



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

January 29, 2026

**Attentive Energy Two Offshore Wind Project – NEPA (BOEM); COP (BOEM); Section 106 (BOEM); ESA (NOAA); EFH (NOAA); MMPA (NOAA); ESA (FWS); Section 10/404 (USACE); Section 408 (USACE)**

### **I. Summary**

The Attentive Energy Two Offshore Wind Project (Project), sponsored by Attentive 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 *et seq.* 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 *et seq.*, which makes BOEM the lead agency for both NEPA and FAST-41.

BOEM submitted a request to the Executive Director of the Federal Permitting Improvement Steering Council (Permitting Council) under 42 U.S.C. § 4370m-2(c)(2)(D)(i)(IV) to extend various completion dates on the project’s permitting timetable related to BOEM’s Construction and Operations Plan (COP), consultation with the State Historic Preservation Office and Tribes under Section 106 of the National Historic Preservation Act (Section 106), 54 U.S.C. § 306108, and the Environmental Impact Statement under NEPA. In addition, BOEM’s request also includes proposed cooperating agency milestone extensions for the National Marine Fisheries Service ESA, EFH, and MMPA actions; U.S. Fish and Wildlife Service ESA action; the U.S. Army Corps of Engineers Section 10/404 and Section 408 actions; and the USEPA OCS Air Permit and Section 402 (NPDES) actions. This is BOEM’s first request for modification of 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) and (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 completion dates shown in the table immediately below.

Action Agency	Action	Milestone	Current Date	Requested Date
BOEM	Environmental Impact Statement	Issuance of Notice of Intent to prepare an Environmental Impact Statement	1/27/2026	7/27/2027  *Alternative Completion Date
		Scoping	2/27/2026	8/26/2027  *Alternative Completion Date
		Official Notice of Availability of a Draft EIS published in the Federal Register (FR) beginning both the public comment period and concurrent CAA Section 309 Review	2/19/2027	9/15/2028  *Alternative Completion Date



		Official Notice of Availability of a Final EIS published in the FR beginning both the public review period and concurrent CAA Section 309 Review	12/3/2027	6/29/2029  *Alternative Completion Date
		Issuance of Lead Agency Record of Decision	1/18/2028	8/13/2029  *Alternative Completion Date
BOEM	106 Consultation with SHPO/ Tribes	Consultation initiated with SHPO/THPO	1/27/2026	7/27/2027  *Alternative Completion Date
		Section 106 consultation concluded	12/3/2027	6/29/2029  *Alternative Completion Date
BOEM	COP	Final decision/agency action	3/17/2028	10/12/2029
NMFS	ESA Consultation	ESA Consultation Request Package Submitted	11/23/2026	5/22/2028
		NOAA determines ESA Consultation Package is Complete - Formal	4/20/2027	11/14/2028
		ESA Consultation Concludes	9/17/2027	4/13/2029
NMFS	EFH Consultation	EFH Consultation Request Submitted - EFH Assessment	11/23/2026	5/22/2028
		NOAA determines EFH Assessment is Complete	4/20/2027	11/14/2028
		NOAA Issues any EFH Conservation Recommendations	7/19/2027	2/12/2029
NMFS	MMPA	ITA Application Submitted	12/30/2025	8/26/2027



	Incidental Take Authorization	NOAA Determines ITA Application is Complete	7/28/2026	2/22/2028
		Publish Notice of Receipt in Federal Register	8/27/2026	3/23/2028
		Publish Proposed ITA in Federal Register	4/20/2027	11/14/2028
		Publish Final ITA Regulations in Federal Register	3/20/2028	10/12/2029
		ITA decision rendered	4/19/2028	11/13/2029
FWS	ESA Consultation	ESA Consultation Request Package Submitted	2/19/2027	9/15/2028
		FWS determines ESA Consultation Package is Complete - Formal	5/202/2027	12/14/2028
		ESA Consultation Concludes	10/18/2027	5/14/2029
USACE	Section 10/404 Permit	Pre-construction (PCN)/Form ENG 4345/Joint Application Form Received	1/5/2027	8/1/2028
		Complete Pre-Construction PCN/Application Received	2/4/2027	8/31/2028
		Publication of Public Notice	2/19/2027	9/15/2028
		Final Verification/Permit Decision Rendered	5/19/2028	12/11/2029
USACE	Section 408 Permit	Initial application submitted	1/5/2027	8/1/2028
		Completeness Determination	2/4/2027	8/31/2028
		Complete application submitted	11/19/2027	6/14/2029
		Issuance of Decision	5/19/2028	12/11/2029



