

Billing Code: 4310-MR

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM-2021-0057]

**Notice of Intent to Prepare an Environmental Impact Statement for the Atlantic Shores
Offshore Wind Projects Offshore New Jersey**

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

ACTION: Notice of intent (NOI) to prepare an environmental impact statement (EIS).

SUMMARY: Consistent with the regulations implementing the National Environmental Policy Act (NEPA), BOEM announces its intent to prepare an EIS for the review of a construction and operations plan (COP) submitted by Atlantic Shores Offshore Wind, LLC, (Atlantic Shores) for its Atlantic Shores Offshore Wind Projects. The COP proposes the development, construction, and operation of two wind energy projects (Project 1 and Project 2 or, collectively, the Projects) offshore New Jersey with transmission cables making landfall in either Atlantic City, New Jersey, Sea Girt, New Jersey, or both. This NOI announces the EIS scoping process for the Atlantic Shores COP. Additionally, this NOI seeks public comment and input under section 106 of the National Historic Preservation Act (NHPA) and its implementing regulations. Detailed information about the proposed Projects, including the COP, can be found on BOEM's website at: <https://www.boem.gov/atlantic-shores>.

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 Atlantic Shores EIS at the following dates and times (eastern time):

- Tuesday, October 19, 5:00 p.m.

- Thursday, October 21, 1:00 p.m.; and
- Monday, October 25, 5:00 p.m.

Registration for the virtual public meetings may be completed here:

<https://www.boem.gov/Atlantic-Shores-Scoping-Virtual-Meetings>.

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

- Delivered by mail or delivery service, enclosed in an envelope labeled “ATLANTIC SHORES COP EIS,” and addressed to Program Manager, Office of Renewable Energy Programs, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, Virginia 20166; or
- Through the regulations.gov web portal: Navigate to <http://www.regulations.gov> and search for Docket No. BOEM-2021-0057. 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: Michelle Morin, Office of Renewable Energy Programs, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, Virginia 20166, (703) 787-1722 or michelle.morin@boem.gov.

SUPPLEMENTARY INFORMATION:

Purpose of and Need for the Proposed Action

In Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad*, issued on January 27, 2021, President Biden stated that it is the policy of the United States “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.”

Through a competitive leasing process conducted under 30 CFR 585.211, BOEM awarded US Wind, LLC, the Commercial Lease OCS-A 0499 covering an area offshore New Jersey (the Lease Area). The lease was subsequently assigned to EDF Renewables Development, Inc., on November 16, 2018, and then to Atlantic Shores on August 13, 2019. Atlantic Shores has the exclusive right to submit a COP for activities within the Lease Area. Atlantic Shores submitted a COP to BOEM proposing the construction and installation, operations and maintenance, and conceptual decommissioning of two electrically distinct offshore wind energy Projects in the Lease Area.

Atlantic Shores' purpose and need is to develop two offshore wind energy generation Projects in the Lease Area to provide clean, renewable energy to the New Jersey electrical grid. The Projects would include up to 200 total wind turbine generators (WTGs) (between 105-136 WTGs for Project 1 and between 64-95 WTGs for Project 2), up to 10 offshore substations (up to five in each project), one permanent meteorological (met) tower, up to four temporary meteorological and oceanographic (metocean) buoys (one met tower and up to three metocean buoys in Project 1 and one metocean buoy in Project 2), inter-array and inter-link cables, up to two onshore substations, one operations and maintenance facility, and up to eight transmission cables making landfall at up to two New Jersey locations: the Atlantic Landfall site in Atlantic City, New Jersey, Monmouth Landfall site in Sea Girt, New Jersey, or both.

The Projects would contribute to New Jersey's goal of 7.5 gigawatts (GW) of offshore wind energy generation by 2035 as outlined in New Jersey Governor's Executive Order No. 92, issued on November 19, 2019. Project 1 would fulfill the New Jersey Board of Public Utilities

September 10, 2020, solicitation and subsequent June 30, 2021, award to Atlantic Shores for 1,510 megawatts (MW) of offshore wind capacity. Atlantic Shores is actively seeking additional offshore wind renewable energy certificate awards or purchase power agreements for Project 2. The Projects are intended to contribute substantially to the region's electrical reliability and to help New Jersey achieve its renewable energy goals.

