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July 19, 2022

BOEM Announces First Regional Environmental Analysis of Offshore Renewable Energy

The Bureau of Ocean Energy Management (BOEM) [published](#) its notice of intent (NOI) on Friday, July 15, 2022, to prepare a programmatic environmental review to analyze the potential impacts of wind energy development activities in the New York Bight (NY Bight)—offshore New York and New Jersey. This is the first time BOEM has conducted a regional analysis containing multiple lease areas for offshore renewable energy. [According to BOEM Director Amanda Lefton](#), this new approach is intended "to help ensure timely decisions that advance offshore wind development while protecting the ocean environment and marine life."

The NY Bight Offshore Wind Lease Sale

As part of the Biden-Harris administration's goal of deploying 30 gigawatts (GW) of offshore wind energy capacity by 2030, the BOEM held a competitive [auction](#) in February 2022 for six lease areas totaling nearly 500,000 acres in the NY Bight. The leases grant lessees the exclusive right to propose construction and operation plans (COPS) to BOEM for the authorization of development of offshore wind energy facilities in their lease areas. The total value of the auction won by six companies reached \$4.37 billion, exceeding the value of any U.S. offshore energy lease sale, including oil and gas lease sales, in U.S. history.

BOEM Initiates Environmental Review of NY Bight Wind Lease Areas

The NOI officially kicked off the "scoping" process for development of a programmatic environmental impact statement (PEIS) covering the NY Bight offshore wind lease area. The PEIS is intended to analyze potential impacts from wind energy development activities in the NY Bight region and measures that can be taken to avoid, minimize, mitigate, and monitor potential impacts (AMMM measures). BOEM issued its NOI following a series of meetings with leaseholders, interested federal agencies, tribal governments, and potential state partners to provide information on its NY Bight programmatic approach. BOEM met separately with the National Marine Fisheries Service (NMFS), U.S. Army Corps of Engineers (USACE), and the Advisory Council on Historic Preservation (ACHP) to discuss how this programmatic analysis may streamline project-level approvals and consultations.

Purpose and Need of Regional Environmental Review

The purpose of the PEIS, according to BOEM's NOI, is to "identify, analyze, and adopt, as appropriate, issues, degree of potential impacts, and AMMM measures." The NOI states that the PEIS "is needed to help BOEM make timely decisions on COPs submitted for the NY Bight." Timely decisions on COPs further the U.S. policy to make outer continental shelf energy resources available for expeditious and orderly development. Permitting efficiency will be critical in meeting the administration's 30 GW goal.

In order to increase the efficiency of the permitting process, the NOI states that BOEM intends to address the following objectives in the PEIS:

- Analysis of the impacts of a representative project in the NY Bight.
- Analysis of programmatic AMMM measures for the NY Bight.
- Focused, regional cumulative analysis.

- Identification of minor or negligible impacts so that site-specific reviews in the NY Bight can focus on moderate or major impacts.
- Tiering of project-specific environmental analyses.

According to the NOI, the PEIS is expected to provide a framework for project-specific National Environmental Policy Act (NEPA) 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. In addition, project-specific NEPA documents will be able to focus on moderate to major impacts, without having to revisit resources whose impacts the PEIS indicate will likely be negligible to minor, unless the unique circumstances of a particular project dictate otherwise.

Proposed Action and Preliminary Alternatives Analysis

The NOI is clear that the NY Bight PEIS will not result in the approval of any offshore wind development activities. Instead, the proposed action is intended to do the following:

- Identify programmatic AMMM measures that BOEM may require as conditions of approval on COPs in the NY Bight unless the COP-specific NEPA analysis shows that implementation of such measures is not warranted or effective.
- Identify AMMM measures that should (or should not) be considered in a COP-specific NEPA analysis.
- Require BOEM to use a tiered review process that relies on the analyses in the PEIS for the individual COPs expected to be filed for the six leases issued in the NY Bight.

As described in the NOI, BOEM intends to base its analysis on an "activities scenario" that is representative of projects for the NY Bight, including associated export cables, and consider the potential impacts of that development on the environment. The NOI stresses the importance of lessee engagement in the development of this representative project because BOEM seeks to fit this representative project "within the range of design parameters informed by lessees" to avoid engaging in speculative analysis of potential impacts. The draft PEIS will include a no-action alternative that assumes no development occurs in the NY Bight as well as an alternative that analyzes the impacts of not adopting the programmatic AMMM measures for a representative project in the NY Bight.

BOEM Seeks Input From Interested Stakeholders by August 15, 2022

The NOI initiated a 30-day public comment period to identify issues and potential alternatives for consideration in "scoping" the NY Bight PEIS. As part of this process, BOEM will hold [virtual scoping meetings](#) on July 28, August 2, and August 4. During the meetings, the public can participate in a question and answer session with BOEM and provide oral comments on the scope of the PEIS. In addition, federal agencies, tribal, state, and local governments, and the public are invited to provide [written input](#) on potential AMMM measures, activities in or near the NY Bight, and potential design envelopes and planned activities in each lease area. Comments must be received by Monday, August 15.

According to the NOI, BOEM hopes to publish a draft PEIS for review in September 2023 and will seek additional public comments at that time. BOEM is also targeting June 2024 for publication of the final PEIS, with a record of decision issued at least 30 days after the final PEIS is made available.

Implications

The PEIS is an important effort in streamlining decision-making that comes as permitting schedules for offshore wind projects already under review by BOEM have slipped. Although the draft Environmental Impact Statement (DEIS) for Ocean Wind 1 was issued one week ahead of schedule, the Empire Wind Energy project, which is also proposed in the NY Bight, has already [moved](#) its DEIS release date from August 2022 to November 2022. Other projects on the Atlantic Coast are also reporting delays.

The NOI does not contain any detail on the proposed action, leaving commenters to speculate on the contents of the proposed AMMM measures. The NOI also does not describe the expected impacts; it simply lists the resource categories for analysis. It concludes with a detailed request for identification of potential alternatives, information, and analysis relevant to the proposed action. Despite the changes to the scoping requirements in the 2020 Council on Environmental Quality (CEQ) NEPA [regulations](#), which emphasize early coordination and information collection, the NOI does not provide much indication of the coordination that has occurred in its description of the proposed action, expected effects, or agency cooperation on the PEIS. This leaves stakeholders reliant on the formal scoping process to help fill in details on what to expect in the draft PEIS.

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