

Appendix A

Required Environmental Permits and Consultations



Appendix A: Required Environmental Permits and Consultations

A.1 Required Environmental Permits

Table A-1 includes a summary of federal, state, and local permits, approvals, and authorizations that are required for Atlantic Shores South Project implementation.

Table A-1. Required environmental permits, approvals, and authorizations for the proposed Project

Agency/Regulatory Authority	Permit/Approval	Project 1 Approval/Completion Date	Project 2 Approval/Completion Date
Federal (Portions of the Project within Federal Jurisdiction)			
BOEM	SAP approval	4/8/2021	4/8/2021
	NEPA Environmental Review	Expected Q2 2024	Expected Q2 2024
	COP approval/ ROD	Expected Q3 2024	Expected Q3 2024
	Consultation under Section 7 of the ESA with NMFS and USFWS, coordination with New Jersey under the CZMA, government-to-government Tribal consultations, consultation under Section 106 of the NHPA, consultation with DoD, authorization application with NMFS under the MMPA, and consultation with NMFS for Essential Fish Habitat	Consultations and authorization applications conducted concurrently with NEPA and COP review and approval process	Consultations and authorization applications conducted concurrently with NEPA and COP review and approval process
BSEE	OSRP	Expected Q1 2024	Expected Q1 2024
	SMS	Expected Q1 2024	Expected Q1 2024
	Facility Design Report and Fabrication and Installation Report	Expected Q3 2024	Expected Q3 2025
FAA	Determination of No Hazard to Air Navigation	Expected Q4 2024	Expected Q4 2024
NMFS	MMPA Section 101(a)(5) Letter of Authorization	Expected Q4 2024	Expected Q4 2024
USACE	CWA Section 404 Permit (required for discharge of dredged materials and placement of foundations, scour protection, and cable protection)	Expected Q4 2024	Expected Q4 2024
	RHA Section 10 Individual Permit (required for all offshore structures and dredging activities)	Expected Q4 2024	Expected Q4 2024

Agency/Regulatory Authority	Permit/Approval	Project 1 Approval/ Completion Date	Project 2 Approval/ Completion Date
	Section 103 of the Marine Protection, Research, and Sanctuaries Act (for dredged material disposal, if required)	Expected Q4 2024	Expected Q4 2024
	Section 408 (required for impacts to Civil Works projects)	Expected Q4 2024	Expected Q4 2024
USEPA	CAA OCS Air Permit	Expected Q4 2024	Expected Q4 2024
USCG	Private Aid to Navigation authorization	Expected Q4 2025	Expected Q4 2025
State (Portions of the Project within State Jurisdiction)			
BPU	Approval of Petition from electric distribution company for interconnection	TBD – local electric distribution company to file petition with BPU	TBD – local electric distribution company to file petition with BPU
NJDEP, Bureau of Tidelands Management, Tidelands Resource Council	Tidelands License, Lease, or Grant	Expected Q1 2025	Expected Q1 2025
NJDEP, Coastal Management Program	Concurrence with Federal Coastal Zone Consistency Determination	Expected Q2 2024	Expected Q2 2024
NJDEP, Division of Land Resource Protection	Waterfront Development Individual Permit – Water/Upland	Expected Q1 2025	Expected Q1 2025
	Coastal Area Facility Review Act Permit		
	Coastal Wetlands Permit		
	CWA Section 401, State Water Quality Certificate		
	Freshwater Wetlands General or Individual Permit		
	Flood Hazard Area Individual Permit or Verification		
	Dredging-related permits, as applicable		
	Dredged material disposal permits, as applicable		
NJDEP, Division of Parks and Forestry, Natural Heritage Program	State Species Consultation	Consultation conducted in conjunction with NJDEP review and approval process (expected Q1 2025)	Consultation conducted in conjunction with NJDEP review and approval process (expected Q1 2025)
NJDEP, Division of Water Quality, Bureau of Nonpoint Pollution Control	NJPDES 5G3 Stormwater General Construction Permit	TBD	TBD

Agency/Regulatory Authority	Permit/Approval	Project 1 Approval/Completion Date	Project 2 Approval/Completion Date
NJDEP Green Acres Program	Green Acres Diversion approval, if required	Expected Q4 2024 (review schedule is dependent on State House Commission meeting schedule)	Expected Q4 2024 (review schedule is dependent on State House Commission meeting schedule)
NJDEP, Historic Preservation Office	Review Procedures under the New Jersey Register of Historic Places Act	Consultation conducted in conjunction with NEPA review and NJDEP review and approval process (expected Q1 2025)	Consultation conducted in conjunction with NEPA review and NJDEP review and approval process (expected Q1 2025)
	Consultation under Section 106 of the NHPA of 1966		
NJDEP, Water Allocation and Well Permitting	Water Use (dewatering during construction)	TBD	TBD
New Jersey Department of Military and Veterans Affairs	Approval to land cables at Monmouth Landfall in Sea Girt, New Jersey, at the U.S. Army NGTC	TBD	TBD
NJDOT, Division of Right of Way and Access Management	Highway Occupancy Permit	Expected Q1 2025	TBD
New Jersey Pinelands Commission	Application for Development/Certificate of Filing	Expected Q1 2025	N/A
Local (Portions of the Project within Local Jurisdiction)			
Atlantic County Department of Regional Planning and Development	Highway Occupancy Permit / Utility Permit	Expected Q1 2025	N/A
Borough of Sea Girt	Site Plan Approval	N/A	Expected Q1 2026
	Zoning Permit	N/A	Expected Q1 2026
	Building Permit	N/A	Expected Q1 2026
	Site Development Stormwater Management Plan	N/A	Expected Q1 2026
Cape Atlantic Conservation District	Soil Erosion and Sediment Control Plan Certification	Expected Q1 2025	N/A
	Stormwater Construction Permit	Expected Q4 2024	N/A
City of Atlantic City	Site Plan Approval for O&M Facility (Atlantic City)	Site plan application to be filed at least 12 months prior to start of construction activities	The O&M Facility would support Project 1 and Project 2 – Plan and permit approval expected Q1 2025
	Construction Permit for O&M Facility	Construction permit would be applied for after Site Plan Approval	
	Stormwater Management Plan Approval for O&M Facility	Stormwater management plan to be submitted with Site Plan Application	

