



DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM-2021-0050]

Notice of Intent to Prepare an Environmental Impact Statement for the Proposed Kitty Hawk Offshore Wind Project Offshore North Carolina

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice of intent (NOI) to prepare an environmental impact statement (EIS); request for comments.

SUMMARY: Consistent with the regulations implementing the National Environmental Policy Act (NEPA), BOEM announces its intent to prepare an EIS for the review of a construction and operations plan (COP) submitted by Kitty Hawk, LLC (Kitty Hawk) for its Kitty Hawk Offshore Wind Project. The COP proposes the development, construction, and operation of a wind energy facility offshore North Carolina with export cables connecting to the onshore electric grid in Virginia Beach, Virginia. This NOI announces the EIS scoping process for the Kitty Hawk COP. Additionally, this NOI seeks public comment and input under section 106 of the National Historic Preservation Act (NHPA) and its implementing regulations. Detailed information about the proposed wind energy facility, including the COP, can be found on BOEM's website at: <https://www.boem.gov/Kitty-Hawk>.

DATES: Comments are due to BOEM no later than **[PLEASE INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

BOEM will hold virtual public scoping meetings for the Kitty Hawk EIS at the following dates and times (eastern daylight time):

- Tuesday, August 10, 2021, 5:30 pm;
- Thursday, August 12, 2021, 1:00 pm; and
- Tuesday August 17, 2021, 5:30 pm.

ADDRESSES: Comments can be submitted in any of the following ways:

- Delivered by mail or delivery service, enclosed in an envelope labeled “KITTY HAWK COP EIS,” and addressed to Program Manager, Office of Renewable Energy, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, Virginia 20166; or
- Through the regulations.gov web portal: Navigate to <https://www.regulations.gov> and search for Docket No. BOEM-2021-0050. Click on the “Comment” button. Enter your information and comment, then click “Submit Comment.”

FOR FURTHER INFORMATION CONTACT: Michelle Morin, BOEM Office of Renewable Energy Programs, 45600 Woodland Road, Sterling, Virginia 20166, (703) 787-1722 or michelle.morin@boem.gov.

SUPPLEMENTARY INFORMATION:

Purpose of and Need for the Proposed Action

In Executive Order 14008, President Biden stated that it is the policy of the United States:

to organize and deploy the full capacity of its agencies to combat the climate crisis to implement a Government-wide approach that reduces climate pollution in every sector of the economy; increases resilience to the impacts of climate change; protects public health; conserves our lands, waters, and biodiversity; delivers environmental justice; and spurs well-paying union jobs and economic growth, especially through innovation, commercialization, and deployment of clean energy technologies and infrastructure.

Through a competitive leasing process under 30 CFR 585.211, BOEM awarded Avangrid Renewables, LLC Commercial Lease OCS-A 0508 covering an area offshore North Carolina (the Lease Area) which was subsequently assigned to Kitty Hawk in 2021. Kitty Hawk has the exclusive right to submit a COP for activities within the Lease Area, and it has submitted a COP to BOEM proposing the construction and installation, operations and maintenance, and conceptual decommissioning of an offshore wind energy facility in the western portion of the Lease Area (the Project).

The goal of Kitty Hawk is to develop a commercial-scale, offshore wind energy facility in the Lease Area, with up to 69 total wind turbine generators, 1 offshore substation (also called

“electrical service platform”), inter-array cables, 1 onshore substation, and up to 2 transmission cables making landfall in Virginia Beach, Virginia, and connecting to the Pennsylvania-New Jersey-Maryland (PJM) Interconnection energy grid. Kitty Hawk is actively seeking one or more power purchase agreement awards for this project. The project is intended to substantially contribute to the region’s electrical reliability and help Virginia achieve its renewable energy goals as stated in the Virginia Clean Economy Act.

Based on the goals of the applicant and BOEM’s authority, the purpose of BOEM’s action is to respond to Kitty Hawk’s COP proposal and determine whether to approve, approve with modifications, or disapprove Kitty Hawk’s COP to construct and install, operate and maintain, and decommission a commercial-scale, offshore wind energy facility within the Lease Area (the Proposed Action). BOEM’s action is needed to further the United States policy to make Outer Continental Shelf energy resources available for expeditious and orderly development, subject to environmental safeguards (43 U.S.C. 1332(3)), including consideration of natural resources, safety of navigation, and other ocean uses.

