

NY STATE Statutes and Regulations Applicable for Offshore Wind

Resource	Permitting Agency	Applicable Permit or Approval	Statutory Basis	Regulations	Applicability
Coastline of NY State	New York Department of State (DOS), Division of Coastal Resources	Coastal Zone Management Program Federal Consistency Certification	Coastal Zone Management Act (CZMA) 16 U.S.C 1451 et seq State Executive Law Article 42	15 CFR Part 930 and 923 19 NYCRR Part 600 and 6 NYCRR Part 617	Federal consistency is the CZMA requirement that federal actions (such as the issuance of federal licenses or permits) which affect any use or natural resource of the coastal zone be consistent with the enforceable policies of a state's federally approved coastal zone program. In New York, the enforceable coastal policies are those in the New York Coastal Management Program (NYCMP), Local Waterfront Revitalization Programs (LWRP), and Long Island Sound Coastal Management Program (LISCMP). New York also requires consistency review for state actions, including issuance of permits. DOS review of the project would satisfy the requirements of both the federal and state consistency reviews.
Gas & Electric Transmission Siting	New York State Department of Public Service, Public Service Commission (PSC)	Certificate of Environmental Compatibility and Public Need under Article VII	New York State Public Service Law, Article VII	16 NYCRR Parts 85-88	Siting of major utility transmission facilities in New York is under the jurisdiction of the PSC. Major facilities are defined to include electric transmission lines with a design capacity between 100kV and 125 kV and extending ten or more miles in length or 125kV and over and extending a distance of one mile or more. The wind farm interconnection for 350 to 700 MW capacity will require a cable exceeding 125kV and thus will be subject to Article VII jurisdiction. The Article VII process provides a single forum for approval of the project, and the Certificate issued by the PSC is the only non-federal approval required to construct a transmission line. However, the applicant must demonstrate compliance with the substantive requirements of all applicable state and local approvals.
Electric Transmission Generation Siting	New York State Department of Public Service, Board on Electric Generating Siting and the Environment	Siting of Major Electric Generating Facilities - Certificate of Environmental Compatibility and Public Need	New York State Public Service Law, Article 10	16 NYCRR Parts 1000-1002	Requires a full system benefits and environmental impact review of the siting, design, construction, and operation of major electric generating facilities of greater than 25 MW or greater in New York State, including offshore areas within NYS jurisdictional waters.
Underwater lands	New York Office of General Services (OGS)	State Submerged Lands Easement	New York Public Lands Law, Article 2, Section 3	9 NYCRR Part 270 & 271	The title to the bed of numerous bodies of water is held in trust for the People of the State of New York under the jurisdiction of OGS. Structures, including fill, located in, on, or above State-owned lands underwater require a license, grant, or easement from the OGS. Pipelines, cables, docks, wharves, moorings and permanent structures, including the wind turbines and transmission cables, require an easement. OGS typically issues easements for a term of 25 years.
Protected Streams and Navigable Waters	New York State Department of Environmental Conservation (NYSDEC)	Article 15 Protection of Waters Permit	Environmental Conservation Act (ECL) Article 15, Title 5 and Article 70	6 NYCRR Part 608 and 621	Installation of transmission cables within New York State waters will require Article 15 permits under the New York Protection of Waters Regulatory Program for the excavation or placement of fill in navigable waters of the State and their adjacent and contiguous wetlands and disturbance of the bed or banks of a protected stream or other watercourse. Major excavation/fill projects are defined as projects that fill greater than 100 cubic yards, excavation of an area greater than 5,000 square feet, and all other activities that are not considered minor, including an underwater cable and onshore interconnections.
Protected Streams and Navigable Waters	NYSDEC	Wild, Scenic, & Recreational River System Permit	ECL Article 15, Title 27	6 NYCRR Part 666	Required for activities within these specifically designated river areas, though onshore interconnections will be sited to avoid such areas.
Coastline of NY State	NYSDEC	Coastal Erosion Management Permit	ECL Article 70	6 NYCRR Part 505	The construction or placement of a structure, or any action or use of land which materially alters the condition of land, including grading, excavating, dumping, mining, dredging, filling or any disturbance of soil is a regulated activity requiring a coastal erosion management permit.
Water Quality	NYSDEC	Water Quality Certification (WQC) under Section 401 of the Clean Water Act (CWA)	U.S. Clean Water Act Section 401, 16 USC 1451; ECL Article 15, Title 5	6 NYCRR Part 608	State WQC is required for projects applying for federal permits that may affect state waters, such as the USACE Section 10/404 permit. New York administers its WQC under the Protection of Waters Regulatory Program. WQC has been conditionally granted for USACE NWP's. An individual WQC would be required if the project requires an individual USACE permit.
Stormwater	NYSDEC	Discharge Elimination System (SPDES) Construction Stormwater Permit	U.S. Clean Water Act Section 402, ECL Article 17 Title 8	6 NYCRR PART 750	An individual permit maybe required for construction and installation of onshore transmission cables and expansion of any substation. Construction activities > 1 acre of land or, if < 1 acre but within areas identified in the permit are eligible for general permits. No SPDES permit is required for a facility whose total discharges to the ground water are less than 1,000 gallons per day of sewage-wastewater containing no industrial or other non-sewage wastes.
Wetlands	NYSDEC	Article 24 Freshwater Wetlands Permit	Environmental Conservation Act (ECL) Article 24	6 NYCRR Part 663,664,665	Freshwater wetlands permits will apply to onshore transmission line components in the vicinity of freshwater wetland resources.
Tidal Wetlands	NYSDEC	Tidal Wetlands Permit	Tidal Wetlands Act ECL Article 25	6 NYCRR Part 661	NYSDEC requires a permit for almost any activity which will alter tidal wetlands or the adjacent areas. Tidal wetlands consist of all the salt marshes, non vegetated as well as vegetated flats and shorelines subject to tides. The adjacent areas extend up to 300 feet inland from the wetland boundary .
Endangered & Threatened Species	NYSDEC	State endangered species consultation	ECL Article 11 Section 535	6 NYCRR Part 182	The potential impacts of the proposed project's construction, operation and decommissioning with respect endangered, threatened and species of concern listed in the State of New York are examined as part of this consultation.
Historical or cultural sites	New York State Office of Parks, Recreation, and Historic Preservation (NYS OPRHP), State Historic	Section 106 Consultation under the National Historic Preservation Act (NHPA) and Section 14.09 of the New York State Preservation Office (SHPO) Historic Preservation Act	16 USC 470	6 NYCRR Part 617	The New York SHPO will require an architectural study to identify NRHP sites, state register sites, and other sensitive historical, cultural, and traditional sites within an Area of Potential Effect (APE) from the project . The SHPO Archaeologist will also require archaeological studies to identify potentially significant sites. The SHPO will comment on the project through the NEPA review. SHPO recommendations will be implemented as necessary by the NEPA lead agency. See http://nysparks.state.ny.us/shpo/