Agency/Regulatory Authority	Permit/Approval	Project 1 Approval/ Completion Date	Project 2 Approval/ Completion Date
City of Pleasantville	Stormwater Control for Major Development (if required)	Expected Q1 2025	N/A
	Street Opening Permit	Expected Q1 2025	N/A
	Land Use/Zoning Permit	Expected Q1 2025	N/A
Freehold Soil Conservation District	Certification of Soil Erosion and Sediment Control	N/A	Expected Q1 2026
	Stormwater Construction Permit	N/A	Expected Q1 2026
Monmouth County Highway Division of Inspections	Road Opening Permit	N/A	Expected Q1 2026
Township of Egg Harbor	Zoning Permit	Expected Q1 2025	N/A
	Construction Permit	Expected Q1 2025	N/A
	Certificate of Occupancy	Expected Q1 2025	N/A
	Street Opening Permit	Expected Q1 2025	N/A
	Site Plan Approval	Expected Q1 2025	N/A
Township of Howell	Division of Land Use and Planning – Land Development Application	N/A	Expected Q1 2026
	Division of Engineering – Plot Plan Approval	N/A	Expected Q1 2026
	Tree Removal Permit	N/A	Expected Q1 2026
Township of Wall	Major Site Plan Approval	N/A	Expected Q1 2026
	Site Development Stormwater Management Plan	N/A	Expected Q1 2026
	Development/Zoning Permit	N/A	Expected Q1 2026
	Construction Permit	N/A	Expected Q1 2026
	Tree Removal Plan	N/A	Expected Q1 2026
	Conditional Permit	N/A	Expected Q1 2026
	Street Opening Permit	N/A	Expected Q1 2026

BOEM = Bureau of Ocean Energy Management; BPU = N.J. Board of Public Utilities; BSEE = Bureau of Safety and Environmental Enforcement; CAA = Clean Air Act; COP = Construction and Operations Plan; CWA = Clean Water Act; CZMA = Coastal Zone Management Act; DoD = U.S. Department of Defense; ESA = Endangered Species Act; FAA = Federal Aviation Administration; MMPA = Marine Mammal Protection Act; N/A = not applicable; NEPA = National Environmental Policy Act; NGTC = National Guard Training Center; NHPA = National Historic Preservation Act; NJDEP = N.J. Department of Environmental Protection; NJDOT = N.J. Department of Transportation NJPDES = N.J. Pollutant Discharge Elimination System; NMFS = National Marine Fisheries Service; NPS = National Park Service; NYSDOS = N.Y. State Department of State; O&M = operations and maintenance; OCS = Outer Continental Shelf; OSRP = Oil Spill Response Plan; Q1 = first quarter; Q2 = second quarter; Q3 = third quarter; Q4 = fourth quarter; RHA = Rivers and Harbors Act; ROD = Record of Decision; SAP = Site Assessment Plan; SMS = safety management system; TBD = to be determined; USACE = U.S. Army Corps of Engineers; USCG = U.S. Coast Guard; USEPA = U.S. Environmental Protection Agency; USFWS = U.S. Fish and Wildlife Service

Note:

The status of federal permits and approvals can be reviewed at the FAST-41 Permitting Dashboard:

<https://www.permits.performance.gov/permitting-project/atlantic-shores-south>.

Table A-2. Required environmental permits and approvals for the connected action

Agency/Regulatory Authority	Permit/Approval	Approval/Completion Date
USACE	Nationwide Permit 13	TBD
	Standard Permit – Atlantic City-Wide Dredging Project: NAP-2021-00573-95, issued with special conditions, March 15, 2022	TBD

TBD = to be determined; USACE = U.S. Army Corps of Engineers

A.2 Consultation and Coordination

A.2.1 Introduction

This section discusses public, Tribal, and agency involvement leading up to the preparation and publication of the Final EIS, including formal consultations, cooperating agency exchanges, the public scoping comment period, and correspondence. Interagency consultation, coordination, and correspondence throughout the development of this Final EIS occurred primarily through virtual meetings, teleconferences, and written communications (including email). BOEM coordinated with numerous agencies throughout the development of this document, as listed in Section A.2.3.2, *Cooperating Agencies*.

A.2.2 Consultations and Authorizations

A.2.2.1 Coastal Zone Management Act

The CZMA requires that federal actions within the coastal zone or within the geographic location descriptions (i.e., areas outside the coastal zone in which an activity would have reasonably foreseeable coastal effects) affecting any land or water use or natural resource of the coastal zone be consistent with the enforceable policies of a state’s federally approved coastal management program. A portion of the Project, specifically the export cable component, is located within New Jersey’s designated coastal zone and will require an authorization and issuance of an Individual Permit by USACE through Section 10 of the RHA and Section 505 of the CWA (15 CFR Part 930, Subpart D), which requires a federal consistency review under the CZMA (16 USC 1456), Section 307 (c)(3)(A) and 15 CFR Part 930.

Although the Project’s Lease Area does not fall within a Geographic Location Description for purposes of 16 USC 1456(c)(3)(A) and the implementing regulations at 15 CFR Part 930 Subparts D and E, Atlantic Shores voluntarily submitted a Federal Consistency Certification. The state’s concurrence is required before BOEM may approve or approve with modifications the Atlantic Shores COP per 30 CFR 585.628(f) and 15 CFR 930.130(1). On April 1, 2024, the NJDEP Division of Land Resource Protection concurred with the Federal Consistency Certification submitted by Atlantic Shores.

