-Guidance.pdf>

¹⁰ 30 CFR § 585.620(a); 40 CFR § 1501.9(e)(1).

¹¹ <https://www.boem.gov/sites/default/files/documents/renewable-energy/BOEM%20COP%20EIS%20Alternatives-2022-06-22.pdf>

BOEM in developing reasonable alternatives during its NEPA review.¹² Likewise, applicants should identify scheduling constraints and obligations related to offtake agreements, points of interconnection, electricity tariffs, and any other critical timeline obligations for BOEM's consideration.

An applicant should also submit a complete description of the preliminary area of potential effect (PAPE) before BOEM will initiate the section 106 process. Additional information can be found in the National Historic Preservation Act (NHPA) section below.¹³

c. Detailed Description of Potential Impacts¹⁴

The discussion of environmental resources and impact producing factors (IPFs) in the COP submission should be informative rather than analytical. The level of detail should be tailored to the geographic extent of your activities, the duration or intensity of the IPFs, and the sensitivity of resources in your project area, as opposed to assigning impact levels to project activities. There must be sufficient detail to support the environmental analyses required by NEPA and other relevant environmental laws.¹⁵ COPs must also include any environmental protection measures and monitoring activities you are proposing.¹⁶

For each biological, physical, and socioeconomic resource, applicants should identify all of the IPFs and provide a detailed assessment of each. The assessment should include, but is not limited to, a description of each IPF, spatial delineation of the affected area for each potentially affected resource, a quantified inventory of these affected resources, and a narrative describing how these resources would be affected. Applicants should include illustrations, tables, and figures, as appropriate. Additional details can be found in the resource sections below.

d. Identification of Layout and Design Options Considered for the Proposed Action¹⁷

The applicant should identify layout and design options considered for the proposed action contained in the COP for those resources that the applicant anticipates may be: (1) significantly impacted by their proposed action and (2) of known concern to stakeholder groups (e.g., North Atlantic Right Whale; visual impacts to tourism and historic resources; essential fish habitat; co-located fisheries; etc.). For example, if the proposed onshore cable route will cross through sensitive habitat, such as a large area of wetlands, the applicant should propose a potential alternative route to be analyzed that is feasible and may reduce impacts to the sensitive habitat, if one can be reasonably identified. In addition, the applicant should document all layout and design options considered, but ultimately not proposed by the applicant, along with the technical, practical, and economic reasoning for eliminating them from further consideration. The applicant should also describe the coordination with Federal and State agencies, Tribal and local governments, and other stakeholder engagement that was used to consider or eliminate layout and design options.

¹² 43 CFR § 46.420(b).

¹³ 30 CFR §§ 585.626(a)(5); 585.627(a)(6).

¹⁴ 30 CFR § 585.627(a).

¹⁵ 30 CFR § 585.627.

¹⁶ 30 CFR § 585.626(b)(15).

¹⁷ 30 CFR §§ 585.621; 585.626(b)(15).

For activities requiring a permit under section 404 of the Clean Water Act, the description should include sufficient information for the U.S. Army Corps of Engineers to conduct its dredged or fill material analysis under 40 CFR part 230. The proposed action and the alternatives should also address restrictions on discharge under 40 CFR § 230.10.

e. Description and Confirmation of Meaningful Coordination with Agencies¹⁸

The applicant should provide a list of agencies it has consulted with prior to submission of the COP (such as, but not limited to, the Department of Defense’s Military Aviation and Installation Assurance Siting Clearinghouse, National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service, U.S. Coast Guard, U.S. Army Corps of Engineers, National Park Service, affected State government agencies and officials, etc.), agency points of contact, dates of meetings, and outcome of meetings. This includes a listing of all Federal, State, and local authorizations, approvals, consultations, or permits that are required to conduct the proposed activities.¹⁹ The applicant should meet with all agencies that must either permit or be consulted regarding the proposed action at least once prior to the submittal of the COP. BOEM strongly recommends that the applicant have early discussions with both the U.S. Army Corps of Engineers regarding onshore and offshore cable routes and NMFS regarding Marine Mammal Protection Act compliance and benthic habitat assessments. These discussions should occur during the site characterization stage of lease development and during the initial drafting of the COP.

f. Viewshed Modeling and Visual Resource Assessment²⁰

The applicant’s COP submittals should include a complete and sufficient seascape, landscape, and visual impact assessment (“SLVIA”) report. That report should include an inventory and analysis of potential impacts to ocean, seascape, and landscape character areas that are within the viewshed zone of theoretical visibility and are expected to be affected by activities proposed in the COP.

