

Federal and State Agencies and Applicable Regulations Relative to Offshore Wind Turbine Siting in Ohio's Lake Erie

Because impacts to Waters of the United States (which include the Great Lakes) are regulated by the U.S. Army Corps of Engineers (and other state and Federal government agencies), siting a wind turbine(s) within offshore waters of the Great Lakes would automatically trigger review under the National Environmental Policy Act.

National Environmental Policy Act of 1969 (NEPA)

NEPA requires federal agencies to integrate environmental values into their decision making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions. To meet this requirement, federal agencies prepare either a detailed statement known as an Environmental Impact Statement (EIS), or a less detailed study for projects with lesser environmental impacts known as an Environmental Assessment (EA).

NEPA is triggered by any federal action (for example, a federal permit, federal funding, or a federal agency undertaking a specific action). If there is no federal involvement, no NEPA analysis is required. A lead federal agency is selected by all the permitting and cooperating federal agencies involved in the action to oversee the preparation of the NEPA document (EA or EIS). While the lead federal agency is responsible for creating the NEPA document, they often rely on the Applicant/Project Proponent and/or their consultants to gather the appropriate background information and identify and address issues of concern.

No irrevocable commitment of resources may be undertaken by the project proponent until the NEPA process has been completed and all necessary permits have been issued.

Federal Environmental Statutes most commonly considered under NEPA (Federal/State agency administering statute):

- National Historic Preservation Act (NHPA), 1966 as amended (State Historic Preservation Office (SHPO))
- 1992 Clean Air Act (CAA), 1990 as amended (US Environmental Protection Agency (USEPA), State EPA)
- Resource Conservation and Recovery Act (RCRA)1976
- Clean Water Act (CWA), 1948 as amended 1966, 1972 (USEPA, US Army Corps of Engineers (USACOE), State EPA)
- Section 10 Rivers and Harbors Act (RHA), 1899 (USACOE, US Coast Guard)
- Coastal Zone Management Act (CZMA), 1972 (National Oceanic and Atmospheric Administration (NOAA), State Department of Natural Resources (DNR))
- Coastal Barriers Resources Act (CBRA), 1990 as amended (US Fish and Wildlife Service (USFWS), NOAA)
- Wild and Scenic Rivers Act (WSRA), 1968 (National Park Service (NPS))
- Endangered Species Act (ESA), 1973 (USFWS)
- Fish and Wildlife Coordination Act (FWCA), 1956 (USFWS, State DNR)
- Executive Order 11988, Floodplain Management, 1977 (USACOE, USEPA, State EPA)
- Executive Order 11990, Protection of Wetlands, 1977 (USACOE, USEPA, State EPA)
- Executive Order 12898, Environmental Justice for Low Income and Minority Populations, 1994
- Executive Order 12669: Seismic Safety of Federal and Federally Assisted or Regulated New Construction

- Farmland Protection Policy Act
- Comprehensive Environmental Response, Compensation, and Liability Act
- The Wilderness Act
- Magnuson-Stevens Fishery Conservation and Management Act
- Archeological and Historic Preservation Act (State Historic Preservation Office)
- Executive Order 13061: American Heritage Rivers
- Executive Order 13007: Indian Sacred Sites (Bureau of Indian Affairs)
- Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

The NEPA document (EA/EIS) generally evaluates impacts to the following resources, in response to the regulations above:

Natural Environment: geology, soils, erosion, groundwater, sole source aquifers, wellheads, wetlands, streams/rivers/waterbodies, floodplains, wildlife, plants, threatened/endangered species, farmlands, municipal/industrial/hazardous waste, environmental permits, air quality

Social Environment: land use and development trends, population/housing, environmental justice, community cohesion/neighborhood impacts, community facilities/services, parks/recreation lands, natural and wildlife areas, economy and employment, municipal finances/taxes, visual resources

Cultural Resources: archaeological Resources, historic resources/sites, tribal properties/resources

Other Impacts: noise, transportation and traffic, energy, secondary impacts, cumulative impacts

The federal and state agencies mentioned below should be consulted during the development of the NEPA document, to ensure compliance with the above regulations. Additional federal, state, and local agencies may also need to be contacted, depending on the location of the project and affected resources.