A.2.2.2 Endangered Species Act

Section 7(a)(2) of the ESA of 1973, as amended (16 USC 1531 *et seq.*), requires that each federal agency ensure that any action authorized, funded, or carried out by the agency is not likely to jeopardize the

continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat of those species. When the action of a federal agency may affect a protected species or its critical habitat, that agency is required to consult with either NMFS or USFWS, depending upon the jurisdiction. Pursuant to 50 CFR 402.07, BOEM has accepted designation as the lead federal agency for the purposes of fulfilling interagency consultation under Section 7 of the ESA for listed species under the jurisdiction of NMFS and USFWS. BOEM consulted on the proposed activities considered in this Final EIS with both NMFS and USFWS and prepared biological assessments for listed species and designated critical habitat under their respective jurisdictions. Consultation with USFWS and NMFS pursuant to Section 7 of the ESA concluded with the issuance of Biological Opinions from each agency in December 2023.

A.2.2.3 Government-to-Government Tribal Consultation

EO 13175, *Consultation and Coordination with Indian Tribal Governments*, commits federal agencies to engage in government-to-government consultation with federally recognized Tribes when federal actions have Tribal implications, and DOI policy requires all department bureaus and offices to consult on departmental actions with Tribal implications (DOI 2015). A June 29, 2018, memorandum outlines BOEM's current Tribal consultation policy (BOEM 2018). This memorandum states that "consultation is a deliberative process that aims to create effective collaboration and informed federal decision-making" and is in keeping with the spirit and intent of EO 13175 (BOEM 2018). BOEM implements Tribal consultation policies through formal government-to-government consultation, informal dialogue, collaboration, and other engagement.

In a letter dated November 5, 2021, BOEM notified Tribal leaders that the Notice of Intent (NOI) to prepare an EIS for the Project was issued, and of the public scoping period from September 30 through November 1, 2021. On October 27, 2021, BOEM emailed the Absentee-Shawnee Tribe of Indians of Oklahoma, The Delaware Nation, Delaware Tribe of Indians, Eastern Shawnee Tribe of Oklahoma, Mashantucket (Western) Pequot Tribal Nation, Mashpee Wampanoag Tribe, Narragansett Indian Tribe, Shawnee Tribe, Shinnecock Indian Nation, Stockbridge-Munsee Community Band of Mohican Indians, and Wampanoag Tribe of Gay Head (Aquinnah) offering government-to-government consultation to discuss the public scoping information for the Project. BOEM held a government-to-government meeting with the Delaware Tribe of Indians and The Delaware Nation on November 15, 2021. Both Tribes expressed interest in continuing consultation for offshore wind and emphasized the importance of early consultation in Project development. BOEM made additional attempts to contact the Absentee-Shawnee Tribe of Indians of Oklahoma, Eastern Shawnee Tribe of Oklahoma, Shawnee Tribe, Narragansett Indian Tribe, and Shinnecock Indian Nation via phone and email in August and September 2022. The Absentee-Shawnee Tribe of Indians of Oklahoma confirmed in a January 30, 2023, email that the Project area is not in their area of interest. The Shawnee Tribe indicated that the Project area is not in their area of interest on June 8, 2023. As a result, BOEM removed both the Absentee-Shawnee Tribe of Indians of Oklahoma and the Shawnee Tribe as Tribes consulting on the Project. The Mashantucket (Western) Pequot Tribal Nation initially declined to participate in consultations for the Project on November 22, 2021; however, on April 19, 2023, they indicated the Project is in their revised area of

interest and therefore requested to receive notifications for the Project. As a result, BOEM added the Mashantucket (Western) Pequot Tribal Nation as an NHPA Section 106 consulting party, and the Tribe was invited to be a cooperating Tribal government for the Project.

BOEM held government-to-government consultation and coordination meetings with Tribes throughout the environmental review of the Project. These include a coordination meeting with The Delaware Nation on February 21, 2024, and consultation meetings with the Delaware Tribe of Indians, The Delaware Nation, and Stockbridge-Munsee Community Band of Mohican Indians on March 20, 2024; with the Stockbridge-Munsee Community Band of Mohican Indians on March 25, 2024; with the Mashpee Wampanoag Tribe on April 5, 2024; and with the Delaware Tribe of Indians, The Delaware Nation, and the Stockbridge-Munsee Community Band of Mohican Indians on April 23, 2024. BOEM also invited all consulting Tribes to attend NHPA Section 106 consultation meetings, which were held on August 30, 2022; June 8 and December 4, 2023; and February 27 and April 25, 2024 (refer to Section A.2.2.4, *National Historic Preservation Act*, for additional information).

A.2.2.4 National Historic Preservation Act

Section 106 of the NHPA (54 USC 306108) and its implementing regulations (36 CFR Part 800) require federal agencies to consider the effects of their undertakings on historic properties and afford the ACHP an opportunity to comment. BOEM has determined that the proposed Project is an undertaking subject to Section 106 review. The construction, installation, and O&M of Offshore and Onshore Project components, such as WTGs and OSSs, interarray cables, onshore substations, and staging areas, may involve ground- or seabed-disturbing activities that may adversely affect historic properties such as archaeological resources. The presence of Offshore and Onshore Project components may also introduce visual elements out of character with the setting of historic structures or landscapes; in cases where the setting is a contributing element of historic properties' eligibility for the NRHP, the Project may adversely affect those aboveground historic properties.

The Section 106 regulations at 36 CFR 800.8(c) provide for use of the NEPA substitution process to fulfill a federal agency's NHPA Section 106 review obligations in lieu of the procedures set forth in 36 CFR 800.3 through 800.6. This process is known as "NEPA substitution for Section 106," and BOEM is using this process and documentation required for the preparation of this EIS and the ROD to comply with Section 106. Appendix I of this Final EIS contains BOEM's *Finding of Adverse Effect for the Atlantic Shores Offshore Wind South Project Construction and Operations Plan*, which includes a description and summary of BOEM's NHPA Section 106 consultations. BOEM has consulted with the New Jersey Historic Preservation Office (NJHPO; the New Jersey SHPO), ACHP, federally recognized Tribes, and other consulting parties regarding BOEM's Finding of Adverse Effect and measures to resolve adverse effects on historic properties. These measures will be stipulated in the NHPA Section 106 agreement document, the MOA (refer to Appendix I, Attachment A, for a draft of the MOA as of April 10, 2024). BOEM held five Section 106 consultation meetings on the Project; topics included the identification of historic properties, BOEM's Finding of Adverse Effect, and resolution of adverse effects through the development of the MOA. Over the course of the Project, BOEM requested that the consulting parties review and comment on NHPA Section 106 technical documents, including the COP cultural resource

technical reports (i.e., COP Volume II, Appendices II-N, II-O, II-P, II-Q, II-W), BOEM's Finding of Adverse Effect, and drafts of the MOA including proposed mitigation measures.