In addition, the National Oceanic and Atmospheric Administration’s (NOAA) National Marine Fisheries Service (NMFS) anticipates receipt of one or more requests for authorization to take marine mammals incidental to activities related to the Project under the Marine Mammal Protection Act (MMPA). NMFS’s issuance of an MMPA incidental take authorization is a major Federal action, and, in relation to BOEM’s action, is considered a connected action (40 CFR 1501.9(e)(1)). The purpose of the NMFS action—which is a direct outcome of Kitty Hawk’s request for authorization to take marine mammals incidental to specified activities associated with the Project (e.g., pile driving)—is to evaluate the applicant’s request pursuant to specific requirements of the MMPA and its implementing regulations administered by NMFS, considering impacts of the applicant’s activities on relevant resources, and if appropriate, issue the permit or authorization. NMFS needs to render a decision regarding the request for authorization due to NMFS’s responsibilities under the MMPA (16 U.S.C. 1371(a)(5)(D)) and its

implementing regulations. If NMFS makes the findings necessary to issue the requested authorization, NMFS intends to adopt BOEM's EIS to support that decision and fulfill its NEPA requirements.

The U.S. Army Corps of Engineers Wilmington and Norfolk Districts (USACE) anticipate a permit action to be undertaken through authority delegated to the District Engineer by 33 CFR 325.8, under section 10 of the Rivers and Harbors Act of 1899 (RHA) (33 U.S.C. 403) and section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344). The USACE considers issuance of a permit under these two delegated authorities a major Federal action connected to BOEM's Proposed Action (40 CFR 1501.9(e)(1)). The applicant's stated purpose and need for the project, as indicated above, is to provide a commercially viable, offshore wind energy project within the Lease Area to help States achieve their renewable energy goals.

The basic project purpose, as determined by USACE for section 404(b)(1) guidelines evaluation, is offshore wind energy generation. The overall project purpose for section 404(b)(1) guidelines evaluation, as determined by USACE, is the construction and operation of a commercial-scale, offshore wind energy project for renewable energy generation and distribution to the PJM Interconnection energy grid. USACE intends to adopt BOEM's EIS to support its decision on any permits requested under section 10 of the RHA or section 404 of the CWA.

Preliminary Proposed Action and Alternatives

The Proposed Action is the construction and operation of a wind energy facility on the Lease Area as described in the COP submitted by Kitty Hawk. In its COP, Kitty Hawk is proposing the construction and operation of up to 69 wind turbine generators, 1 offshore substation, inter-array cables, 1 onshore substation, and up to 2 export cables making landfall on Sandbridge Beach in the City of Virginia Beach, Virginia, and connecting to the onshore electric grid. Kitty Hawk has proposed using foundations that are a combination of monopiles, piled jackets, and up to three suction caisson jackets. The wind turbine generators, offshore substations, array cables, and substation interconnector cables would be located on the OCS

approximately 23.75 nautical miles (27 statute miles) (44 kilometers) east of Corolla, North Carolina. The offshore export cables would be buried below the seabed of both the OCS and Virginia state waters.

If any reasonable alternatives are identified during the scoping period, BOEM will evaluate those alternatives in the draft EIS, which will also include a no action alternative. Under the no action alternative, BOEM would disapprove the COP, and Kitty Hawk's wind energy facility described in the COP would not be built.

Once BOEM completes the EIS and associated consultations, BOEM will decide whether to approve, approve with modification, or disapprove the Kitty Hawk COP. If BOEM approves the COP and the Project is constructed, the lessee must submit a plan to decommission the facilities before the end of the lease term.

Summary of Potential Impacts

The draft EIS will identify and describe the potential effects of the Proposed Action on the human environment that are reasonably foreseeable and have a reasonably close causal relationship to the Proposed Action. This includes effects that occur at the same time and place as the Proposed Action or alternatives and effects that are later in time or occur in a different place. Potential impacts include, but are not limited to, impacts (whether beneficial or adverse) on air quality, water quality, bats, benthic habitat, essential fish habitat, invertebrates, finfish, birds, marine mammals, terrestrial and coastal habitats and fauna, sea turtles, wetlands and other waters of the United States, commercial fisheries and for-hire recreational fishing, cultural resources, demographics, employment, economics, environmental justice, land use and coastal infrastructure, navigation and vessel traffic, other marine uses, recreation and tourism, and visual resources. These potential impacts will be analyzed in the draft EIS and final EIS.

Based on a preliminary evaluation of these resources, BOEM expects potential impacts on sea turtles and marine mammals from underwater noise caused by construction and from

collision risks with Project-related vessel traffic. Structures installed by the Project could permanently change benthic habitat and other fish habitat. Commercial fisheries and for-hire recreational fishing could be impacted. Project structures above the water could affect the visual character defining historic properties and recreational and tourism areas. Project structures also could pose an allision and height hazard to vessels passing close by, and vessels could in turn pose a hazard to the structures. Additionally, the Project could cause use conflicts with mineral extraction, military activities, air traffic, land-based radar services, cables and pipelines, and scientific surveys. Beneficial impacts are also expected by facilitating achievement of State renewable energy goals (e.g., Virginia's goal of developing 5.2 gigawatts of offshore wind energy by 2034; North Carolina's goal of developing 2.8 gigawatts of offshore wind energy off its coast by 2030), increasing job opportunities, improving air quality, and reducing carbon emissions. The EIS will analyze measures that would avoid, minimize, or mitigate adverse environmental effects.

