



DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM-2022-0053]

Notice of Availability of a Joint Record of Decision for the Proposed Empire

Offshore Wind Projects

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior; National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Record of decision (ROD); notice of availability (NOA)

SUMMARY: The BOEM announces the availability of the joint ROD for the construction and operations plan (COP) submitted by Empire Wind, LLC (Empire Wind) for its proposed Empire Wind Offshore Wind Farm Projects (Projects) offshore New York. The final environmental impact statement (EIS) analyzes the potential environmental impacts of the Projects as described in the COP (the proposed action) and the alternatives to the proposed action. The joint ROD includes the decision of the Department of the Interior (DOI) regarding the COP, and the decision of NMFS regarding Empire Wind's requested incidental take regulations (ITR) and an associated letter of authorization (LOA) under the Marine Mammal Protection Act (MMPA). NMFS has adopted the final EIS to support its decision of whether to issue the requested ITR. The joint ROD concludes the National Environmental Policy Act process for each agency.

ADDRESSES: The joint ROD and associated information are available on BOEM's website at: <https://www.boem.gov/renewable-energy/state-activities/empire-wind>.

FOR FURTHER INFORMATION CONTACT: For information related to BOEM's decision, please contact: Jessica Stromberg, BOEM Office of Renewable Energy

Programs, 45600 Woodland Road, VAM-OREP, Sterling, Virginia 20166, (703) 787-1730 or jessica.stromberg@boem.gov. For information related to NMFS' action, contact Katherine Renshaw, NOAA Office of General Counsel, (302) 515-0324.

SUPPLEMENTARY INFORMATION: Empire Wind seeks approval to construct, operate, and maintain the Projects: two wind energy facilities and their associated export cables on the Outer Continental Shelf (OCS) offshore New York. The Projects would be developed within the range of design parameters outlined in the Empire Wind COP, subject to applicable mitigation measures. Empire Wind proposes to develop the lease area in two wind farms, known as Empire Wind 1 (EW 1) and Empire Wind 2 (EW 2). EW 1 and EW 2 will be independent from each other. Including both EW 1 and EW 2, Empire Wind proposes constructing and operating up to 147 wind turbines and up to two offshore substations with two cable routes under the terms of Renewable Energy Lease OCS-A 0512 located 14 miles from Long Island, New York, and 19.5 miles from Long Branch, New Jersey. The onshore components of the Projects will include up to three export cable landfalls in New York (one for EW 1 and up to two for EW 2) and two onshore substations: EW 1 onshore substation in Brooklyn, New York; and EW 2 onshore substation A in Oceanside, New York, or EW 2 onshore substation C in Island Park, New York.

A notice of availability for the final EIS was published in the *Federal Register* on September 15, 2023. On November 15, 2023, BOEM published an errata on its website that included certain edits to the summary and comparison of impacts among those listed in the alternative table in chapter 2 of the final EIS to correct impact conclusions for marine mammals. The errata also provides corrections to chapter 3 to include identification of species-specific cumulative impacts of the proposed action. These corrections are neither substantive nor affect the analysis or conclusions in the final EIS.

After carefully considering public comments on the draft EIS and the alternatives described and analyzed in the final EIS, DOI selected the combination of Alternative C-1, “Gravesend Anchorage Area,” Alternative D, “EW 2 Submarine Export Cable Route Options to Minimize Impacts to the Sand Borrow Area,” Alternative F, “Wind Resource Optimization with Modifications for Environmental and Technical Considerations,” Alternative G, “Cable Bridge Crossing of Barnums Channel Adjacent to Long Island Railroad Bridge,” and Alternative H, “Dredging for EW 1 Export Cable Landfall.” This combination of alternatives is identified in the final EIS as the preferred alternative. The anticipated mitigation, monitoring, and reporting requirements are included in the ROD and will be included in BOEM’s COP approval as terms and conditions. These requirements are available at: <https://www.boem.gov/renewable-energy/state-activities/empire-wind>.

NMFS has adopted BOEM’s final EIS to support its decision of whether to issue the requested ITR and associated LOA to Empire Wind. NMFS’s final decision will be documented in a separate decision memorandum prepared in accordance with NMFS’s internal policy and procedures. The final ITR and LOA, if issued, will be published in the *Federal Register*. The LOA would authorize Empire Wind to take small numbers of marine mammal incidental to the Projects’ construction, would set forth permissible methods of incidental taking, would specify means to ensure the least practicable adverse impact on marine mammals and their habitat, and would include requirements for monitoring and reporting. Pursuant to section 7 of the Endangered Species Act, NMFS issued a final biological opinion to BOEM on September 8, 2023, evaluating the effects of the proposed action on ESA-listed species. The biological opinion includes the associated permits, approvals, and authorizations that may be issued.

Authority: The National Environmental Policy Act of 1969, as amended, (42 U.S.C. 4321 *et seq.*); 40 CFR 1505.2.

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Bureau of Ocean Energy Management.*

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