BOEM fulfilled public involvement requirements for Section 106 of the NHPA through the NEPA public scoping and public meetings process, pursuant to 36 CFR 800.2(d)(3). The Scoping Summary Report (BOEM 2022), available on BOEM's Project-specific website, summarizes comments on historic preservation issues. Appendix N, Section N.6.14, *Cultural Resources*, contains all comments received from the public and consulting parties during the Draft EIS public comment and review period held from May 19 to July 3, 2023, as well as BOEM's responses to those comments.

On October 15, 2021, BOEM contacted the ACHP and NJHPO to provide Project information and notify of BOEM's intention to use the NEPA substitution process to fulfill Section 106 obligations under 36 CFR 800.8(c) in lieu of the procedures set forth in 36 CFR 800.3 through 800.6. ACHP responded with acknowledgement on October 20, 2021.

On November 5 and 8, 2021, BOEM contacted 11 federally recognized Tribes with information about the Project and an invitation to be a consulting party to the NHPA Section 106 review of the COP. The Tribes contacted include: the Absentee-Shawnee Tribe of Indians of Oklahoma, Delaware Tribe of Indians, Eastern Shawnee Tribe of Oklahoma, Mashantucket (Western) Pequot Tribal Nation, Mashpee Wampanoag Tribe, Shawnee Tribe, Stockbridge-Munsee Community Band of Mohican Indians, The Delaware Nation, The Narragansett Indian Tribe, The Shinnecock Indian Nation, and Wampanoag Tribe of Gay Head (Aquinnah). BOEM also used this correspondence to notify of its intention to use the NEPA substitution process for Section 106 purposes, as described in 36 CFR 800.8(c), during its review.

The Stockbridge-Munsee Community Band of Mohican Indians initially declined to participate as a consulting party for the Project on November 12, 2021; however, on May 31, 2023, they indicated the Project is in their area of interest and therefore requested to consult on the Project. As a result, BOEM added the Stockbridge-Munsee Community Band of Mohican Indians as a consulting party for the Project on June 1, 2023. The Mashantucket (Western) Pequot Tribal Nation initially declined to participate in consultations for the Project on November 22, 2021; however, on April 19, 2023, they indicated the Project is in their revised area of interest and therefore requested to receive notifications for the Project. As a result, BOEM added the Mashantucket (Western) Pequot Tribal Nation as a consulting party for the Project. The Absentee-Shawnee Tribe of Indians of Oklahoma indicated that the Project area is not in their area of interest on January 30, 2023. The Shawnee Tribe indicated that the Project area is not in their area of interest on June 8, 2023. As a result, BOEM removed the Absentee-Shawnee Tribe of Indians of Oklahoma and Shawnee Tribe as consulting parties for the Project.

BOEM has included any Tribe that did not respond to the invitation to consult in all consulting party communications and considers them consulting parties for the Project. The Eastern Shawnee Tribe of Oklahoma and The Narragansett Indian Tribe did not respond to BOEM's invitation to consult. The Delaware Tribe of Indians, Mashpee Wampanoag Tribe, The Delaware Nation, The Shinnecock Indian Nation, and the Wampanoag Tribe of Gay Head (Aquinnah) did not respond to BOEM's initiation of

consultation but have participated in consultation on the Project. BOEM considers these Tribes as consulting parties for the Project.

Between November 5 and December 20, 2021, BOEM corresponded with a total of 259 points of contact from governments and organizations by mail and email, providing information about the Project, an invitation to be a consulting party to the NHPA Section 106 review of the undertaking, and the NOI to prepare an EIS. BOEM also used this correspondence to notify of its intention to use the NEPA substitution process for Section 106 purposes, as described in 36 CFR 800.8(c), during its review. To aid those consulting parties not familiar with the NEPA substitution process, BOEM developed a *NEPA Substitution for Section 106 Consulting Party Guide* (available at <https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/NEPA-Substitution-Consulting-Party-Guide.pdf>), which was included as an attachment to this correspondence. BOEM initially included any government and organization that did not respond to the invitation to consult in all consulting party communications; BOEM continued to provide correspondence regarding the Project to such governments and organizations through the NHPA Section 106 Consultation Meeting #1.

During the period of November 19 to 23 and December 13 to 15, 2021, additional follow-up outreach was conducted by phone and email to confirm receipt of correspondence among the governments and organizations that had not responded to the invitation to consult and to provide the aforementioned materials. The list of all governments and organizations invited to consult on the Project is included in Appendix I, Attachment C. Entities that are consulting parties on the Project are listed in Appendix I, Attachment D.

On August 30, 2022, BOEM held virtual NHPA Section 106 Consultation Meeting #1. The presentation included a brief Project overview, review of NEPA Substitution for NHPA Section 106 Process, overview of Section 106 consultation opportunities for the Project, NHPA Section 110(f) compliance requirements, and a question-and-answer session with discussion.

On May 4, 2023, BOEM shared with consulting parties the cultural resource technical reports prepared by Atlantic Shores (see Appendix I, Table I-3) and CHRVEA report prepared by BOEM. At that time, BOEM also shared with consulting parties the technical memorandum delineating the APE for the Project, BOEM's Finding of Adverse Effect for the Project, a draft of the MOA (Draft 1), and the VIA and associated visual simulations (COP Volume II, Appendix II-M; Atlantic Shores 2024). BOEM requested consulting party comments on these documents within 60 days of distribution, by July 3, 2023. BOEM also extended invitations to consult on the Project to property owners and other representatives of adversely affected aboveground historic properties on May 4, 2023.

