



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
WATERSHED & LAND MANAGEMENT
Mail Code 501-02A, P.O. Box 420, Trenton, New Jersey 08625-0420
Telephone: (609) 777-0454 or Fax: (609) 777-3656
www.nj.gov/dep/landuse



PERMIT

In accordance with the laws and regulations of the State of New Jersey, the Department of Environmental Protection hereby grants this permit to perform the activities described below. This permit is revocable with due cause and is subject to the terms, conditions, and limitations listed below and on the attached pages. For the purpose of this document, "permit" means "approval, certification, registration, authorization, waiver, etc." Violation of any term, condition, or limitation of this permit is a violation of the implementing rules and may subject the permittee to enforcement action.

Approval Date

May 9, 2024

Expiration Date

May 8, 2029

Permit Number(s):

0102-24-0001.1 LUP240001

Type of Approval(s):

CAFRA Individual Permit-Commercial/Industry/Public
WFD IP-Commercial/Industrial/Public (Waterward)
FHA Verification-Method 2 (FEMA Tidal Method)
Water Quality Certificate

Governing Rule(s):

N.J.A.C. 7:13-1.1(b)
N.J.A.C. 7:7-1.1(a)

Permittee:

Atlantic Shores Offshore Wind Services, LLC
c/o Jennifer Daniels
1 Dock 72, Floor 7
Brooklyn, NY 11205

Site Location:

Block(s) & Lot(s): [567, 2]
Municipality: Atlantic City
County: Atlantic

Description of Authorized Activities:

This document authorizes the construction of a 541 LF bulkhead on the parcel(s) referenced above.

This project is authorized under and in conditional compliance with the applicable Coastal Zone Management Rules (N.J.A.C. 7:7-1.1 et seq.), as amended on October 5, 2021, provided that all conditions to follow are met.

The Department has determined that the herein approved activities meet the requirements of the (FHACA/CZM) rules. This approval does not obviate the local Floodplain Administrator's responsibility to ensure all development occurring within their community's Special Flood Hazard Area is compliant with the local Flood Damage Prevention Ordinance, and minimum NFIP standards, regardless of any state-issued permits. FEMA requires communities to review and permit all proposed construction or other development within their SFHA in order to participate in the NFIP.

Prepared by:

Becky Mazzei

**Received and/or Recorded by
County Clerk:**

If the permittee undertakes any regulated activity, project, or development authorized under this permit, such action shall constitute the permittee's acceptance of the permit in its entirety as well as the permittee's agreement to abide by the requirements of the permit and all conditions therein.

This permit is not valid unless authorizing signature appears on the last page.

STATEMENT OF AUTHORIZED IMPACTS:

The authorized activities allow for the permittee to undertake impacts to regulated areas as described below. Additional impacts to regulated areas without prior Department approval shall constitute a violation of the rules under which this document is issued and may subject the permittee and/or property owner to enforcement action, pursuant to N.J.A.C. 7:13-2.18; N.J.A.C. 7:7-29.

WFD IP- Commercial/Industrial/Pub lic(Waterward)	Permanent Disturbance (Acres)	Temporary Disturbance (Acres)
Intertidal subtidal shallows (ISS)	0.025	0

PRE-CONSTRUCTION CONDITIONS:

1. This permit is not valid until such time as you have obtained a Department of the Army authorization. You are advised to contact the Philadelphia District at 215-656-6728 if your project is located south of the Manasquan River or the New York District at 212-264-3912 if your project is located north of the Manasquan River.
2. Prior to site preparation or construction, the permittee shall record a conservation restriction (Shore Protection Structure Area) governing the shoreline with the Office of the County Clerk in the county wherein the lands included in this permit are located. This conservation restriction shall reflect exactly what is provided on the Division's web site (<https://dep.nj.gov/wlm/forms/#mdr>) and must accompany and reference a site plan, with all restricted areas clearly delineated. Within thirty (30) calendar days of recordation, a copy of the recorded conservation restriction must be forwarded to the Division's project manager at Becky.Mazzei@dep.nj.gov. Said restriction shall run with the land and be binding upon all successive owners.
3. This portion of the permit verifies the Flood Hazard Area Design Flood Elevation ranges on site between 10 and 12 feet NAVD88. It also verifies that there is no floodway on site. This permit shall be recorded in its entirety in the office of the County Clerk or the Registrar of Deeds and Mortgages for each county where this project is located. Verified notice of this action shall be forwarded to the Division immediately thereafter. NOTE: The following information is to be submitted to the clerk for all Flood Hazard Area Verifications:
 - a. The Department file number for the verification;
 - b. The approval and expiration dates of the verification;
 - c. A metes and bounds description of any flood hazard area limit and/or floodway limit approved under the verification;
 - d. The flood hazard area design flood elevation, or range of elevations if variable, approved under the verification;
 - e. The width and location of any riparian zone approved under the verification; and
 - f. The following statement: "The State of New Jersey has determined that all or a portion of this lot lies in a flood hazard area. Certain activities in flood hazard areas are regulated by the New Jersey Department of Environmental Protection and some activities may be prohibited on this site or may first require a permit. Contact the Watershed and Land Management Program at (609) 777-0454 for more information prior to any construction onsite."

INTERTIDAL AND SUBTIDAL SHALLOWS MITIGATION CONDITIONS:

1. **At least 90 days prior to commencing regulated activities authorized by this permit**, the permittee shall submit a mitigation proposal to mitigate for the loss of 0.025 acres of intertidal and subtidal shallows to the Division of Watershed Protection and Restoration (Division) for review and approval.
2. All mitigation shall be conducted prior to or concurrent with the construction of the approved project. Concurrent means that at any given time, the mitigation must track at the same or greater percentage of completion as the project as a whole.
3. The permittee shall mitigate for the loss of 0.025 acres of intertidal and subtidal shallows through the creation of intertidal and subtidal shallows, at a creation to loss ratio of 1:1, on the site where the filling occurred.
4. If mitigation for the filling of intertidal and subtidal shallows is not feasible onsite, then mitigation shall be performed offsite through the creation of intertidal and subtidal shallows at a ratio of 1:1 within the same estuary as the site of the filling or through the purchase of in-kind credits from a mitigation bank with a service area that includes the site of the filling.
5. If mitigation for the filling of intertidal and subtidal shallows is not feasible onsite or offsite, then mitigation shall be in the form of restoration, creation, or enhancement of a wetland within the same estuary as the site of the filling in accordance with N.J.A.C. 7:7-17.13 or through the purchase of out-of-kind wetland credits from a mitigation bank with a service area that includes the site of the filling.
6. If the permittee is purchasing credits from a mitigation bank to satisfy a mitigation requirement (see N.J.A.C. 7:17.11(d)), the permittee shall submit proof of purchase for 0.025 mitigation credits from an approved wetland mitigation bank to the attention of the Mitigation Unit Supervisor, NJDEP, Division of Watershed Protection and Restoration at Mail Code 501-02A, P.O. Box 420, Trenton, NJ 08625-0420.

At this time, the following bank(s) are approved to serve the project area:

Great Bay: Contact: Mark Renna, Evergreen Environmental, LLC, 709 Natures Way, Franklin Lakes, NJ 07417 and he can be reached at 201-644-7302 or 973-356-7164 or by email at mrenna@evergreenenv.com

7. If mitigation for the filling of intertidal and subtidal shallows is not feasible, then mitigation shall be in the form of one or both of the following, as determined in consultation with the Department:
 - a. Upland preservation in accordance with the Freshwater Wetlands Protection Act Rules at N.J.A.C. 7:7A-15.9; or
 - b. In-lieu fee payment in accordance with N.J.A.C. 7:7-17.16.
8. If mitigation for the filling of intertidal and subtidal shallows as described above is not feasible, then mitigation shall be in the form of a land donation in accordance with the Freshwater Wetlands Protection Act Rules at N.J.A.C. 7:7A-15.19.