COP submittals should include a complete and sufficient report presenting an inventory and assessment of visual impacts, a visual impact assessment (VIA), of all proposed offshore and onshore components of the project visible from particular viewpoints. The VIA evaluates how the addition of the visible elements of the proposed project (or the associated removal or change to existing visual elements) would change the composition of the views and how those changes would affect the visual landscape. For more information, see *Assessment of Seascape, Landscape, and Visual Impacts of Offshore Wind Energy Developments on the Outer Continental Shelf of the United States* (April 2021).²¹

Note: Additional viewshed modeling requirements are found in the NHPA section below.

g. Benthic Habitat Assessment²²

¹⁸ 30 CFR § 585.626(b)(17).

¹⁹ 30 CFR § 585.626(b)(14).

²⁰ 30 CFR § 585.627(a)(7).

²¹ Available at <https://www.boem.gov/sites/default/files/documents/environment/environmental-studies/BOEM-2021-032.pdf>.

²² 30 CFR § 585.626(a)(3) and 585.627(a)(5).

COP submittals should include a benthic habitat assessment that provides the information described in BOEM's *Guidelines for Providing Benthic Habitat Survey Information for Renewable Energy Development on the Atlantic Outer Continental Shelf Pursuant to 30 CFR Part 585 and Guidelines for Providing Geophysical, Geotechnical, and Geohazard Information Pursuant to 30 CFR Part 585*.²³ BOEM recommends that the habitat assessment include multibeam and side scan sonar data for 100 percent of the project area. However, if 100 percent coverage is impracticable, BOEM will accept modeled bathymetry and modeled surface feature classes (rippled scour depressions, sand, silt, clay) for project areas without geophysical survey data based upon the available acoustic surveys and grab sample survey results. The benthic habitat assessment should include all offshore, inshore, estuarine, and riverine areas within the project area.

Benthic habitat data provided with the COP should be characterized according to the Coastal and Marine Ecological Classification Standard (CMECS) to identify and describe the physical and biological components of benthic habitats and features. Benthic flora and fauna should be classified to the most precise taxonomic unit practicable (at least to family). For the sediment grain size analysis, silt and clay (in addition to sand) should be differentiated, and the Wentworth scale classification system should be used to report the percent sample composition of cobble, pebble, granule, sand, silt, and clay. The benthic habitat assessment maps should enumerate and delineate sensitive habitats, soft sediment habitats, complex habitats, and benthic features, consistent with CMECS. The CMECS delineations should be derived from acoustic survey and benthic sampling data as modified in NMFS' fish habitat mapping recommendations.²⁴

Applicants should identify all essential fish habitat and habitat areas of particular concern (HAPC) (e.g., habitats for inshore juvenile Atlantic cod, sand tiger shark, etc.) in the project area. Applicants should delineate areas consistent with HAPC designations, as appropriate. Applicants should also include a description of the habitat mapping methodology employed, including explanations of how survey data were collected and analyzed and how maps were developed.

Map products delineating benthic habitats should include appropriately scaled (zoomed in) maps of areas of sensitive or complex habitat.²⁵ These products can be submitted in electronic format such as PDFs or ERSI-compatible map products.

BOEM also strongly recommends that the applicant meet with NMFS regarding its benthic habitat data and analysis prior to the publication of the NOI.

h. Marine Site Investigation Report (MSIR)²⁶

²³ Available at <https://www.boem.gov/renewable-energy/survey-guidelines-renewable-energy-development> .

²⁴ <https://www.fisheries.noaa.gov/new-england-mid-atlantic/science-data/technical-guidance-offshore-wind-energy-projects-greater-atlantic-region>.

²⁵ Habitat maps that display the characterized delineations and benthic features should be provided at a landscape scale of 1:25,000. Maps that display complex habitats (i.e. complex, heterogeneous, large grained) should be provided at a larger scale (i.e. 1:1,000 or 1:5,000). Maps that display extensive areas of homogeneous can be provided at a smaller scale (i.e. 1:50,000 or 1:100,000).