Based on the goals of the applicant, BOEM's authority, and Executive Order 14008, the purpose of BOEM's action is to determine whether to approve, approve with modifications, or disapprove Atlantic Shores COP to construct and install, operate and maintain, and decommission two electrically distinct, commercial-scale, offshore wind energy Projects within the Lease Area (the Proposed Action). BOEM's action is needed to 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)), including consideration of natural resources, safety of navigation, and existing ocean uses.

In addition, the National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) anticipates receipt of one or more requests for authorization to take marine mammals incidental to activities related to the Projects under the Marine Mammal Protection Act (MMPA). NMFS issuance of an MMPA incidental take authorization is a major Federal action and, in relation to BOEM's action, is considered a connected action (40 CFR 1501.9(e)(1)). The purpose of the NMFS action—which is a direct outcome of Atlantic Shores' request for authorization to take marine mammals incidental to specified activities associated with the Projects (e.g., pile driving)—is to evaluate the applicant's request pursuant to specific requirements of the MMPA and its implementing regulations administered by NMFS, considering impacts of the applicant's activities on relevant resources, and if appropriate, issue the authorization. NMFS needs to render a decision regarding the request for authorization due

to its responsibilities under the MMPA (16 U.S.C. 1371(a)(5)(D)) and its implementing regulations. If, after independent review, NMFS makes the findings necessary to issue the requested authorization, NMFS intends to adopt BOEM's EIS to support that decision and fulfill its NEPA requirements.

The U.S. Army Corps of Engineers, Philadelphia District, (USACE) anticipates a permit action to be undertaken, through authority delegated to the District Engineer by 33 CFR 325.8, under section 10 of the Rivers and Harbors Act of 1899 (RHA) (33 U.S.C. 403) and section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344). In addition, it is anticipated that a section 408 permission will be required pursuant to section 14 of the RHA (33 U.S.C. 408) for any proposed alterations that have the potential to alter, occupy, or use any federally authorized civil works project. The USACE considers issuance of a permit or permission under these three delegated authorities a major Federal action connected to BOEM's Proposed Action (40 CFR 1501.9(e)(1)).

The applicant's stated purpose and need for the projects as indicated above is to provide two commercially viable offshore wind energy Projects within Lease OCS-A 0499 to help New Jersey achieve its renewable energy goals. The basic Projects' purpose, as determined by USACE for section 404(b)(1) guidelines evaluation, is offshore wind energy generation. The overall Projects' purpose for section 404(b)(1) guidelines evaluation, as determined by USACE, is the construction and operation of commercial-scale, offshore wind energy Projects for renewable energy generation and distribution to the New Jersey energy grid. The purpose of the USACE section 408 action, as determined by EC 1165-2-220, is to evaluate the applicant's request and determine whether the proposed alterations are injurious to the public interest or impair the usefulness of the USACE project. The USACE section 408 permission is needed to

ensure that congressionally authorized projects continue to provide their intended benefits to the public.

USACE intends to adopt BOEM's EIS to support its decision on any permits and permissions requested under section 10 of the RHA, section 404 of the CWA, and section 14 of the RHA. The USACE would adopt the EIS pursuant to 40 CFR 1506.3 if, after its independent review of the document, it concludes that the EIS satisfies the USACE's comments and recommendations. Based on its participation as a cooperating agency and its consideration of the final EIS, the USACE would issue a record of decision to formally document its decision on the Proposed Action.

Preliminary Proposed Action and Alternatives

The Proposed Action is to develop two electrically distinct, offshore, wind energy generation Projects in the Lease Area to provide clean, renewable energy to the New Jersey electrical grid. The Proposed Action would include up to 200 total WTGs (between 105-136 WTGs for Project 1 and between 64-95 WTGs for Project 2), up to 10 offshore substations (up to five in each Project), one permanent met tower, up to four temporary metocean buoys (one met tower and up to three metocean buoys in Project 1 and one metocean buoy in Project 2), inter-array and inter-link cables, up to two onshore substations, one operations and maintenance facility, and up to eight transmission cables making landfall at up to two New Jersey locations: the Atlantic Landfall site in Atlantic City, New Jersey, the Monmouth Landfall site in Sea Girt, New Jersey, or both.