9. If the permittee is proposing to construct an on-site intertidal subtidal shallows creation project, (see N.J.A.C. 7:17.11(b)) one acre of creation must be performed for each acre disturbed. If the permittee is proposing to mitigate through off-site creation, restoration or enhancement project, or by purchasing credits from a mitigation bank serving the area an enhancement or creation project, the ratio of disturbance to mitigation required shall be in accordance with N.J.A.C. 7:7-17.11(c) through (g). If proposing onsite or offsite mitigation, provide the following:
 - a. Within 30 days of the issuance of this permit, submit for review and approval, a conceptual plan showing the location and proposed hydrology of the mitigation site; and
 - b. Within 30 days of receiving Division approval of the conceptual mitigation proposal, submit a final design of the mitigation project.
10. The following requirements will apply to an onsite or offsite intertidal subtidal shallows mitigation project:
 - a. Obtain a secured bond, or other financial surety acceptable to the Department, and in an amount consistent with the requirements at N.J.A.C. 7:7-17.
 - b. Complete, sign and file with the County Clerk (the Registrar of Deeds and Mortgages in some counties), a conservation restriction protecting the mitigation site that meets the requirements of N.J.A.C. 7:7-18.
 - c. Notify the Mitigation Unit at the Division of Watershed Protection and Restoration in writing at least 30 days prior to the start of construction of the wetland mitigation project to arrange an on-site pre-construction meeting among the permittee, the contractor, the consultant and the Division.
 - d. In accordance with N.J.A.C. 7:7-17.11(h), within 60 days following the completion of the mitigation project, submit a Construction Completion Report to the Division detailing as-built conditions (see below) and any changes to the approved mitigation plan that were made during construction (N.J.A.C. 7:7-17.11(h)). The Construction Completion Report shall contain, at a minimum, the following information:
 - i. A completed Wetland Mitigation Project Completion of Construction Form that certifies the mitigation project has been constructed as designed and that the proposed area of wetland creation, restoration or enhancement has been accomplished. This form is located at on the Division's website at: www.nj.gov/dep/landuse in the Mitigation tab of Forms & Checklists.
 - ii. An as-built plan of the completed mitigation area showing grading and any structures included in the approved mitigation proposal;
 - iii. Photographs, both pre and post construction, of the intertidal and subtidal shallows mitigation project including a photo location map as well as the GPS waypoints in NJ state plane coordinates NAD 1983; and

(1) For ISS creation projects only, provide documentation that the mitigation site meets the definition of an intertidal and subtidal shallow as defined at N.J.A.C. 7:7-9.15; and

- e. Monitor the mitigation site in accordance with N.J.A.C. 7:7-17.11(i), (j), and (k).
11. Once the required monitoring period has expired and the permittee has submitted the final monitoring report, the Division will make the finding that the mitigation project is either a success or a failure (see N.J.A.C. 7:7-17.11(k)). This mitigation project will be considered successful if the permittee demonstrates all of the following:
 - i. That the goals of the ISS mitigation project, including acreage as stated in the approved mitigation proposal and the permit, have been satisfied. The permittee shall submit a field delineation of the ISS mitigation project which shows the exact acreage of ISS in the mitigation area;
 - ii. The mitigation site is an intertidal and subtidal shallows area, as defined at N.J.A.C. 7:7-9.15, or tidal water. The documentation shall include tidal data, topography for the spring high tide line, photographs, and field observation notes collected throughout the monitoring period;
 - iii. The mitigation meets all applicable requirements of Subchapter 17 of the Coastal Zone Management Rules (N.J.A.C. 7:7-17);
 - iv. The mitigator has executed and recorded a conservation restriction that meets the requirements of N.J.A.C. 7:7-18.
 12. The permittee is responsible for assuming all liability for any corrective work necessary to meet the success criteria established above (N.J.A.C. 7:7-17.13(h)). The Division will notify the permittee in writing if the mitigation project is a failure, and the permittee shall submit a revised mitigation plan or alternative mitigation proposal to satisfy the mitigation requirement. No financial surety will be released until such time that the permittee satisfies the success criteria.

SPECIAL CONDITIONS:

1. Consistent with Assembly Bill, No. 2804, P.L. 2007, CHAPTER 113 the use of creosote treated material (or other descriptive term from the law) in the construction of the authorized structure(s) is prohibited.
2. Any new, reconstructed, enlarged, or elevated structure within a flood hazard area shall be secured to resist flotation, collapse, and displacement due to hydrostatic and hydrodynamic forces from floodwaters.
3. The bulkhead shall be designed and certified by a professional engineer to withstand the forces of wave runup.
4. All backfill material for the proposed bulkhead shall be from an upland source and be free of any toxic contaminants. Dredging to obtain backfill material is prohibited.
5. All future bulkhead replacements shall be within the bulkhead alignment authorized under this permit.
6. This permit is issued subject to compliance with N.J.A.C. 7:7-27.2 Conditions that apply to all coastal permits.