Anticipated Permits and Authorizations

In addition to the requested COP approval, various other Federal, State, and local authorizations will be required for the Kitty Hawk Project. Applicable Federal laws include, but are not limited to, the Endangered Species Act, Magnuson-Stevens Fishery Conservation and Management Act, NEPA, MMPA, RHA, CWA, and the Coastal Zone Management Act. BOEM will also conduct government-to-government consultations with federally recognized tribes (Tribes). For a full listing of regulatory requirements applicable to the Kitty Hawk Project, please see the COP, volume I available at <https://www.boem.gov/Kitty-Hawk>.

BOEM has chosen to use the NEPA substitution process to fulfill its obligations under NHPA. While BOEM's obligations under NHPA and NEPA are independent, regulations implementing section 106 of NHPA, at 36 CFR 800.8(c), allow the NEPA process and documentation to substitute for various aspects of review otherwise required under NHPA. This

substitution is intended to improve efficiency, promote transparency and accountability, and support a broadened discussion of potential effects that a project could have on the human environment. During preparation of the EIS, BOEM will ensure that the NEPA substitution process will fully meet all NHPA obligations.

Schedule for the Decision-making Process

After the draft EIS is completed, BOEM will publish a notice of availability (NOA) and request public comments on the draft EIS. BOEM expects to issue the NOA in September 2022. After the public comment period ends, BOEM will review and respond to comments received and will develop the final EIS. BOEM expects to make the final EIS available to the public in June 2023. In accordance with 40 CFR 1506.11, BOEM will not make a decision or issue a record of decision (ROD) sooner than 30 days after the final EIS is released.

This project is a “covered project” under section 41 of the Fixing America’s Surface Transportation Act (FAST-41). FAST-41 provides increased transparency and predictability by requiring Federal agencies to publish comprehensive permitting timetables for all covered projects. FAST-41 also provides procedures for modifying permitting timetables to address the unpredictability inherent in the environmental review and permitting process for significant infrastructure projects. To view the FAST-41 Permitting Dashboard for Kitty Hawk, visit: <https://www.permits.performance.gov/permitting-project/kitty-hawk-offshore-wind-project>.

Scoping Process: This NOI commences the public scoping process to identify issues and potential alternatives for consideration in the Kitty Hawk EIS. Throughout the scoping process, Federal agencies, Tribes, State and local governments, and the general public have the opportunity to help BOEM determine significant resources and issues, impact-producing factors, reasonable alternatives (e.g., size, geographic, seasonal, or other restrictions on construction and siting of facilities and activities), and potential mitigation measures to be analyzed in the EIS, as well as to provide additional information.

In the interests of efficiency, completeness, and facilitating public involvement, BOEM will use the NEPA process to fulfill NHPA's public involvement requirements under 36 CFR 800.2(d). BOEM will involve the public, State and local governments, Tribes, and Kitty Hawk as consulting parties under NHPA. Also, BOEM may identify additional consulting parties, by considering written requests from individuals and organizations who would like to participate as consulting parties.

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Registration for the virtual public meetings may be completed here:

<https://www.boem.gov/Kitty-Hawk-Scoping-Virtual-Meetings>.

NEPA Cooperating Agencies: BOEM invites other Federal agencies, Tribes, and State and local governments to consider becoming cooperating agencies in the preparation of this EIS. The NEPA regulations specify that qualified agencies and governments are those with “jurisdiction by law or special expertise.” Potential cooperating agencies should consider their authority and capacity to assume the responsibilities of a cooperating agency and should be aware that an agency's role in the environmental analysis neither enlarges nor diminishes the final decision-making authority of any other agency involved in the NEPA process.

Upon request, BOEM will provide potential cooperating agencies with a written summary of expectations for cooperating agencies, including schedules, milestones, responsibilities, scope and detail of cooperating agencies' expected contributions, and availability of pre-decisional information. BOEM anticipates this summary will form the basis for a memorandum of agreement between BOEM and any non-Department of the Interior

cooperating agency. Agencies also should consider the factors for determining cooperating agency status in the Council on Environmental Quality memorandum entitled “Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act,” dated January 30, 2002. This document is available on the Internet at: http://energy.gov/sites/prod/files/nepapub/nepa_documents/RedDont/G-CEQ-CoopAgenciesImplem.pdf.

BOEM, as the lead agency, will not provide financial assistance to cooperating agencies. Even if a governmental entity is not a cooperating agency, it will have opportunities to provide information and comments to BOEM during the public input stages of the NEPA process.

