



ENVIRONMENTAL PROTECTION AGENCY

[EPA-R02-OAR-2023-0522; FRL 11887-01-R2]

Issuance of Outer Continental Shelf Air Permit for Empire Offshore Wind, LLC;

Notice of Final Action

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final action.

SUMMARY: This notice announces that the EPA issued a final Outer Continental Shelf (OCS) air permit decision under section 328 of the Clean Air Act (CAA) and the implementing Outer Continental Shelf (OCS) air regulations of the Code of Federal Regulations (CFR) for Empire Offshore Wind, LLC to construct and operate an offshore wind farm. This final permit is for the construction and operation of the Empire Wind Project, an offshore wind farm located on the OCS within Renewable Energy Lease Area OCS-A 0512 about 12 nautical miles south of Long Island, New York, and 17 nautical miles east of Long Branch, New Jersey.

DATES: The EPA issued OCS air permit No. OCS-EPA-R2 NY 01 to Empire Offshore Wind, LLC on February 15, 2024. The permit became effective on March 16, 2024.

FOR FURTHER INFORMATION CONTACT: Viorica Petriman, Environmental Engineer, Air and Radiation Division, EPA, Region 2, at (212) 637-4021 or at petriman.viorica@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we”, “us”, or “our” is used, we mean EPA. This **SUPPLEMENTARY INFORMATION** section is arranged as follows:

I. How can I get copies of this document and other related information?

Docket. The EPA has established a docket for this action under Docket ID Number EPA-R02-OAR-2023-0522. Publicly available docket materials, including the final OCS air permit, the EPA's response to comments and all additional related information, are available electronically in the docket at <https://www.regulations.gov>.

II. Background

On December 1, 2023, the EPA Region 2 proposed a draft OCS air permit (draft permit) to Empire Offshore Wind, LLC, to construct and operate an offshore wind farm on Renewable Energy Lease Area OCS-A 0512 and requested public comment on the draft permit. During the public comment period, which ended on January 5, 2024, we received only one comment letter, from Empire Offshore Wind, LLC. The letter's comments addressed only very specific permit conditions and did not raise any substantial questions. The EPA carefully reviewed the comments from Empire Offshore Wind, LLC and made only minor revisions and/or updates to a limited number of the draft permit conditions, and on February 15, 2024, issued the final OCS air permit in accordance with 40 CFR part 55. The EPA provided to the commenter and all attendees at the January 3, 2024 public hearing, among others, notice of this final permit issuance and information regarding the opportunity to appeal the final OCS air permit administratively by filing a petition with the Environmental Appeals Board (EAB) within thirty (30) days of the EPA's notice of the final permit decision, consistent with 40 CFR 124.19.

40 CFR 124.19(l)(3)(ii) requires that the EPA provide notice in the Federal Register of any final agency action regarding OCS Air Permits issued pursuant to 40 CFR part 55.

Section 307(b)(1) of the CAA provides for judicial review of the final agency action within sixty (60) days from the date on which notice of the action appears in the Federal Register. A petition to the EAB for administrative review is a prerequisite to

seeking judicial review. 40 CFR 124.19(*l*). Since no such petitions for administrative review were submitted for the Empire Offshore Wind final OCS air permit, no judicial review for this final OCS air permit may be sought. Under section 307(b)(2) of the CAA, this determination to issue a final OCS air permit shall not be subject to later judicial review in civil or criminal proceedings for enforcement.

III. Effect of this Action

Since changes were made from draft to the final permit, but no petition for review was filed with the EAB, the final OCS air permit became effective on March 16, 2024, consistent with 40 CFR 124.15(b). This final OCS air permit will expire as provided within its permit conditions.

Authority: 42 U.S.C. 7401 et seq.

Lisa Garcia,
Regional Administrator,
Region 2.

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