STANDARD CONDITIONS:

1. The issuance of a permit shall in no way expose the State of New Jersey or the Department to liability for the sufficiency or correctness of the design of any construction or structure(s). Neither the State nor the Department shall, in any way, be liable for any loss of life or property that may occur by virtue of the activity or project conducted as authorized under a permit.
2. The issuance of a permit does not convey any property rights or any exclusive privilege.
3. The permittee shall obtain all applicable Federal, State, and local approvals prior to commencement of regulated activities authorized under a permit.
4. A permittee conducting an activity involving soil disturbance, the creation of drainage structures, or changes in natural contours shall obtain any required approvals from the Soil Conservation District or designee having jurisdiction over the site.
5. The permittee shall take all reasonable steps to prevent, minimize, or correct any adverse impact on the environment resulting from activities conducted pursuant to the permit, or from noncompliance with the permit.
6. The permittee shall immediately inform the Department of any unanticipated adverse effects on the environment not described in the application or in the conditions of the permit. The Department may, upon discovery of such unanticipated adverse effects, and upon the failure of the permittee to submit a report thereon, notify the permittee of its intent to suspend the permit.
7. The permittee shall immediately inform the Department by telephone at (877) 927-6337 (WARN DEP hotline) of any noncompliance that may endanger public health, safety, and welfare, or the environment. The permittee shall inform the Watershed & Land Management by telephone at (609) 777-0454 of any other noncompliance within two working days of the time the permittee becomes aware of the noncompliance, and in writing within five working days of the time the permittee becomes aware of the noncompliance. Such notice shall not, however, serve as a defense to enforcement action if the project is found to be in violation of this chapter. The written notice shall include:
 - i. A description of the noncompliance and its cause;
 - ii. The period of noncompliance, including exact dates and times;
 - iii. If the noncompliance has not been corrected, the anticipated length of time it is expected to continue; and
 - iv. The steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
8. Any noncompliance with a permit constitutes a violation of this chapter and is grounds for enforcement action, as well as, in the appropriate case, suspension and/or termination of the permit.
9. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the authorized activity in order to maintain compliance with the conditions of the permit.

10. The permittee shall employ appropriate measures to minimize noise where necessary during construction, as specified in N.J.S.A. 13:1G-1 et seq. and N.J.A.C. 7:29.
11. The issuance of a permit does not relinquish the State's tidelands ownership or claim to any portion of the subject property or adjacent properties.
12. The issuance of a permit does not relinquish public rights to access and use tidal waterways and their shores.
13. The permittee shall allow an authorized representative of the Department, upon the presentation of credentials, to:
 - i. Enter upon the permittee's premises where a regulated activity, project, or development is located or conducted, or where records must be kept under the conditions of the permit;
 - ii. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit; and
 - iii. Inspect, at reasonable times, any facilities, equipment, practices, or operations regulated or required under the permit. Failure to allow reasonable access under this paragraph shall be considered a violation of this chapter and subject the permittee to enforcement action.
14. The permittee shall not cause or allow any unreasonable interference with the free flow of a regulated water by placing or dumping any materials, equipment, debris or structures within or adjacent to the channel while the regulated activity, project, or development is being undertaken. Upon completion of the regulated activity, project, or development, the permittee shall remove and dispose of in a lawful manner all excess materials, debris, equipment, and silt fences and other temporary soil erosion and sediment control devices from all regulated areas.
15. The permittee and its contractors and subcontractors shall comply with all conditions, site plans, and supporting documents approved by the permit.
16. All conditions, site plans, and supporting documents approved by a permit shall remain in full force and effect, so long as the regulated activity, project, or development, or any portion thereof, is in existence, unless the permit is modified pursuant to the rules governing the herein approved permits.
17. The permittee shall perform any mitigation required under the permit in accordance with the rules governing the herein approved permits.
18. If any condition or permit is determined to be legally unenforceable, modifications and additional conditions may be imposed by the Department as necessary to protect public health, safety, and welfare, or the environment.
19. Any permit condition that does not establish a specific timeframe within which the condition must be satisfied (for example, prior to commencement of construction) shall be satisfied within six months of the effective date of the permit.
20. A copy of the permit and all approved site plans and supporting documents shall be maintained at the site at all times and made available to Department representatives or their designated agents immediately upon request.