Depending on the scope and impacts of the project, the NEPA process can take from several months to several years to complete.

Federal Agencies who should be consulted about offshore wind siting in Ohio Lake Erie Waters, and applicable statutes they administer:

- U.S. Army Corps of Engineers, Buffalo District
1776 Niagara St.
Buffalo, NY 14207
(716) 879-4330
Clean Water Act Section 404; Rivers and Harbors Act Section 10
<http://www.lrb.usace.army.mil/>
- U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, IL 60604-3507
(312) 353-2000
Clean Air Act, Clean Water Act Section 401 (although they usually delegate this authority to Ohio EPA)
<http://www.epa.gov/>

- U.S. Fish and Wildlife Service, Ohio ES Field Office
4625 Morse Rd.
Suite 104
Columbus, OH 43230
(614) 416-8993
Endangered Species Act; Migratory Bird Treaty Act; Fish and Wildlife Coordination Act
<http://www.fws.gov/midwest/Reynoldsburg/>
- U.S. Coast Guard
District 9 Aids to Navigation Division
1240 East Ninth Street
Cleveland, OH 44199-2060
(216) 902-6060
Rivers and Harbors Act
<http://www.uscg.mil/d9/default.asp>
- National Oceanic and Atmospheric Administration Office of Ocean and Coastal Resource Management
Coastal Programs Division, N/ORM3
1305 East-West Highway, SSMC4
Silver Spring, Maryland 20910
(301) 713-3155
Coastal Zone Management Act (Although they usually delegate this authority to Ohio DNR's Coastal program)
http://coastalmanagement.noaa.gov/programs/coast_div.html
- Federal Aviation Administration
12 New England Executive Park
Burlington, MA 01803
Tower height, sighting, lighting
<http://www.faa.gov/>
- National Park Service
Midwest Region
1709 Jackson St.
Omaha, NE 68102
(402) 221-3471
Wild and Scenic Rivers Act
<http://www.nps.gov/>
- Bureau of Indian Affairs
(202) 208-3710
E.O. 13007--Indian Sacred Sites
<http://www.doi.gov/bureau-indian-affairs.html>

State Agencies who should be consulted about offshore wind siting in Ohio Lake Erie Waters, and applicable statutes they administer:

- Ohio Department of Natural Resources
Real Estate and Land Management
2045 Morse Rd., Bldg. C-4
Columbus, OH 43229-6693
(614) 265-6565
Fish and Wildlife Coordination Act, State Endangered Species Act
<http://www.ohiodnr.com/>

- Ohio Department of Natural Resources
Office of Coastal Management
105 W. Shoreline Dr.
Sandusky, OH 44870
(419) 626-7980
Coastal Zone Management Act- Federal Consistency Determination, Submerged Land Lease, Shore Structure Permit
<http://www.ohiodnr.com/coastal>
- Ohio Environmental Protection Agency
Division of Surface Water
Lazarus Government Center
P.O. Box 1049
Columbus, OH 42216-1049
Clean Water Act Section 401
<http://www.epa.state.oh.us/>
- Ohio Historic Preservation Office
Ohio Historical Society
567 E. Hudson St.
Columbus, OH 43211-1030
(614) 298-2000
National Historic Preservation Act Section 106
<http://www.ohiohistory.org/>
- Ohio Power Siting Board
180 E. Broad St.
Columbus, OH 43215
(866) 270-6772
Certificate of Environmental Compatibility and Public Need required for all projects greater than 5 MW
<http://www.opsb.ohio.gov/>

International and Regional Organizations that may have an interest in offshore wind farm development in Ohio Lake Erie waters

- International Joint Commission (IJC): http://www.ijc.org/en/home/main_accueil.htm
- Lake Erie Commission: <http://www.epa.state.oh.us/oleo/>
- Great Lakes Commission: <http://www.glc.org/>
- Council of Great Lakes Governors: <http://www.cglg.org/>
- Great Lakes Fisheries Commission: <http://www.glfc.org/>

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