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

January 2, 2025

Atlantic Shores Offshore Wind North Project

I. SUMMARY

The Atlantic Shores Offshore Wind North Project (Project), sponsored by Atlantic Shores Offshore Wind, 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 for the Project under the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321, which makes BOEM the lead agency for both NEPA and FAST-41.

BOEM submitted a request to the Federal Permitting Improvement Steering Council (Permitting Council) Executive Director to extend all the remaining intermediate and final completion dates on the Project's permitting timetable. This includes modifications for the following actions:

- BOEM's Construction and Operations Plan (COP) decision;
- BOEM's environmental review under NEPA;
- BOEM's consultation under Section 106 of the National Historic Preservation Act (Section 106), 54 U.S.C. § 306108;
- BOEM's consultation under the Endangered Species Act (ESA), 16 U.S.C. §§ 1531 with both the United States Department of the Interior, Fish and Wildlife Service (FWS) and the United States Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS);
- BOEM's essential fish habitat (EFH) consultation with NMFS pursuant to Section 305 of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. §§ 1801;
- The Project Sponsor's incidental take authorization under the Marine Mammal Protection Act (MMPA), 16 U.S.C. §§ 1361, from NMFS;
- A permit decision by the United States Army Corps of Engineers (USACE) under Section 10 of the Rivers and Harbors Act of 1899, 33 U.S.C. § 403 and Section 404 of the Clean Water Act, 33 U.S.C. § 1344 (together, Section 10/404);
- A USACE permit decision under Section 14 of the Rivers and Harbors Act of 1899, 33 U.S.C. § 408 (Section 408);
- 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; and,
- EPA's National Pollutant Discharge Elimination System (NPDES) permit decision under Section 402 of the Clean Water Act, 33 U.S.C. § 1342.

This is BOEM’s first request to extend completion dates on the Project’s permitting timetable. 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 modify the completion dates shown in the table immediately below.

Action Agency	Action	Milestone	Current Date	Requested Date
BOEM	NEPA	Draft environmental impact statement (EIS) published	6/6/2026	10/31/2025
		Final EIS published	3/20/2026	8/14/2026

		Record of Decision (ROD) issued	5/20/2026	10/14/2026
BOEM	COP	Issuance of decision for permit/approval	8/18/2026	1/12/2027
BOEM	Section 106	Section 106 consultation concluded	5/20/2026	10/14/2026
NMFS	ESA	ESA consultation package submitted	1/22/2025	3/7/2025
		NMFS determines ESA package is complete	9/5/2025	1/30/2026
		ESA consultation concludes	2/3/2026	6/29/2026
NMFS	EFH	EFH consultation request submitted	1/22/2025	3/7/2025
		NMFS determines EFH assessment complete	9/5/2025	1/30/2026
		NMFS issues any EFH conservation recommendations	12/4/2025	4/30/2026
NMFS	MMPA	NMFS determines ITA application complete	1/5/2025	5/30/2025
		Publish notice of receipt of ITA application in Federal Register	2/4/2025	6/30/2025
		Publish proposed ITA authorization in Federal Register	9/5/2025	1/30/2026
		Publish final ITA regulations in Federal Register	7/20/2026	12/14/2026
		ITA decision rendered	8/20/2026	1/13/2027
FWS	ESA	ESA consultation package is submitted	1/22/2025	3/7/2025
		FWS determines ESA package is complete	9/24/2025	11/7/2025
		ESA consultation concludes	2/6/2026	4/6/2026
USACE	Section 10/404	PCN/application received	4/22/2025	9/16/2025

		Complete PCN/application received	5/22/2025	10/16/2025
		Publication of public notice	6/6/2025	10/31/2025
		Final verification / permit decision	9/17/2026	2/11/2027
USACE	Section 408	Initial application submitted	4/22/2025	9/16/2025
		Completeness determination	5/22/2025	10/16/2025
		Complete application submitted	6/6/2025	8/14/2026
		Issuance of decision	9/17/2026	2/11/2027
EPA	OCS air permit	OCS air permit application submitted	11/6/2024	3/6/2025
		OCS air permit application complete	8/4/2025	1/12/2026
		Issuance of final decision for permit/approval	8/18/2026	1/12/2027
EPA	NPDES permit	Completed application received	8/25/2025	1/12/2026
		EPA Authorizes Discharge Under Individual Permit	8/18/2026	1/12/2027

The overall shift in completion dates on the permitting timetable is due to the timing of the project sponsor’s submission of a revised incidental take authorization (ITA) under the Marine Mammal Protection Act (MMPA). The Project Sponsor submitted an initial ITA application on July 5, 2024, but the Project Sponsor intends to submit a revised application in February 2025, which will include their acoustic and exposure modeling and address NMFS’ comments on the initial application submission. Accordingly, BOEM, on behalf of NMFS, requests to extend all remaining MMPA completion dates to allow time for review of the revised ITA application and coordination with the Project Sponsor.

As a result of the schedule shift for the MMPA process, the initiation of BOEM’s EFH and ESA consultations with NMFS is also delayed. BOEM uses the information in the Project Sponsor’s complete MMPA application to prepare and submit the EFH assessment and ESA biological assessment to NMFS. Additionally, it is necessary for NMFS to have all required information prior to initiating the ESA consultation. NMFS initiates EFH consultation when a complete EFH assessment is provided by BOEM, which is set at the same time as ESA

consultation initiation to help ensure consistency in the proposed action described in the ESA biological assessment and the EFH assessment.

The NEPA process is dependent on the timing of the ESA consultation because the final environmental impact statements typically incorporate measures resulting from that consultation. Finally, the completion dates for FWS' ESA consultation, USACE's Section 10/404 and Section 408 permit decisions, and EPA's OCS air permit and NPDES permit are all dependent on the final completion date for the NEPA action and cross-cutting law actions.

Consultation with Project Sponsor on Extension Requests

Prior to submitting its 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 has indicated that the Project Sponsor understood the need for the requested completion date extension and did not object.

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

IV. DISCUSSION

The permitting timetable modifications for the Project are necessitated by the timing of the Project Sponsor's submission of required modeling information for the MMPA ITA application. Given these circumstances, extending the completion dates addressed in this Executive Director Determination are warranted.

V. DETERMINATION

BOEM's extension request is **GRANTED**, and the permitting timetable shall be revised accordingly.



Eric B. Beightel
Executive Director
Federal Permitting Improvement Steering Council