



State of New Jersey

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Governor

DEPARTMENT OF ENVIRONMENTAL PROTECTION

SHAWN M. LATOURETTE
Commissioner

TAHESHA L. WAY
Lt. Governor

Watershed & Land Management Program

Mail Code 501-02A

P.O. Box 420

Trenton, New Jersey 08625-0420

www.nj.gov/dep/landuse

Eva Land
Empire Offshore Wind LLC
53 State Street, Suite 500E
Boston, Massachusetts 02109

September 15, 2023

Re: Federal Consistency Certification Request
File No. 0000-21-0008.1, CDT210001
Applicant: Empire Offshore Wind LLC
Project: Empire Wind Offshore Wind Project
BOEM Energy Lease OCS-A 0512

Dear Ms. Land:

The New Jersey Department of Environmental Protection (NJDEP) Division of Land Resource Protection (Division), pursuant to Section 307 of the Federal Coastal Zone Management Act (CZMA) (16 U.S.C. 1456), has reviewed the Federal Consistency certification submitted by Empire Offshore Wind LLC (Empire Wind) for the offshore portion of the proposed Renewable Offshore Wind Project known as the Empire Wind Projects. The Empire Wind Projects consist of two commercial scale wind energy facilities known as Empire Wind 1 and Empire Wind 2, located in federal waters offshore of New Jersey. As described in this letter, the Division concurs with Empire Wind's consistency certification that the project is consistent with the enforceable policies of the New Jersey Coastal Zone Management Program, N.J.A.C. 7:7-1.1 et seq., (last amended on October 5, 2021). While salient points are summarized in this letter, the Division's detailed analysis and findings are presented in the attached Federal Consistency Analysis.

Project Description

The portion of the proposed Renewable Offshore Wind Project subject to CZMA Federal Consistency review, includes the installation of up to 57 Wind Turbine Generators for Empire Wind 1 and up to 90 Wind Turbine Generators for Empire Wind 2, for a total of 147 Wind Turbine Generators, up to 2 Offshore Substations, and associated inter-array cables. These project components are located within the Department of the Interior's Bureau of Ocean Energy Management (BOEM) Lease Area OCS-A-0512, which is located approximately 19.5 miles (16.9 nautical miles) east of Long Branch, New Jersey and 14 miles (12 nautical miles) south of Long Island, New York. In addition, the offshore portion of the project includes seafloor transmission cables that make landfall in Brooklyn, New York (Empire Wind 1) and Long Beach, New York (Empire Wind 2).

The Division's Federal Consistency concurrence decision is based upon the information contained in BOEM's Draft Environmental Impact Statement (DEIS), Empire Wind's Construction and Operations Plan (COP), including Empire Wind's commitment to measures intended to avoid, minimize,

and mitigate the reasonably foreseeable effects associated with the project, consistent with N.J.A.C. 7:7-1.1 et seq., including N.J.A.C. 7:7-16.2.¹

To minimize potential impacts on benthic resources, Empire Wind has agreed to include mobile fishing gear-friendly cable protection measures to better reflect pre-existing conditions along seafloor cable routes consistent with N.J.A.C. 7:7-16.2. This measure will also ensure that seafloor cable protection does not introduce new hangs for mobile fishing gear.

In addition, to avoid or minimize any special hazard that may be presented if any military munitions and explosives of concern (MECs) or unexploded ordinances (UXOs) are encountered during project construction, Empire Wind has agreed to immediately notify the United States Coast Guard (USCG) of the munitions and its location, consistent with N.J.A.C. 7:7-9.39.

Lastly, to further characterize surf clam and ocean quahog populations in the subject lease area and calibrate any mitigation that may be appropriate, Empire Wind is amenable to facilitate, participate in, support, and/or work with the National Marine Fisheries Service Northeast Fisheries Science Center, regional entities, or other research initiatives to conduct pre-construction and post-construction studies directed towards a broad age class of surf clam and ocean quahogs, consistent with N.J.A.C. 7:7-9.3 and N.J.A.C. 7:7-16.2.

Under 15 CFR 930.85, if there is substantial non-compliance with the COP, the Division may request that BOEM take remedial action. If BOEM determines that an amended COP is required, the amended COP shall be subject to further CZMA review if BOEM determines there are significant changes in accordance with 15 CFR §§ 930.82-930.84 and applicable BOEM regulations.

Thank you for your attention to and cooperation with New Jersey's Coastal Zone Management Program. If you have any questions regarding this CZMA concurrence decision, please do not hesitate to contact Christopher Jones by phone at (609) 633-2289 or email at Christopher.Jones@dep.nj.gov. Please reference the Division's file number in all communications.

Sincerely,

Jennifer Moriarty, Director
Division of Land Resource Protection

CC: BOEM
NOAA

¹ A coastal state cannot require monetary compensation for mitigation as part of its CZMA federal consistency decision and could not object for failure to pay a compensation amount or include a condition that an applicant must pay a compensation amount. However, a coastal state and an applicant can mutually agree that a monetary compensation amount is sufficient to meet a state's enforceable policy related to mitigation. In this case, the Division and Empire Wind have reached an agreement that Empire Wind will provide measures to offset adverse impacts to New Jersey's commercial fishing industry including providing compensation for lost fishing income and gear loss and damage.