On May 19, 2023, BOEM distributed an NOA to notify the consulting parties that the Draft EIS was available for public review and comment for the period of May 19 to July 3, 2023.

On June 8, 2023, BOEM held virtual NHPA Section 106 Consultation Meeting #2. The presentation included an overview of the cultural resources reports prepared by Atlantic Shores for the Project and distributed for consulting party review on May 4, 2023, and question-and-answer sessions.

On September 13, 2023, BOEM extended invitations to consult on the Project to additional identified property owners and representatives of adversely affected aboveground historic properties.

On November 28, 2023, BOEM shared with consulting parties the revised cultural resource technical reports, including those prepared by Atlantic Shores (see Appendix I, Table I-3) and the revised CHRVEA report prepared by BOEM. At that time, BOEM also shared responses to NHPA Section 106 comments received on the Draft EIS and documents distributed to consulting parties on May 4, 2023; a revised Finding of Adverse Effect; and revised draft of the MOA (Draft 2). BOEM requested consulting party comments on these documents by January 5, 2024.

On December 4, 2023, BOEM held virtual NHPA Section 106 Consultation Meeting #3. The presentation included an overview of Project updates, Atlantic Shores' revised cultural resources reports, BOEM's revised CHRVEA report, Finding of Adverse Effect on historic properties, and draft MOA (Draft 2), and was held to solicit input on avoidance, minimization, mitigation, and monitoring measures to be stipulated in the MOA.

On February 20, 2024, BOEM shared with consulting parties revised cultural resource technical reports, including those prepared by Atlantic Shores (see Appendix I, Table I-3) and the revised CHRVEA report prepared by BOEM (BOEM 2024). At that time, BOEM also shared responses to NHPA Section 106 comments received on documents distributed to consulting parties on November 28, 2023; the MARA Addendum report; a revised Finding of Adverse Effect; and revised draft of the MOA (Draft 3). BOEM requested consulting party comments on these documents by March 21, 2024.

On February 27, 2024, BOEM held virtual NHPA Section 106 Consultation Meeting #4. The presentation included an overview of Project updates, Atlantic Shores' new and revised cultural resource reports, BOEM's revised CHRVEA report, Finding of Adverse Effect on historic properties, and draft MOA (Draft 3), and was held to consult on measures to avoid, minimize, and mitigate adverse effects on historic properties as stipulated in the MOA.

On March 20, 2024, BOEM held a Tribal consultation meeting with the Delaware Tribe of Indians, The Delaware Nation, and Stockbridge-Munsee Community Band of Mohican Indians to discuss BOEM's offshore wind energy projects, including the Atlantic Shores South Project.

On March 25, 2024, BOEM held a Tribal consultation meeting with the Stockbridge-Munsee Community Band of Mohican Indians to discuss the Project and mitigation to be stipulated in the MOA.

On April 5, 2024, BOEM held a Tribal consultation meeting with the Mashpee Wampanoag Tribe to discuss the Project and mitigation to be stipulated in the MOA.

On April 23, 2024, BOEM held a Tribal consultation meeting with the Delaware Tribe of Indians, The Delaware Nation, and the Stockbridge-Munsee Community Band of Mohican Indians to discuss the Project and mitigation to be stipulated in the MOA.

On April 10, 2024, BOEM shared with consulting parties the revised TARA Addendum report (see Table I-3), responses to NHPA Section 106 comments received on documents distributed to consulting parties

on February 20, 2024, and a revised draft of the MOA (Draft Final/Draft 4). BOEM requested consulting parties' comments on these documents by May 10, 2024. See Attachment A for the distributed draft version of the MOA, dated April 10, 2024.

On April 25, 2024, BOEM held virtual NHPA Section 106 Consultation Meeting #5. The presentation included an overview of Project updates and was held to consult on and finalize measures to avoid, minimize, and mitigate adverse effects on historic properties as stipulated in the MOA.

On May 29, 2024, BOEM distributed the final MOA for a 30-day signing period ending on June 28, 2024. Additional consultation meetings may be scheduled after publication of this Final EIS and prior to issuance of the ROD if further consultation is needed to resolve adverse effects via the MOA. Additional consultation will also occur for the process of phased identification and evaluation of historic properties to be completed in remaining unsurveyed portions of the terrestrial APE as stipulated in the MOA (see Appendix I, Section I.5, *Phased Identification and Evaluation*, for additional information). Simultaneous to the publication of this Final EIS, BOEM is coordinating with signatories to the MOA to have the MOA fully signed and executed by June 28, 2024. The version of the MOA attached to Appendix I as Attachment A reflects the draft MOA as of April 10, 2024. The fully executed MOA will be posted on BOEM's website at: <https://www.boem.gov/renewable-energy/state-activities/atlantic-shores-south>.

NHPA Section 106 consulting parties for the Project as of May 2024 are listed in Table A-3. Additional details on NHPA consultations can be found in Appendix I of this Final EIS.

Table A-3. NHPA Section 106 consulting parties

Organization Type	Organization
Federally recognized Tribes	Delaware Tribe of Indians Eastern Shawnee Tribe of Oklahoma Mashantucket (Western) Pequot Tribal Nation Mashpee Wampanoag Tribe Stockbridge-Munsee Community Band of Mohican Indians The Delaware Nation The Narragansett Indian Tribe The Shinnecock Indian Nation Wampanoag Tribe of Gay Head (Aquinnah)
Federal agencies	U.S. Advisory Council on Historic Preservation U.S. Army Corps of Engineers U.S. Bureau of Safety and Environmental Enforcement U.S. Coast Guard U.S. National Park Service U.S. Naval History and Heritage Command (Underwater Archaeology Branch)
SHPOs and state agencies	New Jersey Department of Environmental Protection, New Jersey Historic Preservation Office (NJHPO) New Jersey Department of Environmental Protection, State Parks, Forests & Historic Sites
State/non-federally recognized tribes	Lenape Indian Tribe of Delaware

