



Women in Energy and Environment Webinar Series

## The Biden Administration's Regulatory Agenda for Energy and Environment

June 29, 2021



# Today's Speakers



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# Regulatory Overview

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# Biden Regulatory Agenda and Principles

- The Biden Administration's first regulatory agenda was released June 11
- Principles include recovery, equity, sustainability, EJ, and climate
- Biden abandoned ~10% of active rulemakings from the Trump Administration
- 20% of current active rulemakings originated under Biden
  - High turnover
  - Regulatory active
- Emphasis on climate change comes with some surprises
  - No coal leasing moratorium
  - Surface Mining Control and Reclamation Act policy still developing
  - “Pause” on oil and gas leasing inconsistent
- Offshore oil and gas safety standards will be revised and strengthened
- Trump road-less-area exemptions in AK's Tongass National Forest to end
- Projects revisions to NEPA and Endangered Species Act regulations
- Environmental enforcement expected to increase and SEPs are back



# Clean Water Act Changes Are Making Waves

- Another Redefinition of Waters of the US
  - Significance of WOTUS Rule
  - Adopted 1973, Amended 2015
  - April 2020: Navigable Waters Protection Rule
    - Excludes ephemeral waters [ $> 1,500$ ]
    - Narrows scope of wetlands protection
    - 333 projects avoided 404 permit
  - EPA proposing to restore pre-2015 rule
  - Regan pledged “middle ground” policy
  - Process will require 2-3 years
- Section 401 Certification Rule
  - Adopted 1971; amended July 2020
  - June 2021 EPA announced reconsideration
  - Issues
    - Pre-filing meeting
    - Timeframe for state action
    - Scope of certification conditions
  - Comments due August 2, 2021



# Additional Clean Water Act Developments



- *Hawaii Wildlife Fund, et al. v. County of Maui* watchers—numerous cases now looking at “functional equivalent” factors, which are proving difficult
- PFAS regulations are coming soon
  - Congressional pressure to list certain PFAS chemicals as either hazardous waste or hazardous substances, including PFOA, PFOS and maybe more
  - EPA expected to establish a maximum contaminant level (MCL) for PFOA and PFOS under the Safe Drinking Water Act
- Lead and Copper Rule effective date delayed with revisions expected

# Department of Interior: Interior Appointments & National Monument Boundaries

## Bears Ears National Monument



- Interior Secretary Deb Haaland, first Native American to hold the position
- Deputy Interior Secretary, Tommy Beaudreau, partner Latham & Watkins
- Three Nominees from NGOs
- **Assistant Secretary for Land and Minerals Management:**  
Laura Daniel-Davis—National Wildlife Federation
- **Director, Bureau of Land Management:**  
Tracy Stone-Manning—National Wildlife Federation
- **Deputy Director, Bureau of Land Management:**  
Nada Culver—National Audubon Society

- Secretary Haaland has asked President Biden to restore the original boundaries of Bears Ears, Grand Staircase-Escalante, and the Northeast Canyons and Seamounts National Monuments
- Bears Ears, first national monument created at request of Tribes, is ~ 1.35 million acres (versus the 1.9 million acres proposed)



Grand Staircase-Escalante



- E.O. 14008: Tackling the Climate Crisis at Home and Abroad (1/27/21)
- Biden Administration “paused” federal oil and gas lease sales
  - Wyoming & WEA sued; 2<sup>nd</sup> suit in LA
  - 6/15/21 nationwide injunction in LA
  - Leasing program changes expected 2022
- In May issued NM leases sold in Jan.
- Later issued 440 WY leases sold by the Trump Administration in Dec.
- Approved drilling in AK National Petroleum Reserve
- June 25<sup>th</sup> CRA repeal of Trump’s oil and gas facility methane emissions standards rollback restores 2016 rule
- New emissions, venting & flaring regulations expected by October 2021
- President Biden revoked the Keystone pipeline permit on day 1
- President Biden opposed shutting down the Dakota Access pipeline



