



PERMITTING COUNCIL

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Executive Director Determination on Request to Extend FAST-41 Final Completion Date by More Than 30 Days

November 30, 2023

SouthCoast Wind Energy Project — OCS Air Permit

I. Summary

The SouthCoast Wind Energy Project (Project), sponsored by Shell New Energies US, LLC and Ocean Winds North America, LLC on behalf of SouthCoast Wind Energy, LLC (Project Sponsor), is a covered project under Title 41 of the Fixing America's Surface Transportation Act (FAST-41), 42 U.S.C. §§ 4370m. The Department of the Interior, Bureau of Ocean Energy Management (BOEM), has principal responsibility for environmental review of the Project under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321, which makes BOEM the lead agency for both NEPA and FAST-41.

On November 6, 2023, BOEM submitted a request to the Federal Permitting Improvement Steering Council Executive Director (Executive Director) to extend the final completion date for the Environmental Protection Agency's (EPA) Outer Continental Shelf (OCS) air permit decision under Section 328 of the Clean Air Act, 42 U.S.C. § 7627.

For the following reasons, BOEM's extension request is **GRANTED**, and the Project permitting timetable will be revised accordingly.

II. Legal Standard

Pursuant to 42 U.S.C. §§ 4370m-2(c)(2)(D)(i)(II) & (IV), a lead agency may extend a final completion date by more than 30 days beyond the original final completion date only after consulting with the project sponsor and obtaining Executive Director approval. After receiving an extension request, the Executive Director must consult with the project sponsor and make a determination on the record whether to grant the requested date change. The Executive Director's determination is based on consideration of "relevant factors," including, but not limited to:

- (i) the size and complexity of the covered project;
- (ii) the resources available to each participating agency;
- (iii) the regional or national economic significance of the project;

- (iv) the sensitivity of the natural or historic resources that may be affected by the project;
- (v) the financing plan for the project; and
- (vi) the extent to which similar projects in geographic proximity to the project were recently subject to environmental review or similar procedures under State law.

42 U.S.C. §§ 4370m-2(c)(2)(B) and 4370m-2(c)(2)(D)(i)(IV). Executive Director determinations made pursuant to 42 U.S.C. § 4370m-2(c)(2)(D)(i)(IV) are not subject to judicial review. 42 U.S.C. § 4370m-2(c)(2)(D)(iv)(I).

III. Background

BOEM submitted a request to change the final completion date for EPA's OCS air permit decision from January 25, 2024, to April 8, 2024. The requested date accounts for a one-year statutory deadline that the Clean Air Act gives EPA to reach an OCS air permitting decision following EPA's determination that a project sponsor has submitted a complete application.

EPA deemed the Project Sponsor's OCS air permit application complete on April 7, 2023, after spending about four months engaging with the Project Sponsor on deficiencies EPA found in the Project Sponsor's initial application submission. During the four-month period between the Project Sponsor's initial submission and EPA deeming the application complete, the Project Sponsor twice submitted revised applications providing supplemental information, including clarification of assumptions related to air dispersion modeling.

Consultation with Project Sponsor on Extension Requests

Prior to submitting an extension request to the Executive Director, BOEM consulted with the Project Sponsor per 42 U.S.C. § 4370m-2(c)(2)(D)(i)(I) and represents that the Project Sponsor has no objection to the proposed permitting timetable extension.

The Executive Director also consulted with the Project Sponsor, as required by 42 U.S.C. § 4370m-2(c)(2)(D)(i)(IV), and the Executive Director confirmed the Project Sponsor does not object to the requested permitting timetable modification.

IV. Discussion

As noted in previous Executive Director Determinations, given the complexity and relative newness of OCS air permitting in the context of offshore wind projects, EPA and the offshore wind industry are working together to identify appropriate methodologies and modeling tools to provide data EPA finds sufficient to meet its statutory requirements. Additionally, the Executive Director is actively working with EPA to look programmatically at the OCS air permit program for offshore wind with the intent of identifying and implementing solutions to increase predictability in the process and set clear expectations for applicants.

In this instance, the four month period between the Project Sponsor submitting its initial application and EPA deeming the application complete is shorter than a number of other recent offshore wind projects. Nevertheless, the Executive Director anticipates that, given the work being done on the part of EPA, industry, and this office to establish clear standards and systems to enhance efficiency, there will be fewer instances of needing to extend completion dates for OCS air permits due to a project sponsor's initial application being incomplete. Until those process improvements are in place, the Executive Director will, on a case-by-case basis, continue to authorize date modifications for OCS air permits, when necessary.

V. Determination

BOEM's extension request is **GRANTED**, and the permitting timetable is revised as requested.



Eric B. Beightel
Executive Director
Federal Permitting Improvement Steering Council