21. The permittee shall provide monitoring results to the Department at the intervals specified in the permit.
22. A permit shall be transferred to another person only in accordance with the rules governing the herein approved permits.
23. A permit can be modified, suspended, or terminated by the Department for cause.
24. The submittal of a request to modify a permit by the permittee, or a notification of planned changes or anticipated noncompliance, does not stay any condition of a permit.
25. Where the permittee becomes aware that it failed to submit any relevant facts in an application, or submitted incorrect information in an application or in any report to the Department, it shall promptly submit such facts or information.
26. The permittee shall submit email notification to the Bureau of Coastal & Land Use Compliance & Enforcement at CLU_tomsriver@dep.nj.gov at least 3 days prior to commencement of site preparation and/or regulated activities, whichever comes first. The notification shall include proof of completion of all pre-construction conditions, including proof of recording of permits, approved plans and/or conservation easements, if required. The permittee shall allow an authorized Bureau representative on the site to inspect to ensure compliance with this permit.

Additionally, the permittee shall notify the Department in writing (at the address listed on page one of this permit) within five working days prior to commencement of operation of a CAFRA individual permit. At this time, the permittee shall certify that all conditions of the permit that must be met prior to operation of the development have been met.

27. The permittee shall record the permit, including all conditions listed therein, with the Office of the County Clerk (the Registrar of Deeds and Mortgages, if applicable) of each county in which the site is located. The permit shall be recorded within 30 calendar days of receipt by the permittee, unless the permit authorizes activities within two or more counties, in which case the permit shall be recorded within 90 calendar days of receipt. Upon completion of all recording, a copy of the recorded permit shall be forwarded to Watershed & Land Management through the DEP Online service. The uploaded documents will go directly into the Department's database, and staff will be notified that information has been received. The service can be found at: <https://dep.nj.gov/wlm/eservices/lrp-eservices/>.

APPROVED PLAN(S):

The drawing hereby approved consists of one (1) sheet prepared by Paulus, Sokolowski and Sartor, LLC, dated December 20, 2023, last revised March 15, 2024, entitled:

"NJDEP PERMIT PLAN, ATLANTIC SHORES OFFSHORE WIND SERVICES, LLC, BULKHEAD REPLACEMENT PROJECT, 801 NORTH MARYLAND AVENUE, BLOCK 567 LOT 2, CITY OF ATLANTIC CITY, ATLANTIC COUNTY, NEW JERSEY," sheet 1 of 1.

APPEAL OF DECISION:

Any person who is aggrieved by this decision may submit an adjudicatory hearing request within 30 calendar days after public notice of the decision is published in the DEP Bulletin (available at <https://dep.nj.gov/bulletin/>). If a person submits the hearing request after this time, the Department shall deny the request. The hearing request must include a completed copy of the Administrative Hearing Request Checklist (available at <https://dep.nj.gov/wlm/forms/>). A person requesting an adjudicatory hearing shall submit the original hearing request to: NJDEP Office of Administrative Hearings and Dispute Resolution, Attention: Adjudicatory Hearing Requests, Mail Code 401-07A, P.O. Box 420, 401 East State Street, 7th Floor, Trenton, NJ 08625-0420. Additionally, a copy of the hearing request shall be submitted to the Director of Watershed & Land Management at the address listed on page one of this permit. In addition to your hearing request, you may file a request with the Office of Dispute Resolution to engage in alternative dispute resolution. Please see www.nj.gov/dep/odr for more information on this process.

If you need clarification on any section of this permit or conditions, please contact Watershed & Land Management at (609) 777-0454.

Approved By:

Mark C. Davis, Section Chief
Bureau of Coastal Permitting
Watershed & Land Management

c: Municipal Clerk, Atlantic City
Municipal Construction Official, Atlantic City
Agent (original) – Brian McPeak