Atlantic Shores expects WTG and offshore substation foundations to consist of either gravity-based jackets, monopiles, suction buckets, or a combination of them. The WTGs, offshore substations, array cables, and substation interconnector cables would be located on the OCS approximately 8.7 miles (mi) (14 kilometers (km)) from the New Jersey shoreline at its

closest point. The offshore transmission cables would be buried below the seabed of both the OCS and New Jersey state waters.

If any reasonable alternatives are identified during the scoping period, BOEM will evaluate those alternatives in the draft EIS, which will also include a no action alternative. Under the no action alternative, BOEM would disapprove the COP and the Atlantic Shores' Projects described in the COP would not be built in the Lease Area.

After BOEM completes the EIS, BOEM will decide whether to approve, approve with modification, or disapprove the Atlantic Shores COP. If BOEM approves the COP and the Projects are constructed, the lessee must submit a plan to decommission the Projects before the end of the lease term.

Summary of Expected Impacts

The draft EIS will identify and describe the effects of the Proposed Action and the alternatives on the human environment that are reasonably foreseeable and have a reasonably close causal relationship to the Proposed Action and alternatives. This includes such effects that occur at the same time and place as the Proposed Action and alternatives and such effects that are later in time or not at the same place. Expected impacts include, but are not limited to, impacts (both beneficial and adverse) 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 visual resources. The effects of these expected impacts will be analyzed in the draft and final EIS.

Based on a preliminary evaluation of these resources, BOEM expects impacts on sea turtles and marine mammals from underwater noise caused by construction and from collisions with vessel traffic associated with the Projects. Structures installed for the Projects could permanently change benthic habitat and other fish habitat. Commercial fisheries and for-hire recreational fishing could be impacted. The Projects' structures above the water could affect the visual character defining historic properties and recreational and tourism areas. The Projects' 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 adversely impact mineral extraction, military use, 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. The EIS will analyze measures that would avoid, minimize, or mitigate environmental effects.

Anticipated Permits and Authorizations

In addition to the requested COP approval, various other Federal, State, and local authorizations will be required for the Projects. These include authorizations under the Endangered Species Act, Magnuson-Stevens Fishery Conservation and Management Act, MMPA, NHPA, RHA, CWA, Coastal Zone Management Act, and other laws and regulations determined to be applicable to the Projects. BOEM will also conduct government-to-government Tribal consultations. For a full listing of regulatory requirements applicable to the Projects, please see the COP, volume I, available at <https://www.boem.gov/atlantic-shores>.

BOEM has chosen to use the NEPA substitution process to fulfill its obligations under NHPA. While BOEM's obligations under NHPA and NEPA are independent, the regulations implementing NHPA allow for the use of NEPA review to substitute for various aspects of NHPA's section 106 (54 U.S.C. 306108) review to improve efficiency, promote transparency and accountability, and support a broadened discussion of potential effects that a project could have on the human environment. As provided in 36 CFR 800.8(c), the NEPA process and documentation required for the preparation of an EIS and record of decision (ROD) can be used to fulfill a lead Federal agency's NHPA section 106 review obligations in lieu of the procedures set forth in 36 CFR 800.3 through 800.6. During preparation of the EIS, BOEM will ensure that the NEPA substitution process will meet its NHPA obligations necessary to successfully use this alternative process.

Schedule for the Decision-making Process

After the draft EIS is completed, BOEM will publish a notice of availability (NOA) and request public comments on the draft EIS. BOEM expects to issue the NOA in November 2022. After the public comment period ends, BOEM will review and respond to comments received and will develop the final EIS. BOEM expects to make the final EIS available to the public in August 2023. A ROD will be completed no sooner than 30 days after the final EIS is released, in accordance with 40 CFR 1506.11.

This COP is a "covered project" under section 41 of the Fixing America's Surface Transportation Act (FAST-41). FAST-41 provides increased transparency and predictability by requiring Federal agencies to publish comprehensive permitting timetables for all covered projects. FAST-41 also provides procedures for modifying permitting timetables to address the unpredictability inherent in the environmental review and permitting process for significant

infrastructure projects. To view the FAST-41 Permitting Dashboard for the Projects, visit:
<https://www.permits.performance.gov/permitting-project/atlantic-shores-project-1>.