Organization Type	Organization
Local governments	Atlantic County Atlantic County, Department of Regional Planning and Development Borough of Bay Head Borough of Beach Haven Borough of Harvey Cedars Borough of Longport Borough of Point Pleasant Beach Borough of Sea Girt Borough of Seaside Park Borough of Stone Harbor Borough of West Cape May Cape May County (represented by Cultural Heritage Partners and Warwick Group Consultants, LLC) City of Atlantic City (represented by Rutala Associates, LLC) City of Brigantine City of Cape May City of Linwood City of Margate City of North Wildwood (represented by Warwick Group Consultants, LLC) City of Ocean City City of Sea Isle City City of Somers Point (represented by Rutala Associates, LLC) City of Ventnor City Galloway Township Long Beach Township (represented by Warwick Group Consultants, LLC) Stafford Township Township of Brick Township of Upper
Nongovernmental organizations or groups	Anglers Club of Absecon Island Chicken Bone Beach Historical Foundation, Inc. Greater Cape May Historic Society Hereford Inlet Lighthouse New Jersey Historic Trust Property Owner of 108 South Gladstone Avenue, Margate, New Jersey (represented by Perskie Mairone Brog Barrera & Baylinson, P.C.) Resorts Casino Hotel (DGMB Casino, LLC) Ritz Condominiums Save Long Beach Island, Inc. Save Lucy Committee, Inc. (represented by Rutala Associates, LLC) St. Leonard's Association The Flanders Hotel The Inlet Public-Private Association Inc. The Noyes Museum of Art Vassar Square Condominium Association
Lessee	Atlantic Shores Offshore Wind, LLC

A.2.2.5 Magnuson-Stevens Fishery Conservation and Management Act

Pursuant to Section 305(b) of the MSA, federal agencies are required to consult with NMFS on any action that may result in adverse effects on EFH. NMFS regulations implementing the EFH provisions of the MSA can be found at 50 CFR Part 600. As provided for in 50 CFR 600.920(b), BOEM has accepted designation as the lead agency for the purposes of fulfilling EFH consultation obligations under Section 305(b) of the MSA. Certain OCS activities authorized by BOEM may result in adverse effects on EFH and, therefore, require consultation with NMFS. BOEM developed a draft EFH Assessment concurrently with the Draft EIS and transmitted the draft EFH Assessment to NMFS on August 3, 2022. NMFS received the revised EFH Assessment on May 19, 2023, and deemed it complete, and initiated the EFH consultation on July 19, 2023. NMFS issued EFH conservation recommendations on October 16, 2023. BOEM will respond to NMFS regarding how it will proceed with the action, and relevant terms and conditions will be incorporated into the ROD.

A.2.2.6 Marine Mammal Protection Act

Section 101(a) of the MMPA (16 USC 1361) prohibits persons or vessels subject to the jurisdiction of the United States from taking any marine mammal in waters or on lands under the jurisdiction of the United States or on the high seas (16 USC 1372(a)(1), (a)(2)). Sections 101(a)(5)(A) and (D) of the MMPA provide exceptions to the prohibition on take, which give NMFS the authority to authorize the incidental but not intentional take of small numbers of marine mammals, provided certain findings are made and statutory and regulatory procedures are met. Entities seeking to obtain authorization for the incidental take of marine mammals under NMFS jurisdiction must submit such a request (in the form of an application). Incidental Take Authorizations may be issued as either (1) regulations and associated Letters of Authorization, or (2) an Incidental Harassment Authorization. Letters of Authorizations may be issued for up to a maximum period of 5 years, and Incidental Harassment Authorizations may be issued for a maximum period of 1 year. NMFS has also promulgated regulations to implement the provisions of the MMPA governing the taking and importing of marine mammals (50 CFR Part 216) and has published application instructions that prescribe the procedures necessary to apply for an Incidental Take Authorization. Applicants seeking to obtain authorization for the incidental take of marine mammals under NMFS' jurisdiction must comply with these regulations and application instructions in addition to the provisions of the MMPA.

Once NMFS determines an application is adequate and complete, NMFS has a corresponding duty to determine whether and how to authorize take of marine mammals incidental to the activities described in the application. To authorize the incidental take of marine mammals, NMFS evaluates the best available scientific information to determine whether the take would have a negligible impact on the affected marine mammal species or stocks and an immitigable impact on their availability for taking for subsistence uses. NMFS must also prescribe the "means of effecting the least practicable adverse impact" on the affected species or stocks and their habitat, and on the availability of those species or stocks for subsistence uses, as well as monitoring and reporting requirements.

Atlantic Shores submitted a Letter of Authorization application to NMFS on February 28, 2022. The application was reviewed and considered complete on August 25, 2022. NMFS published a Notice of Receipt in the *Federal Register* on September 29, 2022. NMFS published the proposed Incidental Take Regulations on September 22, 2023 (88 *Federal Register* 65430).

A.2.2.7 Clean Water Act and Rivers and Harbors Act

Section 404 of the CWA (33 USC 1344) regulates the discharge of dredged or fill material into waters of the U.S., including wetlands. A permit from USACE is required regardless of whether the work is temporary or permanent and includes discharges such as dewatering of dredged material prior to disposal and temporary fills for cofferdams and work areas. Section 10 of the RHA (33 USC 403) regulates the construction of any structure in or over navigable waters of the U.S. and prohibits the creation of any obstruction to the navigable capacity of any water of the U.S. A Section 10 permit is required for structures or work that affect the course, location, or condition of the water body, including dredging and excavation, submarine cable installation, and WTGs and OSSs. Atlantic Shores South completed the Pre-Construction Notification (PCN) for approval under Section 404 of the CWA and Section 10 of the RHA to USACE on November 14, 2022.

“Section 408 permission” is required pursuant to Section 14 of the RHA (33 USC 408) for any proposed alterations that have the potential to alter, occupy, or use any federally authorized civil works projects. The Section 408 review verifies that changes to authorized USACE Civil Works projects will not be injurious to the public interest and will not impair the usefulness of the project. Atlantic Shores submitted a complete application for Section 408 approval for the Project to USACE on January 20, 2023, following the receipt of a completeness determination on November 21, 2022.