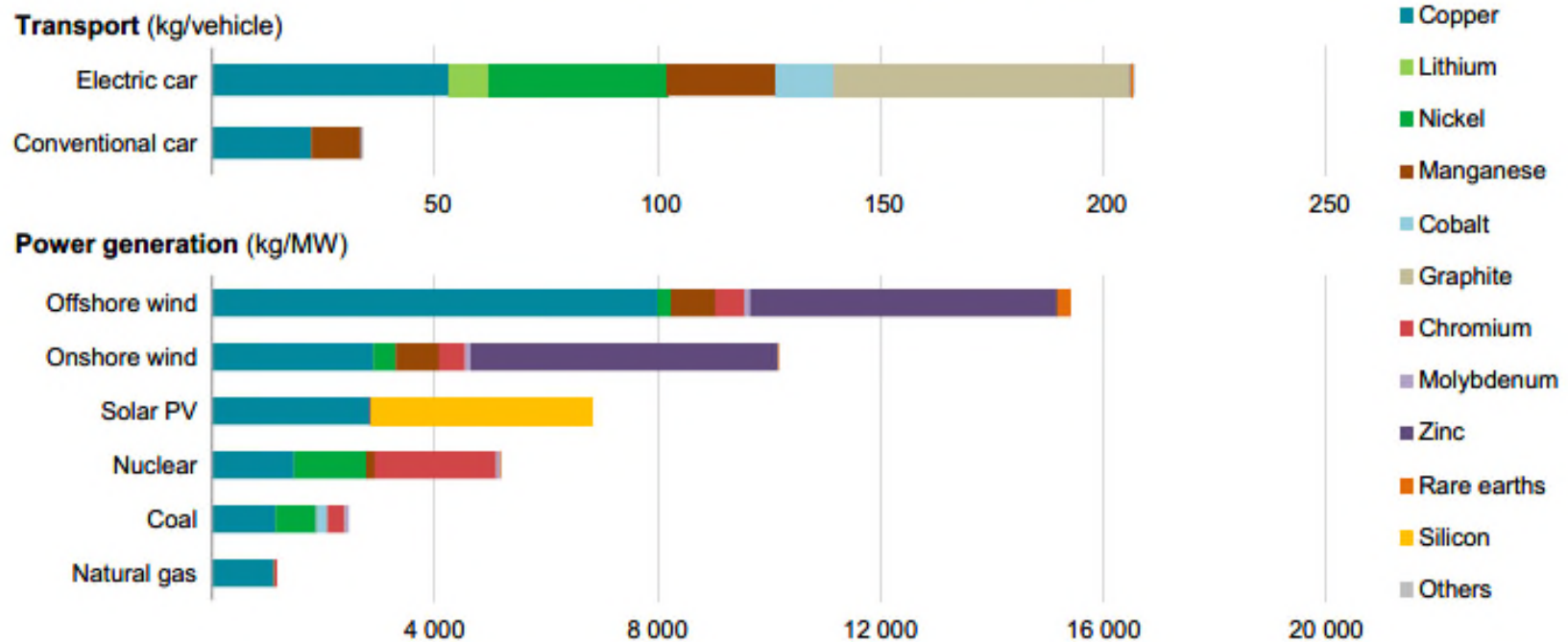
**Dakota Access Pipeline: 1,172-mile underground 30" Pipeline from North Dakota Bakken to IL**



# Energy: Renewable Energy Mineral Needs

The rapid deployment of clean energy technologies as part of energy transitions implies a significant increase in demand for minerals

Minerals used in selected clean energy technologies



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Notes: kg = kilogramme; MW = megawatt. Steel and aluminium not included. See Chapter 1 and Annex for details on the assumptions and methodologies.



Albemarle Corporation's Lithium Operation in Silver Peak, NV

- E.O. 14005: Ensuring the Future Is Made in All of America by All of America's Workers
- E.O. 14017: America's Supply Chains
- Lithium, cobalt, nickel, copper, rare earths & other critical minerals are needed for US manufacturing & renewable energy
- June 8 White House report supports expanded, sustainable mining, calls for EPA regulations update and comprehensive mining law reform
- Yet, the Administration is re-evaluating a land exchange for a new copper mine and will face lithium and rare earth mining challenges
- June 8 DOE "National Blueprint" to encourage US lithium production & battery manufacture
- Goal to secure battery materials and technology supply chain by 2030
- US will need to drastically increase its supply of critical minerals



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## High Level Renewable Energy Policy Goals:

- Target of 50-52% reduction in greenhouse gas pollution from 2005 levels by 2030; carbon pollution-free power sector by 2035; and net zero emissions economy by 2050.
- Cut emissions and energy costs by supporting efficiency upgrades and electrification in buildings and construction.
- Reduce carbon pollution from the transportation sector by reducing tailpipe emissions and boosting efficiency; building charging infrastructure and supporting EVs; and upgrading transportation infrastructure (transit, rail, aviation and biking).
- Address carbon pollution from industrial processes through carbon capture and new sources of hydrogen from renewable power.
- Provide tax incentives, financing and grants for R&D and project development, infrastructure upgrades, grid and transmission improvements, and jobs and training programs for the green energy sector.