²⁶ 30 CFR §§ 585.626(a); 585.627(a)(1).

The MSIR included with the COP submission should include information on project-specific geologic conditions, shallow hazards, and a site investigation report based on site-specific data. The report should include information and supporting data that describes the geological ground model (including for cable routings), geohazard analysis, sediment mobility estimates, and man-made risks. Supporting data is described in BOEM’s guidance document *Guidelines for Providing Geophysical, Geotechnical, and Geohazard Information* and includes geospatial data files for the proposed project facility, such as wind turbine locations, cable routings, APE, etc.

The MSIR should also meet the “Part 1: Evaluation Criteria” listed and defined in the BOEM-sponsored report *Data Gathering Process - Geotech Departures for Offshore Wind Energy*.²⁷ Upon receipt, BOEM will conduct a brief sufficiency review, in part based on the above-referenced evaluation criteria. Upon completion of this review, BOEM will determine whether the MSIR is sufficient to support the issuance of an NOI.

i. Subsea Cables²⁸

Information included in the COP to describe the PDE for the subsea cable routings should include:

- Maximum and minimum number of export cables;
- Maximum length of cable;
- Easement width estimates and location if known;
- Minimum and maximum cable burial depths;
- Minimum amount of the cable routings that will meet the minimum burial depth;
- Estimate of the stable seabed depth in relation to the surveyed seabed; and
- Maximum amount of cable protection needed, and information on where cable protection may be necessary and how the determination was made.

Additionally, the COP should include an analysis of the risks that project subsea cables may present to other maritime users in the vicinity (e.g., shipping, fishing, dredging, and sand borrow activities). That analysis should include information on the vertical and horizontal extents of subsea cable risks and how the submarine cable PDE takes into consideration such risks over the project lifetime. Finally, the COP should include a description of all subsea cable installation methods and equipment types; seabed preparation activities; and potential mitigation methodologies for unexploded ordinance, where applicable.

j. Navigation Safety Risk Assessment (NSRA)²⁹

The COP should include an NSRA that contains all the information required under the U.S. Coast Guard’s Navigation and Vessel Inspection Circular (NVIC) 01-19 for developing a navigation safety risk assessment of an offshore wind energy project.³⁰ Examples of what the

²⁷ Available at <https://www.boem.gov/sites/default/files/environmental-stewardship/Environmental-Studies/Renewable-Energy/Data-Gathering-Process.pdf>.

²⁸ 30 CFR § 585.626(b)(7).

²⁹ 30 CFR § 627(a)(8).

³⁰ Available at <https://www.dco.uscg.mil/Portals/9/DCO%20Documents/5p/5ps/NVIC/2019/NVIC%2001-19-COMDTPUB-P16700-4-dtd-01-Aug-2019-Signed.pdf?ver=2019-08-08-160540-483>.

NVIC requires include a comprehensive traffic survey, an assessment of navigation within the project area and within close proximity to a structure, effects of meteorological and oceanographic conditions on navigation risks within vicinity of the project, risk of incidents (collision, allision, and grounding), and impacts to vessel-based navigation aids. The document should be clear and understandable by the public. The data and analysis should be of sufficient quality for the public to adequately provide comment to BOEM during the scoping process.

k. Radar Assessment³¹

The radar assessment should include all land-based radar systems potentially impacted by the project and identify the owners and users of those systems.³² During the site assessment phase of the project, the applicant should consult with owners, users, and operators of the identified land-based radar systems to mitigate impacts. Land-based radar systems potentially impacted by wind facilities may include, but are not limited to, the following:

- Airport Surveillance Radars (ASR);
- Air Route Surveillance Radars (ARSR);
- NEXt-generation RADars (NEXRAD);
- Relocatable Over-The-Horizon-Radar (ROTHR);
- SeaSonde Radars; and
- Terminal Doppler Weather Radars (TDWR).

l. List of Solid and Chemical Waste to be Generated and Chemical Products to be Used (if Stored Volume Will Exceed EPA Reportable Quantities)³³