Atlantic Shores is pursuing a USACE Nationwide Permit 13 to install an approximately 541-foot (165-meter) bulkhead composed of corrugated steel sheet pile within the Inlet Marina, in Atlantic City, New Jersey.¹ In addition, Atlantic Shores is coordinating with the City of Atlantic City to perform dredging of basins within the Inlet Marina. The planned bulkhead and maintenance dredging activities would be conducted regardless of the construction and installation of the Proposed Action. However, the bulkhead and dredging are necessary for the use of the proposed O&M facility included in the Proposed Action. Therefore, the bulkhead and dredging activities are analyzed in the Final EIS as a connected action under NEPA, per 40 CFR 1501.9(e)(1). The City of Atlantic City obtained a USACE approval (NAP-2021-00573-95) and a NJDEP Dredge Permit (No. 0102.20.0001.1 LUP 210001) to perform 10-year maintenance dredging of 13 city waterways, inclusive of the area associated with the proposed O&M facility. Atlantic City’s maintenance dredging program targets substantial shoaling that has built up over the last century.

¹ The final design and scope of the anticipated bulkhead replacement work, including dimensions, areas, volumes, construction methodologies, mitigation measures, and other details are subject to change following ongoing design work and permit review and approval. Final details will be included in the approved permit.

A.2.2.8 Clean Air Act

The OCS Air Regulations (40 CFR Part 55) establish the applicable air pollution control requirements, including provisions related to permitting, monitoring, reporting, fees, compliance, and enforcement, for facilities subject to the CAA Section 328. Atlantic Shores submitted an OCS Air Permit application to USEPA Region 2 on September 1, 2022. Amendments and supplements to the September 2022 application were submitted on June 30, and July 20, 2023. USEPA deemed the application complete on August 21, 2023.

A.2.3 Development of Final Environmental Impact Statement

This section provides an overview of the development of the Final EIS, including public scoping, cooperating agency involvement, and distribution of the EIS for public review and comment.

A.2.3.1 Scoping

On September 30, 2021, BOEM issued an NOI to prepare an EIS consistent with NEPA regulations (42 USC 4321 et seq.) to assess the potential impacts of the Proposed Action and alternatives (86 *Federal Register* 54231). The NOI commenced a public scoping process for identifying issues and potential alternatives for consideration in the EIS. The formal scoping period was from September 30 through November 1, 2021. BOEM held three virtual public scoping meetings to solicit feedback and to identify issues and potential alternatives for consideration in the EIS. Throughout this timeframe, federal agencies, state and local governments, and the general public had the opportunity to help BOEM identify potential significant resources and issues, IPFs, reasonable alternatives (e.g., size, geographic, seasonal, or other restrictions on construction and siting of facilities and activities), and potential mitigation measures to analyze in the EIS, as well as provide additional information. BOEM also used the NEPA scoping process to initiate the Section 106 consultation process under the NHPA (54 USC 300101 et seq.), as permitted by 36 CFR 800.2(d)(3), which requires federal agencies to assess the effects of projects on historic properties. Additionally, BOEM informed its Section 106 consultation by seeking public comment and input through the NOI regarding the identification of historic properties or potential effects on historic properties from activities associated with approval of the COP (Atlantic Shores 2024). The NOI requested comments from the public in written form, delivered by hand or by mail, or through the regulations.gov web portal.

BOEM held three virtual scoping meetings on October 19, 21, and 25, 2021. BOEM reviewed and considered all scoping comments in the development of the Draft EIS and used the comments to identify alternatives for analysis. A Scoping Summary Report (BOEM 2022) summarizing the submissions received and the methods for analyzing them is available on BOEM's website at <https://www.boem.gov/atlantic-shores>. In addition, all public scoping submissions received can be viewed online at <http://www.regulations.gov> by typing "BOEM-2021-0057" in the search field. As detailed in the Scoping Summary Report, the resource areas or NEPA topics most referenced in the scoping comments include NEPA/Public Involvement Process, Marine Mammals, and Planned Activities Scenario/Cumulative Impacts, among others.

A.2.3.2 Cooperating Agencies

BOEM invited federal agencies and Tribal, state, and local governments to become cooperating agencies in the preparation of the EIS. According to CEQ guidelines, qualified agencies and governments are those with “jurisdiction by law or special expertise” (CEQ 1981). BOEM asked potential cooperating agencies to consider their authority and capacity to assume the responsibilities of a cooperating agency, and to be aware that an agency’s role in the environmental analysis neither enlarges nor diminishes the final decision-making authority of any other agency involved in the NEPA process. BOEM also asked agencies to consider the “Factors for Determining Cooperating Agency Status” in Attachment 1 to CEQ’s January 30, 2002, Memorandum for the Heads of Federal Agencies (CEQ 2002). BOEM held interagency meetings on August 9, 2021, October 28, 2021, November 29, 2021, January 27, 2022, and October 18, 2022, to discuss the environmental review process, schedule, responsibilities, consultation, and potential EIS alternatives. In addition to meetings, BOEM shared with the cooperating agencies the Draft EIS alternatives on July 14, 2022, and the Preliminary Draft EIS on August 2, 2022.

In response to BOEM’s invitation to be a cooperating agency, NPS and ACHP requested to support the environmental review as a participating agency instead. The following federal agencies and tribal, state, and local governments have supported preparation of the Final EIS as cooperating agencies:

- BSEE
- NOAA (NMFS)
- USACE
- USCG
- USEPA
- USFWS
- BPU
- NJDEP
- New York State Department of State (NYSDOS)

BSEE is serving as a cooperating agency pursuant to 40 CFR 1501.8 because the scope of the Proposed Action and alternatives involves activities that could affect marine resources under its jurisdiction by law and special expertise; and safety, compliance, and enforcement issues (e.g., air quality compliance). Pursuant to a December 2020 MOA between BOEM and BSEE, BSEE conducts activities, consults, and advises BOEM on safety and environmental enforcement for renewable energy projects.