NHPA Consulting Parties: Certain individuals and organizations with a demonstrated interest in the Project can request to participate as NHPA consulting parties under 36 CFR 800.2(c)(5) based on their legal or economic stake in historic properties affected by the Project.

Before issuing this NOI, BOEM compiled a list of potential consulting parties and invited them in writing to become consulting parties. To become a consulting party, those invited must respond in writing, preferably by the requested response date.

Interested individuals or organizations that did not receive an invitation can request to be consulting parties by writing to the appropriate staff at ICF, which is the third party EIS contractor supporting BOEM in its administration of this review. ICF’s contact for this review is Christine Cruiss (800-203-2807, kittyhawksection106@icf.com). BOEM will determine which interested parties should be consulting parties.

Comments: Federal agencies, Tribes, State and local governments, and other interested parties are requested to comment on the scope of this EIS, significant issues that should be addressed, and alternatives that should be considered. For information on how to submit comments, see the “Addresses” section above.

BOEM does not consider anonymous comments. Please include your name and address as part of your comment. BOEM makes all comments, including the names, addresses, and other personally identifiable information included in the comment, available for public review online. Individuals can request that BOEM withhold their names, addresses, or other personally identifiable information included in their comment from the public record; however, BOEM cannot guarantee that it will be able to do so. In order for BOEM to withhold from disclosure your personally identifiable information, you must identify any information contained in your comment that, if released, would constitute a clearly unwarranted invasion of your privacy. You also must briefly describe any possible harmful consequences of the disclosure of that information, such as embarrassment, injury, or other harm.

Additionally, under section 304 of NHPA, BOEM is required, after consultation with the Secretary of the Interior, to withhold the location, character, or ownership of historic resources if it determines that disclosure may, among other things, cause a significant invasion of privacy, risk harm to the historic resources, or impede the use of a traditional religious site by practitioners. Tribal entities and other parties providing information on historic resources should designate information that they wish to be held as confidential and provide the reasons why BOEM should do so.

All submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses will be made available for public inspection in their entirety.

Request for Identification of Potential Alternatives, Information, and Analyses Relevant to the Proposed Action

BOEM requests information, data, analyses, alternatives, comments, views, or any suggestions concerning the Proposed Action from Federal agencies, Tribes, State and local governments, academic institutions, industry, non-profit organizations, and any other individuals or organizations. Specifically, BOEM requests information on the following topics:

1. Potential effects that the Proposed Action could have on biological resources, including bats, birds, coastal fauna, finfish, invertebrates, essential fish habitat, marine mammals, and sea turtles.
2. Potential effects that the Proposed Action could have on physical resources and conditions including air quality, water quality, and wetlands and other waters of the United States.
3. Potential effects that the Proposed Action could have on socioeconomic and cultural resources, including commercial fisheries and for-hire recreational fishing, demographics, employment, economics, environmental justice, land use and coastal infrastructure, navigation and vessel traffic, other uses (marine minerals, military use, aviation), recreation and tourism, and scenic and visual resources.
4. Other possible reasonable alternatives to the Proposed Action that BOEM should consider, including additional or alternative avoidance, minimization, and mitigation measures.
5. As part of its compliance with NHPA section 106 and its implementing regulations (36 CFR part 800), BOEM seeks comment and input from the public and consulting parties regarding the identification of historic properties within the Proposed Action's area of potential effects, the potential effects on those historic properties from the activities proposed in the COP, and any information that supports identification of historic properties under NHPA. BOEM also solicits proposed measures to avoid, minimize, or mitigate any adverse effects on historic properties. BOEM will present available information regarding known historic properties during the public scoping period at <https://www.boem.gov/Kitty-Hawk>. BOEM's effects analysis for historic properties will be available for public and consulting party comment in the draft EIS.

6. Information on other current or planned activities within the Lease Area or in the vicinity of the Proposed Action and their possible impacts on the Project or the Project's impacts on those activities.
7. Other information relevant to the Proposed Action and its impacts on the human environment.

To promote informed decision making, comments should be as specific as possible and should provide as much detail as necessary to meaningfully and fully inform BOEM of the commenter's position. Comments should explain why the issues raised are important to the consideration of potential environmental impacts and alternatives to the Proposed Action as well as economic, employment, and other impacts affecting the quality of the human environment.

The draft EIS will include a summary of all alternatives, information, and analyses submitted during the scoping process for consideration by BOEM and the cooperating agencies.

AUTHORITY: This NOI is published in accordance with NEPA, 42 U.S.C. 4321 et seq., and 40 CFR 1501.9.

William Yancey Brown,

Chief Environmental Officer,

Bureau of Ocean Energy Management.

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