# Offshore Wind Takes Off Under the Biden Administration: Federal Policy Developments

## Significant Offshore Wind Policy Developments:

- On March 29, 2021, the Bureau of Energy Management (“BOEM”) announced a priority Wind Energy Area in the New York Bight, signaling the start of the leasing process.
- At the same time, the Administration tasked the Department of the Interior (“DOI”), the Department of Energy (“DOE”) and the Department of Commerce (“DOC”) with a goal to deploy 30 GW of offshore wind in the U.S. by 2030.
  - Expected to trigger more than \$12B annually in capital investments
  - Employ more than 44,000 workers in offshore wind by 2030
  - Generate enough energy to power 10M homes for one year
  - Avoid 78M metric tons of CO2 emissions

# Offshore Wind Takes Off Under the Biden Administration: Federal Policy Developments

## Significant Offshore Wind Policy Developments:

- BOEM was also tasked with advancing new lease sales and complete review of at least 16 COPs by 2025, representing 19MW of clean energy.
- \$100B proposed investment in electric transmission, including 20,000MW of high voltage lines.
- Funding and incentives announced for port redevelopment projects, working in tandem with state initiatives and private developer commitments.
  - e.g. Tradepoint Atlantic, ProvPort and Quonset Point, New Bedford Marine Commerce Terminal

# Offshore Wind Takes Off Under the Biden Administration: Federal Funding Programs

- On March 29, 2021 DOT through MARAD announced a Notice of Funding Opportunity for port authorities and other developers of \$230M for port and intermodal infrastructure-related projects through the Port Infrastructure Development Program.
- ATLANTIS Offshore Wind program - \$100M to develop offshore wind floating technology
- DOE's Loan Programs Office announced \$3B in debt capital to support offshore wind projects and transmission.
- National Offshore Wind R&D Consortium – federal and state funding combined \$47M for offshore wind R&D
- Office of Energy Efficiency and Renewable Energy \$14.5M funding for environmental research for offshore wind

# Offshore Wind Takes Off Under the Biden Administration: Federal Permitting Developments

## Significant Offshore Wind Permitting Developments:

- January 4, 2021 BOEM announced its Draft EIS for South Fork Wind Farm
- March 18, 2021, BOEM issued the Final EIS for Vineyard Wind I
- March 29, 2021 BOEM announced it would prepare an EIS for Ocean Wind
- May 11, 2021 BOEM issued the ROD for Vineyard Wind I, making it the first approved commercial scale wind farm in the US.
- June 19, 2021, BOEM announced its intent to prepare an EIS for the Empire Wind Farm



# Offshore Wind Takes Off Under the Biden Administration: Floating Wind

## Floating Wind on the West Coast:

On May 25, 2021, the Administration announced that BOEM had reached an agreement with the DOD to begin the process for leasing of call areas off the coast of California. A potential lease auction could be held mid-2022.

- Two sites have been identified: Morro Bay (Castle Wind) and Humboldt.
- Due to water depths and the steep drop off of the OCS, this will require floating turbines. GE recently announced a design for a 12MW floating wind turbine, in development through a US government-funded R&D program.
- Combined, the two areas could generate up to 4.6GW of energy from offshore wind.
- California has a target of 100% renewable power by 2045; \$20M in state funding allocated to planning, environmental review and port upgrades to jump start offshore wind in California.
- Preliminary EA for Morro Bay expected October 2021.

