

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

In Re:

**US Wind Inc., for the
Maryland Offshore Wind Project**

**Permit Number: Permit-to-Construct 047-0248;
NSR Approval NSR-2024-01; PSD Approval PSD-2024-01**

Appeal No. OCS 25-01

MOTION FOR CLARIFICATION AND RECONSIDERATION ON DEADLINE

Pursuant to 40 C.F.R. § 124.19(m), Respondent the Maryland Department of the Environment (“MDE”) respectfully request that the Environmental Appeals Board (“EAB”) provide clarification and reconsider the deadline to comply with its Order issued December 16, 2025.

In its December 16, 2025, Order Affirming Board Jurisdiction (“December 16 Order”), the EAB directed MDE to re-issue its notice of permit issuance of the U.S. Wind Inc. (“US Wind”) – Maryland Offshore Wind Project providing for appeal procedures pursuant to 40 C.F.R. § 124.19 by no later than Friday, January 9, 2026. The December 16 Order does not state what notification procedures are required to comply with that Order.

In particular, MDE has had inadequate time to evaluate EAB’s ruling and determine the proper publication for the ordered re-issuance. The December 16 Order states that MDE must comply with federal appellate requirements as the contested permits are federal permits issued

pursuant to federal law. However, the December 16 Order is silent as to whether MDE is to follow federal notice procedures or the normal notice procedures of its approved programs. 40 C.F.R. § 124.19(l)(3) requires that the “Regional Administer must promptly publish notice of any final agency action in the Federal Register” regarding outer continental shelf permits issued under 40 C.F.R. part 55. If MDE must notice in accordance with that regulation, MDE requires guidance as to how to effectuate publication in the federal register through the Regional Administrator. Alternatively, if it is authorized to re-issue the notice pursuant to its normal state procedures, incorporated by 40 C.F.R. § 55.14(d)(10)(i), MDE asks that a clarification be issued to make that clear.

At the time of the EAB’s December 16 Order, several of MDE’s key staff and managers were either on approved leave or scheduled to be on approved leave through January 2, 2026. MDE respectfully requests that the EAB reconsider and extend the deadline to re-issue its notice by 30 days from the date of its clarification on the proper procedures, in consideration of the steps necessary for practical compliance (e.g. advance submission; advance payment; etc.) once the proper process is stated.

Pursuant to 40 C.F.R. § 124.19(f)(2), MDE contacted counsel for Petitioners, US. Wind, and EPA on December 22, 2025, to request their positions on this Motion. MDE contacted those parties within four business days of receipt of the December 16 Order. US Wind consents to an extension of time to re-issue the notice, EPA does not oppose the motion seeking clarification on the procedure for notice and reconsideration of the January 9, 2026 deadline, and Petitioners take no position on the Motion. Petitioners will not be prejudiced by granting this Motion.

Dated: December 23, 2025

Respectfully submitted,

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Counsel for Maryland Department of the Environment

CERTIFICATE OF SERVICE

I hereby certify that on December 23, 2025, the foregoing Motion for Clarification and Reconsideration of Time in the matter of US Wind Inc., for the Maryland Offshore Wind Project, Permit-to-Construct 047-0248; NSR-2024-01; PSD Approval PSD-2024-01, were sent to the following persons in the manner indicated:

By first-class U.S. mail to Petitioners Mayor and City Council of Ocean City, Maryland and Commissioners of Worcester County, Maryland through their attorneys of record, Nancie G. Marzulla, and Roger J. Marzulla, at 1150 Connecticut Ave., NW, Suite 1050, Washington, D.C. 20036;

By first-class U.S. mail to Amy Van Blarcom-Lackey, Regional Administrator of Region 3 of the Environmental Protection Agency, at 4 Penn Center, 1600 JFK Blvd., Philadelphia, PA 19103;

By first-class U.S. mail to US Wind Inc., the permit applicant, at World Trade Center Baltimore, 401 East Pratt Street, Suite 1810, Baltimore, MD 21202;

By e-filing system to the Environmental Appeals Board.

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