



Consultations

Endangered Species Act (ESA)

Federal agencies must ensure that any action authorized, funded, or carried out by the agency is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat of those species. When the action of a Federal agency may affect a protected species or its critical habitat, that agency is required to consult with the National Marine Fisheries Service (NMFS) and/or U.S. Fish and Wildlife Service (USFWS), depending upon the protected species.

USFWS: BOEM submitted a biological assessment to USFWS on December 21, 2023 with a “no effect” determination for the species and critical habitat that may be affected. USFWS confirmed no consultation is required under ESA.

NMFS: BOEM submitted a biological assessment letter evaluating species and critical habitat under jurisdiction of NMFS that could be affected by the Proposed Action. BOEM submitted the BA to NMFS on December 21, 2023, and requested concurrence with BOEM's determination that the impacts of the Proposed Action may affect, but is not likely to adversely affect any listed species under NOAA Fisheries' jurisdiction.

Magnuson-Stevens Fishery Conservation and Management Act

Pursuant to Section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act of 1976, Federal agencies are required to consult with NMFS on any action that may result in adverse effects on Essential Fish Habitat (EFH). NMFS regulations implementing the EFH provisions of the Magnuson-Stevens Fishery Conservation and Management Act can be found at 50 CFR Part 600. BOEM submitted the EFH assessment to NMFS on December 20, 2023, and requested concurrence with BOEM's determination that the impacts of the Proposed Action would not significantly affect the quality and quantity of EFH.

Coastal Zone Management Act

Federal actions that are reasonably likely to affect any land or water use or natural resource of the coastal zone must be consistent to the maximum extent practicable with relevant enforceable policies of a state's federally approved coastal management program. BOEM prepared a Consistency Determination to determine whether issuing leases and site assessment activities are consistent to the maximum extent practicable with the provisions identified as enforceable by the Coastal Zone Management Programs of the states of NY, MA, and RI.

Government to Government Consultations with Federally Recognized Tribes

BOEM recognizes the unique legal relationship of the U.S. with tribal governments, and BOEM is required to consult with federally recognized Native American Tribes when a BOEM action has tribal implications. BOEM initiated consultations with ten Tribes with historic and cultural ties to the region under consideration in the EA. BOEM invited these Tribes to participate in the National Historic Preservation Act (NHPA) Section 106 consultations on the SAP Amendment Application.

National Historic Preservation Act (NHPA)

Section 106 of the NHPA requires Federal agencies to take into account the effects of their undertakings on historic properties and accommodate historic preservation concerns with the needs of Federal undertakings through consultation. The goal of consultation is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties. On November 14 and 15, 2023, BOEM initiated consultation with the ten federally recognized Tribes; six federal agencies, including the Advisory Council on Historic Preservation (ACHP); and the state historic preservation officers (SHPOs) of Delaware, Massachusetts, New York, and Rhode Island. BOEM distributed to Finding of No Historic Properties affected to these consulting parties on January 30, 2024.

