

Permits and Approvals for Construction of Offshore Wind Facilities December 2007

The following permits and approvals may be required for the construction of an offshore wind facility, depending on the specifics of the project. This document lists the permits and approvals that are most likely to be required from the New Jersey Department of Environmental Protection and similar permits and approvals required from federal agencies. An offshore wind facility may be proposed in both state and federal waters; for example the turbines may be proposed in federal waters with electrical cables bringing electricity to shore through state waters. In addition, permits and approvals may be required for onshore facilities. Accordingly, each section below may apply to a specific project or portion of a project.

Construction within State Waters (Within 3 geographic or approximately 3.5 statute miles of shore)

State

- Waterfront Development permit (N.J.S.A. 12:5-3)
- Tidelands Conveyance (N.J.S.A. 12:3-1)
- Concurrence with Federal Consistency determination (16 USC § 1456)
- Water Quality Certificate under Section 401 of the Clean Water Act for any discharge
- Environmental review provisions of NJ Executive Order No. 215 of 1989 (EO #215) may be triggered if the NJ Board of Public Utilities grants at least 20% financial assistance and an Environmental Impact Statement under NEPA is not required

Federal

- Section 10 of the Rivers and Harbors Act from the U.S. Army Corps of Engineers
- Section 404 permit under the Clean Water Act from the U.S. Army Corps of Engineers for any discharge of dredged or fill material

Construction within Federal Waters (More than 3 geographic or approximately 3.5 statute miles from shore)

State

- Concurrence with Federal Consistency determination (16 USC § 1456)
- Environmental review provisions of NJ Executive Order No. 215 of 1989 (EO #215) may be triggered if the NJ Board of Public Utilities grants at least 20% financial assistance and an Environmental Impact Statement under NEPA is not required

Federal

- A lease, license, or right-of-way on the Outer Continental Shelf (OCS) under Section 338 of the Energy Policy Act of 2005 from the Minerals Management Service. The Alternative Energy and Alternate Use Program for the OCS is under development at this time.
- Section 10 permit under the Rivers and Harbors Act from the U.S. Army Corps of Engineers
- Section 404 permit under the Clean Water Act from the U.S. Army Corps of Engineers for any discharge of dredged or fill material

Construction of Associated Onshore Facilities such as Electrical Substations, Cables and Transmission Lines

State

- CAFRA permit (N.J.S.A. 13:19-1 et seq.)
- Upland Waterfront Development permit (N.J.S.A. 12:5-3)
- Freshwater Wetlands permit (N.J.S.A. 13:9B-1 et seq.)
- Coastal Wetlands permit (N.J.S.A. 13:9A-1 et seq.)
- Flood Hazard Area Control Act permit (N.J.S.A. 58:16A-1 et seq.)
- Water Quality Certificate under Section 401 of the Clean Water Act for any discharge of dredged or fill material
- Environmental review provisions of NJ Executive Order No. 215 of 1989 (EO #215) may be triggered if the NJ Board of Public Utilities grants at least 20% financial assistance and an Environmental Impact Statement under NEPA is not required

Federal

- Section 10 of the Rivers and Harbors Act from the U. S. Army Corps of Engineers
- Section 404 permit under the Clean Water Act from the U.S. Army Corps of Engineers for any discharge of dredged or fill material

Federal Review

Each project proposed is anticipated to be subject to federal environmental reviews under the National Environmental Policy Act (NEPA).

The lead federal agency listed above will be required to consult with various state and federal agencies, including the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS) regarding the application under its review. For example, consultation with the USFWS is required pursuant to Section 7 of the Endangered Species Act regarding threatened and endangered species and their habitats and the Migratory Bird Treaty Act regarding migratory birds. Consultation with NMFS is required under the Marine Mammal Protection Act regarding marine mammals; Section 7 of the Endangered Species Act regarding threatened and endangered species

and their habitats; and the Magnuson-Stevens Fishery Conservation and Management Act regarding essential fish habitat. Consultation with the State Historic Preservation Office is required under Section 106 of the National Historic Preservation Act. To facilitate this, early coordination with NMFS and UFWS is encouraged to determine the extent of issues to be addressed

Note:

This is not an exhaustive list of required permits and approvals. For a comprehensive guide to all potential DEP permits, consult the Permit Identification Form at <http://www.state.nj.us/dep/opppc/PCER/pifupdate.pdf> . Other approvals may be required from agencies such as the U.S. Coast Guard and the Federal Aviation Administration.

With passage of the Electric Discount and Energy Competition Act of 1999, the Board of Public Utilities no longer regulates electric power generation companies. The electric distribution company to whose network the off-shore electric power generation facility will be connected would be required to file a petition with the Board for approval of such connection. The electric distribution company should file the petition having all agreements in place and with most permit applications in process. The petition lead time is recommended to be at least 6 months prior to the anticipated date of service operation, with more lead time better.

Link to New Jersey Board of Public Utilities: www.nj.gov/bpu