# Offshore Wind Takes Off Under the Biden Administration: Proposed Castle Wind Site



# Offshore Wind Takes Off Under the Biden Administration: Wind in the Gulf of Mexico

## Offshore Wind in the Gulf of Mexico

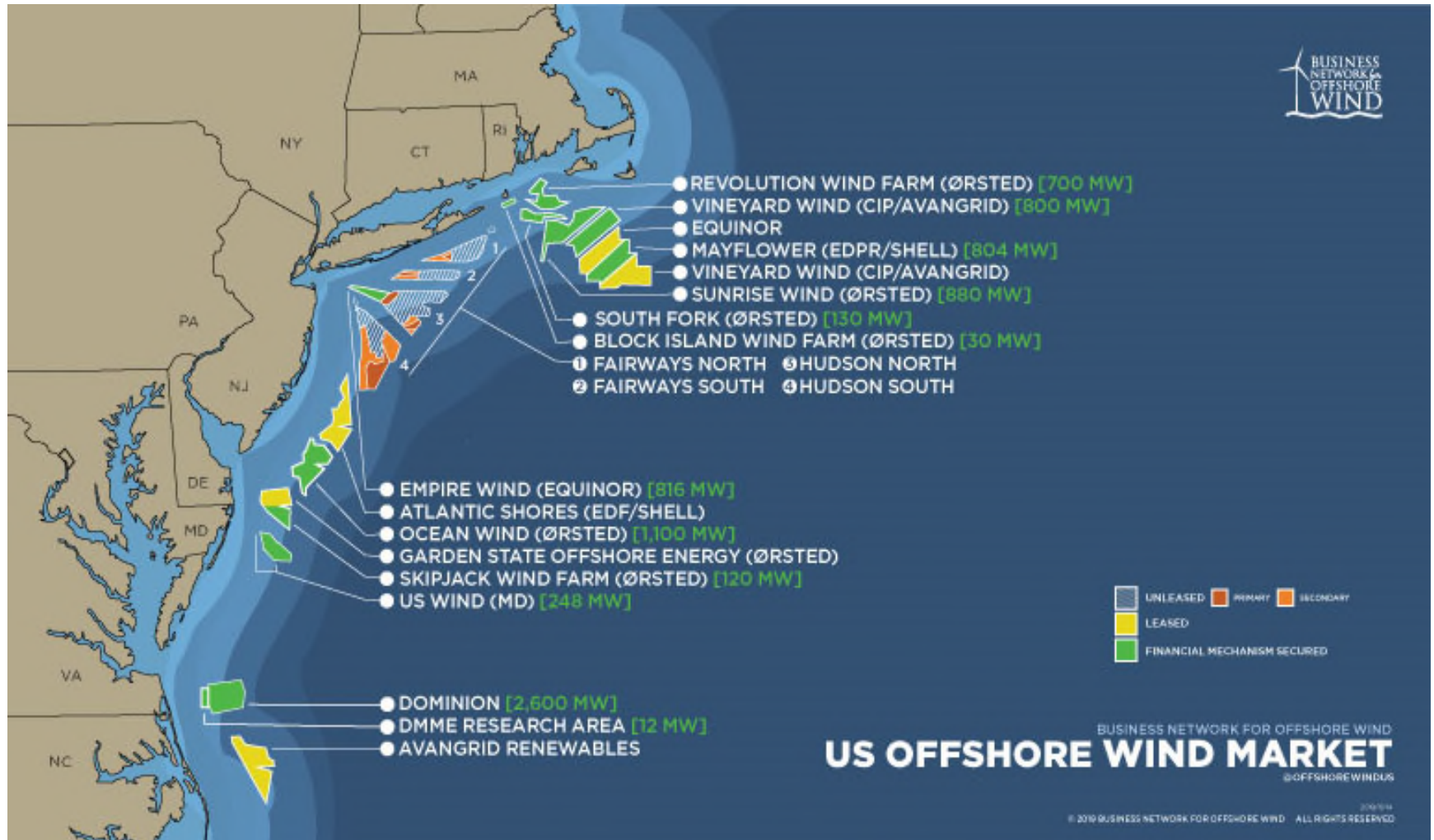
- NREL published a study in May 2020, which highlighted the shallow warm waters, smaller average wave heights and close proximity to and extent of existing O&G infrastructure as advantageous for the development of offshore wind in the Gulf.
  - “Offshore Renewable Energy Technologies in the Gulf of Mexico” found that offshore wind offers a technically feasible potential of 508 GW; twice the energy consumed in the Gulf region.
  - “Offshore Wind in the U.S. Gulf of Mexico: Regional Economic Modeling & Site-Specific Analyses”, focusing on Port Arthur, TX and Pensacola, FL, found that economic viability could be achieved by 2030, with a single project supporting 4470 jobs with \$445M GDP during construction; 150 jobs and \$14M GDP during O&M.
- On June 8, 2021, DOI announced its intent to assess offshore wind in the Gulf through publication of an RFI to assess interest in development.
- As part of the solicitation of competitive interest, BOEM convened a Gulf of Mexico Intergovernmental Renewable Energy Task Force.

## Updated Key Figures for the US Offshore Wind Market:

- Project pipeline estimated at 28,000MW with more coming online in the New York Bight, California and potentially the Gulf.
- Estimates up to 30MW by 2030; with six states having already selected 9000MW through state-issued solicitations.
- \$57B investment in US economy; up to \$24.5B in economic output by 2030.
- 15 active commercial leases; 19 commercial-scale projects in development.
- 1 Final EIS and project approval issued (Vineyard Wind I)
- 1 Draft EIS issued (South Fork); 2 EIS's currently being drafted with a target of 16 projects reviewed by 2025.
- Projected to create 19,000 to 45,000 US jobs by 2025, and 45,000 to 83,000 jobs by 2030.