Before publication of the NOI, the applicant should submit general descriptions and volume estimates of solid and chemical waste to be generated and chemical products to be used during the project's construction and operations. The applicant needs not submit specific product identification until the final design report and facility installation report.

m. National Historic Preservation Act Information and Reports³⁴

The COP should include the following information for initiation of consultation under section 106 of NHPA, which typically occurs concurrently with issuance of the NOI under the "NEPA substitution" process at 36 CFR § 800.8(c):

- **The Preliminary Area of Potential Effect (PAPE):** A complete, well-defined, and clearly illustrated project description and presentation of the PAPE, which may be described in terms of the PDE. This should include consideration of all aspects of the PAPE, which include:
 - The viewshed PAPE as developed through GIS-based viewshed modeling (i.e., the viewshed from which renewable energy structures, whether located offshore

³¹ 30 CFR § 627(a)(8).

³² BOEM notes that vessel-based radar impacts are included in the Navigation Safety Risk Assessment.

³³ 30 CFR § 626(b)(9),(10)

³⁴ 30 CFR §§ 626(a)(5); 627(a)(6). See also *Guidelines for Providing Archaeological and Historic Property Information Pursuant to 30 CFR Part 585* at <https://www.boem.gov/sites/default/files/documents/about-boem/Archaeology%20and%20Historic%20Property%20Guidelines.pdf>

- or onshore, would be visible, with definition of viewsheds for both offshore and any onshore project elements [e.g., substations, interconnections facilities]);
- The terrestrial archaeology PAPE (i.e., the depth and breadth of terrestrial areas potentially impacted by any ground disturbing activities); and
- The marine archaeology PAPE (i.e., the depth and breadth of the seabed potentially impacted by any bottom-disturbing activities).

The applicant should consider developing a broad enough PAPE to allow flexibility for the development of alternatives and potential revisions to the specific siting of structures. A reasonably expansive PAPE minimizes possible delays caused when supplemental surveys are necessary because the original PAPE was insufficiently sized to accommodate changes and alternatives.

- **Identification of Historic Properties Within the PAPE:** The applicant should submit the results of the historic property identification surveys within each element of the PAPE, including:
 - A stand-alone report identifying and presenting an assessment of visual effects to onshore historic properties per 36 CFR § 800.5 (often referred to as the historic resources visual effects assessment (HRVEA) or the assessment of visual effects to historic properties (AVEHP)). The HRVEA or AVEHP should include the architectural survey report for investigated properties.
 - A stand-alone report identifying and presenting an assessment of effects to terrestrial archaeological resources per 36 CFR § 800.5 (often referred to as the TARA). If an applicant requests to delay submission of the TARA and related proposed mitigation measures, the COP should include a schedule committing to when this information will be provided to BOEM.
 - A stand-alone report identifying and presenting an assessment of effects to marine archaeological resources per 36 CFR § 800.5 and submission of supporting geophysical and geotechnical survey data (often referred to as the MARA).
 - Proposed mitigations with sufficient detail as to how and the degree to which adverse effects to identified historic properties could be avoided, minimized, or mitigated. The proposed mitigations may be included with the respective reports above or provided as a separate addendum.
 - These reports should indicate whether any identified property is a National Historic Landmark, which may necessitate additional analysis under section 110(f) of NHPA.

n. Offshore Wind Project Pile Driving Sound Exposure Modeling and Sound Field Measurement³⁵

The COP should include a complete and sufficient marine acoustic modeling submission in support of BOEM’s completion of an Endangered Species Act effects analysis, as described below. BOEM’s *DRAFT Nationwide Recommendations for Impact Pile Driving Sound Exposure Modeling and Sound Field Measurement for Offshore Wind Construction and Operations Plans* was released in tandem with this guidance document on regulations.gov as Docket # BOEM-2022-0057 for a 45-day comment period. BOEM will post the final recommendations

³⁵ 30 CFR §§ 626(b)(15) and 627(a)(3)-(4).

at <https://www.boem.gov/guidance>. Applicants should evaluate the effects of the project's underwater noise generating activities (e.g., vibratory pile driving, socket drilling, screw piling, horizontal direction drilling, trenching, unexploded ordinance disposal, etc.) with detail and sophistication appropriate for the level of effect possible.