NMFS is serving as a cooperating agency pursuant to 40 CFR 1501.8 because the scope of the Proposed Action and alternatives involve activities that have the potential to affect marine resources under its jurisdiction by law and special expertise. As applicable, permits and authorizations are issued pursuant

to the MMPA, as amended (16 USC 1361 et seq.); the regulations governing the taking and importing of marine mammals (50 CFR Part 216); the ESA (16 USC 1531 et seq.); and the regulations governing the taking, importing, and exporting of threatened and endangered species (50 CFR Parts 222–226). In accordance with 50 CFR Part 402, NMFS also serves as the consulting agency under Section 7 of the ESA for federal agencies proposing action that may affect marine resources listed as threatened or endangered. NMFS has additional responsibilities to conserve and manage fishery resources of the United States, which include the authority to engage in consultations with other federal agencies pursuant to the MSA and 50 CFR Part 600 when proposed actions may adversely affect EFH. The MMPA is the only authorization for NMFS that requires NEPA compliance. NMFS intends to adopt BOEM’s Final EIS if, after independent review and analysis, NMFS determines the Final EIS to be sufficient to support the regulatory decision.

USACE is serving as a cooperating agency pursuant to 40 CFR 1501.8 because the scope of the Proposed Action, connected action, and alternatives involves activities that could affect resources under its jurisdiction by law and special expertise. As applicable, permits and authorizations are issued pursuant to Sections 10 and 14 of the RHA, Section 404 of the CWA, and Section 103 of the MPRSA. As an offshore wind energy project, the Project needs to be situated offshore in the water. Consequently, the fill activities associated with the Project, which consist of the interarray cables, armoring at the base of the WTG foundations, protective cable armoring for the export cables, and temporary cofferdams, are water dependent. Issuance of Section 10 or Section 404 permits requires NEPA compliance, which will be met via adoption of BOEM’s EIS and issuance of the ROD.

USCG is serving as a cooperating agency pursuant to 40 CFR 1501.8 because the scope of the Proposed Action and alternatives involves activities that could affect navigation and safety issues that fall under its jurisdiction by law and special expertise.

USEPA is serving as a cooperating agency pursuant to 40 CFR 1501.8 because the scope of the Proposed Action and alternatives involves activities that could affect resources under its jurisdiction by law and special expertise, including air quality and water quality. USEPA will also be providing authorization for an OCS air permit and using the analysis of the EIS as information in the permit process.

USFWS is serving as a cooperating agency pursuant to 40 CFR 1501.8 because the scope of the Proposed Action and alternatives involves activities that could affect resources under its jurisdiction by law and special expertise. USFWS also serves as the consulting agency under Section 7 of the ESA for federal agencies proposing actions that may affect terrestrial resources listed as threatened or endangered.

BPU is serving as a cooperating agency pursuant to 40 CFR 1501.8 because BPU has the authority under New Jersey’s Offshore Wind Economic Development Act to approve an application from an entity seeking to construct an offshore wind project as a Qualified Offshore Wind Project, as authorized by New Jersey Statutes 48:3-87.1, *Application to construct offshore wind project*. BPU has special expertise with respect to potential impacts that may occur as a result of the Proposed Action and connected action.

NJDEP is serving as a cooperating agency pursuant to 40 CFR 1501.8 because the agency has special expertise with respect to potential impacts that may occur as a result of the Proposed Action and connected action.

NYSDOS is serving as a cooperating agency pursuant to 40 CFR 1501.8 because the agency has special expertise with respect to potential impacts that may occur as a result of the Proposed Action.

A.2.3.3 Distribution of the Draft Environmental Impact Statement for Review and Comment

On May 19, 2023, BOEM published a Notice of Availability for the Draft EIS. The Draft EIS was made available in electronic format for public viewing at <https://www.boem.gov/renewable-energy/state-activities/atlantic-shores-south>. Notification was provided as indicated in Appendix M, *Distribution List*, of the Draft EIS. Hard copies and digital copies of the Draft EIS were delivered to entities as requested. The Notice of Availability commenced the 45-day public review and comment period of the Draft EIS. BOEM held four public meetings to solicit feedback and identify issues for consideration in preparing the Final EIS. Two in-person meetings were held in Manahawkin, New Jersey, and Atlantic City, New Jersey, on June 21 and June 22, 2023, respectively. Two virtual meetings were held on June 26 and 28, 2023. Throughout the public review and comment period, government agencies, members of the public, and interested stakeholders had the opportunity to provide comments on the Draft EIS in the following ways:

- In hard copy form, delivered by hand or mail, enclosed in an envelope labeled “Atlantic Shores South COP EIS” and addressed to “Program Manager, Office of Renewable Energy, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, Virginia 20166.”
- Through the [regulations.gov](https://www.regulations.gov) web portal by navigating to [https://www.regulations.gov/](https://www.regulations.gov) and searching for docket number “BOEM-2023-0030,” clicking the “Comment” button, entering the information and comment, then clicking “Submit Comment.”
- By attending one of the public meetings at the locations and dates listed in the Notice of Availability and providing written or verbal comments.

BOEM reviewed and considered all comment submissions in the development of the Final EIS. BOEM’s evaluation of public submissions focused on those comments within the submissions that were identified as substantive. Final EIS Appendix N, *Responses to Comments on the Draft Environmental Impact Statement*, describes the public comment processing methodology and includes comment responses. All public comment submissions received on the Draft EIS can be viewed online at [https://www.regulations.gov/](https://www.regulations.gov) by typing “BOEM-2023-0030” in the search field.

A.2.3.4 Distribution of the Final Environmental Impact Statement

The Final EIS is available in electronic format for public viewing at <https://www.boem.gov/renewable-energy/state-activities/atlantic-shores-south>. Hard copies and digital copies of the Final EIS can be requested by contacting the BOEM Program Manager, Office of Renewable Energy in Sterling, Virginia.

Publication of the Final EIS initiates a minimum 30-day mandatory waiting period, during which BOEM is required to pause before issuing a ROD. The ROD will state clearly whether BOEM intends to approve, approve with conditions, or disapprove the COP for construction and installation, operation, and eventual decommissioning of the Project. Notification will be provided as indicated in Appendix M, *Distribution List*, of the Final EIS.

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