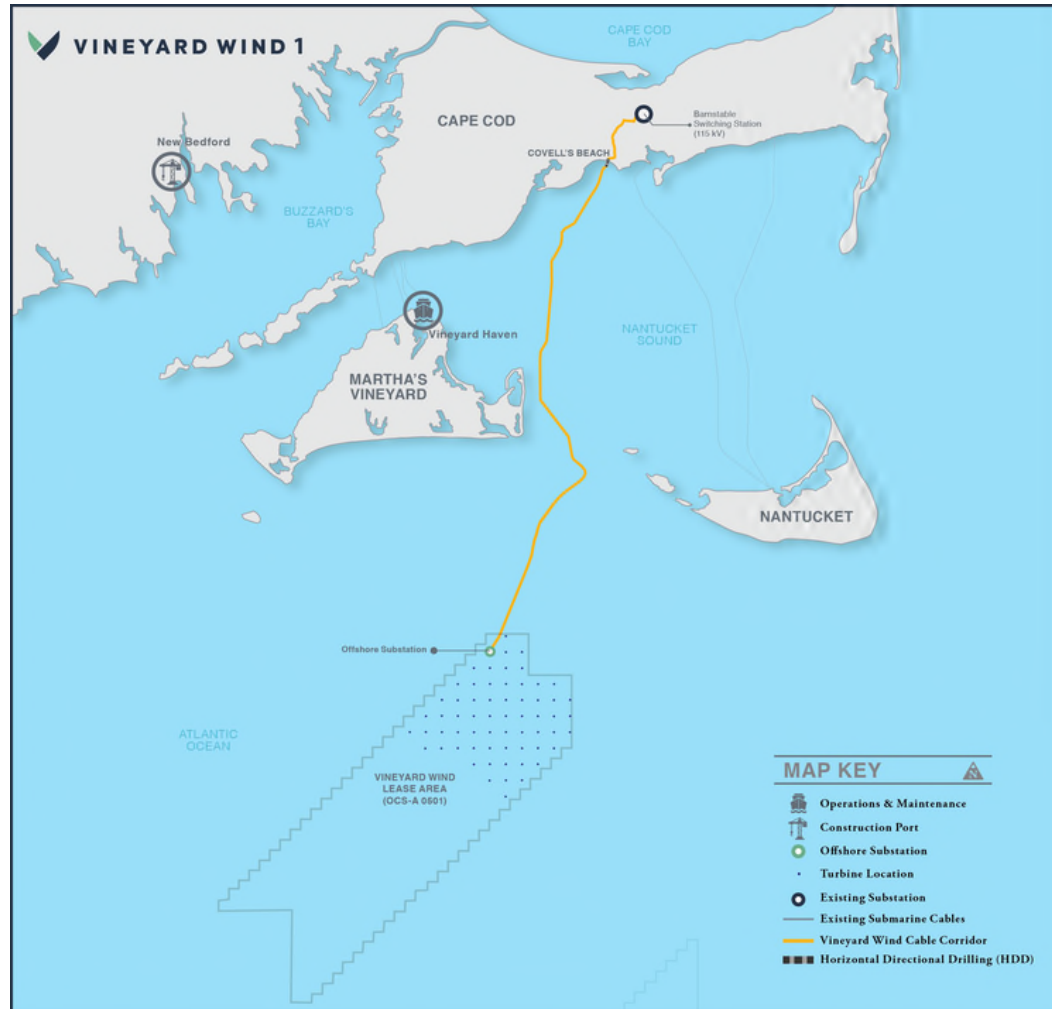
# BOEM Offshore Wind Leases



## Vineyard Wind I Wins Federal Approval

- The Department of the Interior (“DOI”), through the Bureau of Ocean Energy Management (“BOEM”), has officially approved the first commercial scale offshore wind farm for construction in the United States. On March 18, 2021, BOEM issued the Final EIS, and on May 11th, BOEM issued its ROD, formally approving the project.
- Financial close on VW1 is expected in 2021, and construction is expected to begin yet this year, with the first power generated and delivered to Massachusetts in 2023.
- VW1 is an 800 MW project located 15 miles off the coast of Martha’s Vineyard. The lease area for VW1 is 160,000 acres, and the array will consist of wind turbines capable of generating up to 13 MW of power (GE’s Haliade X), spaced 1 nautical mile apart to allow for fishing and marine transit lanes.