EPA	OCS Air Permit	OCS Air Permit application submitted	7/9/2026	2/7/2028
		OCS Air Permit application complete	4/16/2027	11/13/2028
		Issuance of final decision/permit approval	4/17/2028	11/13/2029
EPA	Clean Water Act Section 402 Permit (NPDES)	Initial application received	11/6/2025*	6/3/2027
		Completed application received	11/6/2026	6/2/2028
		EPA authorizes discharge under Individual Permit	4/17/2028	11/13/2029

\* The project sponsor originally met this milestone, but after coordination with EPA, they will withdraw their application and resubmit on 6/3/2027.

BOEM's justification for this permitting timetable extension is based on multiple agency comments not being addressed in the latest COP submission by the project sponsor and that additional time is required to review the updated COP submissions. These delays extend the timeline for achieving a COP consistent with BOEM's NOI Checklist extending the publication of the Notice of Intent (NOI) in the Federal Register to July 27, 2027. The project sponsor, Attentive Energy (AE), also submitted a Motion to Stay with the New Jersey Board of Public Utilities requesting a stay of the enforcement and suspension of obligations to specific elements of the board order due to delays in permitting and grid rights as a follow-up to the Limited Motion to Stay that AE submitted in January 2025. This is in line with the timing associated with BOEM's proposed updated permitting timetable in this request to the Executive Director.

As a result, the revised schedule extends the overall project schedule by approximately 18 months.

This request to modify the project schedule was submitted to the Permitting Council by BOEM only thirty-two days prior to the scheduled EIS milestone and the first Section 106 milestone. The FAST-41 statute does not allow completion dates to be modified within 30 days of the completion date. 42 U.S.C. §§ 4370m-2(c)(2)(D)(ii). The timing of the request did not allow enough time for it to be evaluated, so the milestone date changes for the EIS and Section 106 milestones will occur after the scheduled milestone dates, and these actions will be in nonconformance with FAST-41.



## Consultation with Project Sponsor on Extension Requests

Prior to submitting its extension request to the Executive Director, BOEM consulted and coordinated with the Project Sponsor per 42 U.S.C. § 4370m-2(c)(2)(D)(i)(I) regarding the updated schedule. BOEM considered the Project Sponsor's comments prior to submitting this request and indicated that the Project Sponsor understands the need for the requested completion date extension and does 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**

BOEM, as part of its review process for offshore wind projects, requires a thorough review of the Project Sponsor's COP in accordance with their NOI Checklist prior to issuing the NOI. BOEM believes there were deficiencies in the latest COP submittal, so BOEM expects additional submissions by the Project Sponsor and accompanying review periods before the COP complies with the NOI Checklist. The Project Sponsor will need additional time to complete the necessary updates, and BOEM will need additional time to complete their reviews.

The Executive Director notes that the NEPA and Section 106 actions will be in nonconformance with FAST-41, and the milestones will be considered alternative completion dates in accordance with 42 U.S.C. § 4370m-2(c)(2)(F). The Executive Director expects that adherence to the statutory procedures required by 42 U.S.C. § 4370m-2(c)(2)(F) shall occur until the NEPA and Section 106 actions are complete.

This is BOEM's first request to extend the permitting timetable. Given these circumstances, the Executive Director concludes that the requested extension is warranted.

### **V. Determination**

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



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Emily Domenech  
Executive Director  
Federal Permitting Improvement Steering Council