o. Endangered Species Act (ESA) and NEPA Information³⁶

- The applicant should include a description of critical habitat in the action area.³⁷ The applicant should include seasonal abundance and distribution of ESA-listed species in the action area.
 - The applicant should identify IPFs in sufficient detail for BOEM to scope and conduct an effects analysis that includes a description of baseline conditions in the action area that impact endangered and threatened species. Baseline conditions include past, present, and reasonably anticipated to occur future human and natural factors impacting the status of the species, habitat, and ecosystem within the action area.
 - For each IPF, a description of each stressor and how it may affect protected species, including a description of any differences in exposure to different life history stages.
 - A qualitative assessment of the duration and intensity of exposure to each species or species group and to each life history stage likely to be exposed.
 - An analysis and description of the expected response to the exposure for species and life history stages.
 - An assessment of the IPF stressors to potentially affect the physical and biological features of any designated critical habitat in the action area.
 - A description of the effect to the physical and biological features, including duration and extent, and whether adverse modification and destruction of critical habitat may occur.

p. Marine Mammal Protection Act and NEPA Information³⁸

- The applicant should include in its COP the abundance and distribution of marine mammals in the action area.
- The applicant should include a description of important habitat, such as biologically-important areas, for all marine mammals.
- The applicant should identify in its COP IPFs in sufficient detail for BOEM to scope and conduct an effects analysis that includes:
 - A description of the marine mammals that may be exposed to the effects and stressors of the proposed action, including a description of the life history stages.
 - A qualitative assessment of marine mammal life history stages likely to be exposed and the duration and intensity of that exposure.
 - A description of whether the stressor may result in any impacts to marine mammal habitat.

³⁶ 30 CFR § 627(a)(3)-(4)

³⁷ See footnote 4 for a description of the action area.

³⁸ See e.g., 50 CFR § 216.31, et seq. See also NOAA's Incidental Take website at:

<https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>

- An analysis and description of the expected response to the exposure for each marine mammal species.
- An analysis and description of the effects of the response on marine mammal species.
- An analysis and description of the response to the exposure by biologically-important areas.
- An analysis and description of the effects of the response on biologically-important areas.
- An evaluation of the effects when added to baseline conditions.

q. Supplemental Filing Schedule

Applicants proposing to submit data and information after their initial COP submission should include a written supplemental filing schedule with their first COP submission. Data and information submitted through supplemental filings should be submitted *and determined sufficient by BOEM* to allow BOEM adequate environmental and technical review time before an upcoming review milestone, such as: the issuance of an NOI; the publication of a DEIS or FEIS; or the issuance of an approval, approval with modifications, or disapproval for the COP. Prior to submission, the applicant should discuss with BOEM what schedule would be appropriate for the timely review and processing of the COP by BOEM and the consulting agencies.

The proposed filing schedule and references to any delayed information should be clearly documented in the initial COP submission for transparency to the public and other stakeholders. The proposed schedule should account for the timing of the applicant’s surveys and processing of survey data. Submission of a schedule that does not meet the timing of BOEM’s environmental and technical review or a failure to comply with the schedule submitted will likely result in BOEM delaying its environmental and/or technical reviews of the COP or in BOEM disapproving the COP. If the project is a covered project under title 41 of the Fixing America's Surface Transportation Act (FAST-41), a delay may result in the project being placed in a “paused” status on the Federal Infrastructure Projects Permitting Dashboard. If the applicant needs to change any dates in the schedule, the applicant should contact BOEM as soon as possible and submit a revised schedule that clearly identifies what dates the applicant is requesting to change. BOEM will review and inform the applicant if any of the date revisions will have a negative impact on BOEM’s review schedule. If so, BOEM may inform the applicant that the updated schedule will result in BOEM delaying environmental review and that the applicant should request a “pause” under FAST-41, if applicable.³⁹

³⁹ See e.g., OMB memo M-17-14, “Guidance to Federal Agencies Regarding the Environmental Review and Authorization Process for Infrastructure Projects,” section 4.31: “If there are actions outside the control of Federal agencies (or state agencies that have opted to participate in FAST-41 process) that pause the timetable, the permitting timetable may be modified without going through the modification steps in 42 U.S.C. § 4370m-2(c)(2)(D).”