# Deep Dive: Vineyard Wind 1 Project

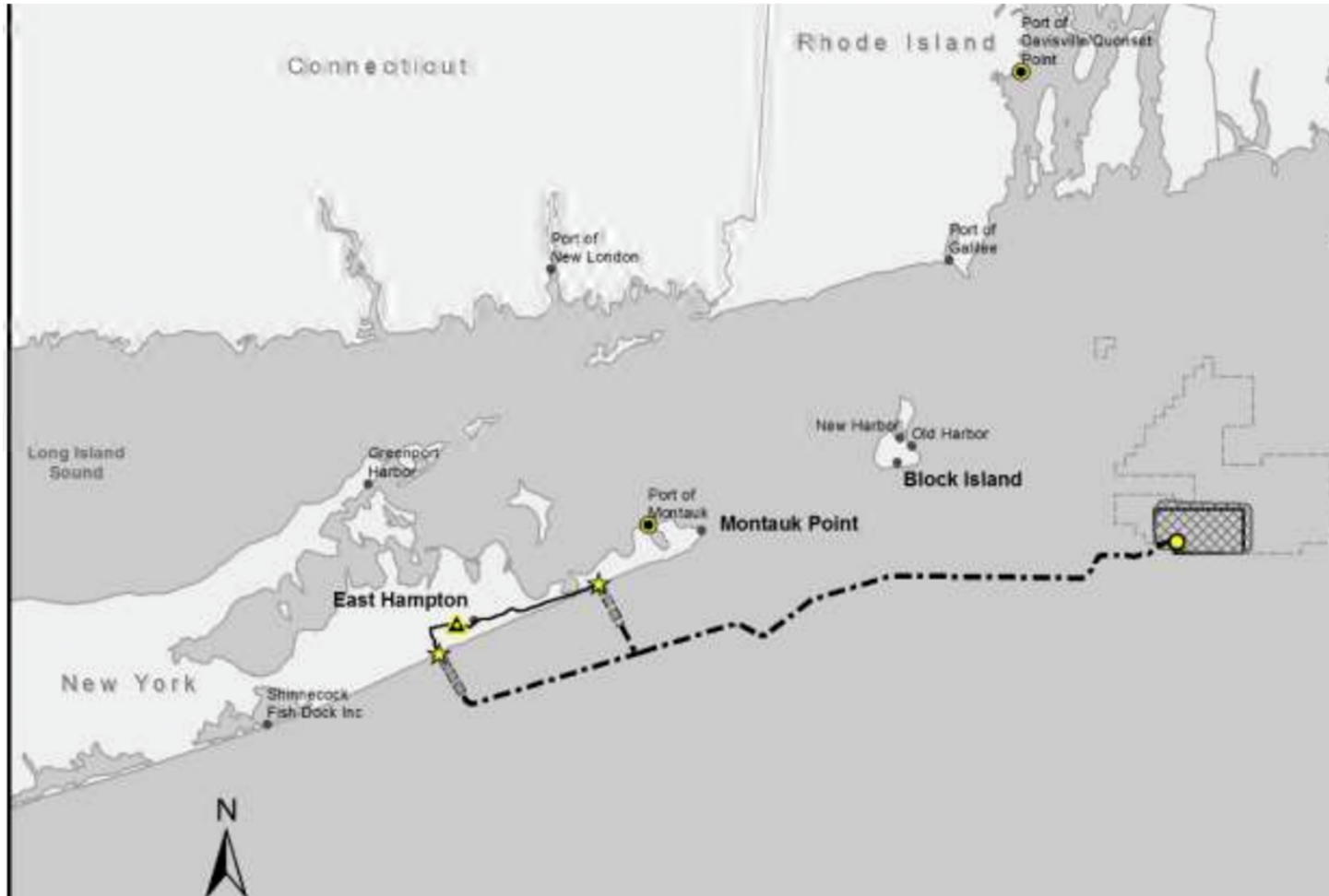


## South Fork Wind Draft EIS Issued:

- A 50/50 JV between Ørsted and Eversource, South Fork Wind is a proposed 132 MW project. South Fork would consist of 15 turbines 35 miles east of Montauk Point, generating power for up to 70,000 homes on Long Island, NY.
- On January 4, 2021, BOEM announced that it had prepared a Draft EIS for the South Fork Wind Farm. Currently, BOEM is conducting three public hearings to consider comments prior to issuing the Final EIS.
- Estimated completion date of BOEM's environmental review is slated for January 18, 2022.



