



NY Bight Wind Energy Areas

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 to USFWS on August 10, 2021, the biological assessment the species and critical habitat that may be affected and requested concurrence with BOEM's determination that the impacts of the proposed activities are not likely to adversely affect ESA-listed bird and bat species.

NMFS: The activities that may result from of the issuance of leases in the NY Bight are subject to a programmatic consultation with NMFS currently in progress. BOEM and NMFS are discussing the need for any additional consultation under the ESA.

Magnuson-Stevens Fishery Conservation and Management Act

Federal agencies are required to consult with NMFS on any action that may result in adverse effects on EFH. Certain outer continental shelf (OCS) activities authorized by BOEM may result in adverse effects on essential fish habitat (EFH) and, therefore, require consultation with NMFS. Concurrent with this EA, BOEM will consult with NMFS regarding the impacts of the Proposed Action on EFH. BOEM has determined that 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 will prepare 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 NJ and NY.

Government to Government Consultations with Federally Recognized Tribes

BOEM recognizes the unique legal relationship of the U.S. with tribal governments, and the bureau is required to consult with federally recognized Native American Tribes when a BOEM action has tribal implications. BOEM initiated consultations with nine 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, and BOEM is engaging these Tribes government-to-government consultation meetings to discuss the Proposed Sale Notice for the NY Bight.

National Historic Preservation Act (Section 106)

Section 106 of the NHPA requires Federal agencies to consider the effects of their actions on historic properties and provide the Advisory Council on Historic Preservation an opportunity to comment. BOEM has implemented Programmatic Agreements for renewable energy projects on the OCS offshore NY, NJ, and RI. BOEM initiated consultation with the NY State Historic Preservation Office (SHPO), NJ SHPO, RI SHPO, the Advisory Council on Historic Preservation, and nine federally recognized Native American Tribes. BOEM contacted over 500 entities to solicit public comment and input, and prepared a Finding of No Historic Properties Affected, which was provided to consulting parties.