Scoping Process

This NOI commences the public scoping process to identify issues and potential alternatives for consideration in the Atlantic Shores EIS. Throughout the scoping process, Federal agencies; Tribal, State, and local governments; and the general public have the opportunity to help BOEM determine significant resources and issues, impact-producing factors, reasonable alternatives (e.g., size, geographic, seasonal, or other restrictions on construction and siting of facilities and activities), and potential mitigation measures to be analyzed in the EIS, as well as to provide additional information. In the interests of efficiency, completeness, and facilitating public involvement, BOEM will use the NEPA process to fulfill public involvement requirements established in 36 CFR 800.2(d).

BOEM will hold virtual public scoping meetings for the Atlantic Shores EIS at the following dates and times (eastern time):

- Tuesday, October 19, 5:00 PM.;
- Thursday, October 21, 1:00 PM.; and
- Monday, October 25, 5:00 PM.

Registration for the virtual public meetings may be completed here:

<https://www.boem.gov/atlantic-shores-Scoping-Virtual-Meetings>.

NEPA Cooperating Agencies

BOEM invites other Federal agencies, Tribes, and State and local governments to consider becoming cooperating agencies in the preparation of this EIS. 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 details of cooperating agencies’ 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 CEQ’s memorandum titled “Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act” of January 30, 2002. This document is available on the Internet at:

http://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. Even if a governmental entity is not a cooperating agency, it will have opportunities to provide information and comments to BOEM during the public input stages of the NEPA process.

NHPA Consulting Parties

Certain individuals and organizations with a demonstrated interest in the Projects can request to participate as NHPA consulting parties under 36 CFR 800.2(c)(5) based on their legal or economic stake in, or concern for, historic properties affected by the Projects. Before issuing this NOI, BOEM compiled a list of potential consulting parties and invited them to become consulting parties. To become a consulting party, those invited must respond in writing, preferably by the requested response date.

Interested individuals or organizations that did not receive a written invitation can request to be consulting parties by writing to the appropriate staff at ICF International, Inc., which is supporting BOEM in its administration of this review. ICF's contact for this review is Neil Sullivan. He can be reached at 9300 Lee Highway, Fairfax, VA 22031 or AtlanticShoresSection106@icf.com. BOEM will determine which interested parties should be consulting parties.

Comments

Federal agencies; Tribal, State, and local governments; and other interested parties are requested to comment on the scope of this EIS, 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 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 resources if it determines that disclosure may, among other things, cause a significant invasion of privacy, risk harm to the historic resources, 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, analyses, alternatives, or suggestions on 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 effects that the Proposed Action could have on biological resources, including bats, birds, coastal fauna, finfish, invertebrates, essential fish habitat, marine mammals, and sea turtles.

2. Potential effects that the Proposed Action could have on physical resources, including air quality, water quality, and wetlands and other waters of the United States.
3. Potential effects that the Proposed Action could have on 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.
4. Other possible reasonable alternatives to the Proposed Action that BOEM should consider, including additional or alternative avoidance, minimization, and mitigation measures.
5. As part of its compliance with NHPA section 106 (54 U.S.C. 306108) and its implementing regulations (36 CFR part 800), BOEM seeks public comment and input regarding the identification of historic properties within the Proposed Action's area of potential effects and the potential effects on those historic properties from the activities proposed in the COP. BOEM requests feedback from the public and consulting parties on the aforementioned information and any information that supports identification of historic properties under the 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/atlantic-shores>. BOEM's effects analysis for historic properties will be available for public and consulting party comment in the draft EIS.
6. Information on other current or planned activities in, or in the vicinity of, the Proposed Action, their possible impacts on the Projects, and the Project's possible impacts on those activities.

7. Other information relevant to the Proposed Action and its impacts on the human environment.

To promote informed decision-making, comments should be as specific as possible and should provide as much detail as necessary to meaningfully participate and fully inform BOEM of the commenter's position. Comments should explain why the issues raised are important to the consideration of potential environmental impacts and alternatives to the Proposed Action as well as economic, employment, and other impacts affecting the quality of the human environment.

The draft EIS will include a summary that identifies all alternatives, information, and analyses submitted by Federal agencies, Tribal, State, and local governments, and other public commenters during the scoping process for consideration by BOEM, cooperating agencies, and the consulting parties.

AUTHORITY: This NOI is published pursuant to NEPA, 42 U.S.C. 4321 et seq., and implementing regulations at 40 CFR 1501.9.

William Yancey Brown
Chief Environmental Officer
Bureau of Ocean Energy Management

Date