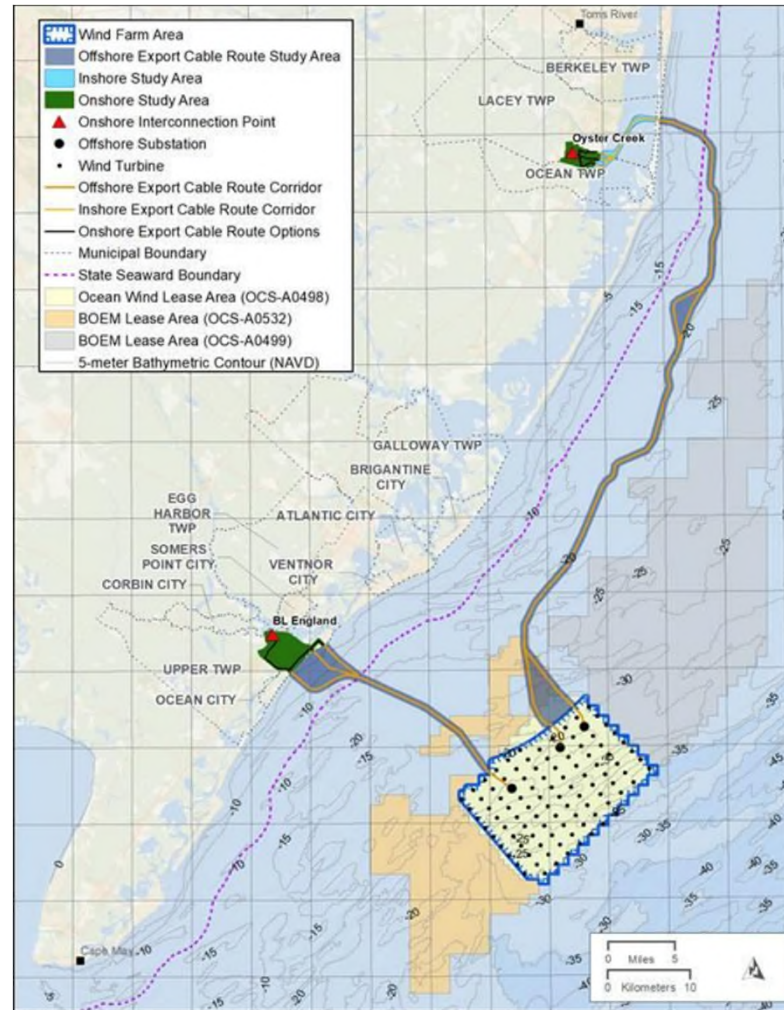
# Deep Dive: South Fork Wind Farm Project



## BOEM Issues Ocean Wind Farm NOI to Prepare an EIS:

- March 29, 2021 BOEM announced it would prepare an EIS for Ocean Wind, a 1100MW project off the coast of New Jersey.
- A JV between Ørsted and PSEG, the project is intended to begin construction in 2022 and provide first power by late 2024. Ocean Wind should provide sufficient power for 500,000 homes.
- In order to support the Ocean Wind project, Ørsted intends to develop an O&M base in Atlantic City.
- The project will receive an OREC price of \$98.10 per MWh in the first year of operation, with a levelized net OREC Cost (actual OREC costs to ratepayers factoring in energy and capacity revenues from the project) estimated at \$46.16 MWh or a monthly bill increase of \$1.46 for residential customers.

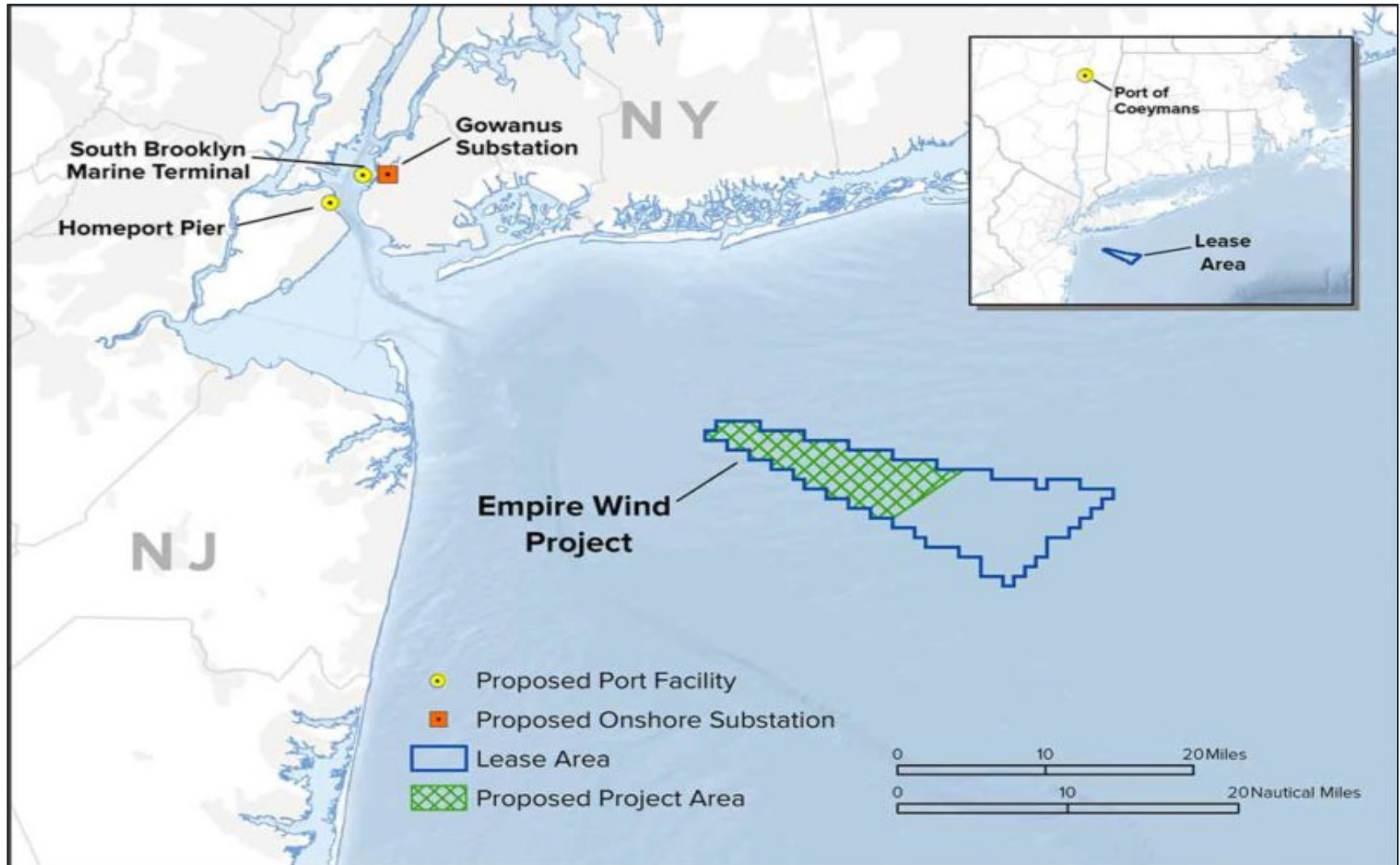
# Deep Dive: Ocean Wind Farm Project



### BOEM ISSUES Empire Wind Notice of Intent to Prepare an EIS:

- Empire Wind is an Equinor project located 15-30 miles southeast of Long Island, spanning 80,000 acres. The project has the potential to generate 2,000MW, powering 1M homes. Turbines will have an installed capacity of 10-15 MW.
- Equinor has entered into an agreement with BP to sell 50% non-operated interests in the Empire Wind assets. NYSERDA has entered into contracts with Equinor to purchase ORECs for this project.
- On June 19, 2021, BOEM announced its intent to prepare an EIS for the Empire Wind Farm. This kicks off a thirty-day public comment period, after which BOEM will issue a scoping report based on comments received.

# Deep Dive: Empire Wind Farm Project





# Other Initiatives & Enforcement

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- Focus on climate change and environmental justice
- Among other things, US EPA Administrator Michael Regan has directed the EPA's offices to:
  - Strengthen enforcement of violations of civil rights and environmental laws in areas that have been encumbered by pollution.
  - Take immediate and affirmative steps to incorporate environmental justice considerations into their work, including assessing impacts to pollution-burdened, underserved, and Tribal communities in regulatory development processes and to consider regulatory options to maximize benefits to these communities.
  - Take immediate and affirmative steps to improve early and more frequent engagement with pollution-burdened and underserved communities affected by agency rulemakings, permitting and enforcement decisions, and policies.

## Rulemaking Developments

- Rescission of Trump Administration’s “benefit-cost” rule
- National Ambient Air Quality Standards (NAAQS) Review
- Continued evaluation of greenhouse gas standards for power plants
- Proposed restoration of California waiver for vehicle emissions standards
- Social Cost of Carbon
- “CLEAN Future” Act

## Permitting Delays & Challenges

- Increased public participation, requests for public hearings, agency response to comments, and US EPA intervention
- Objections to location or expansion due to potential impact to EJ communities
- Bolstering compliance assurance-related permit components

- Also viewed through lens of environmental justice
  
- TSCA Risk Evaluations
  - Further risk assessments of High Priority Chemicals
  - Evaluation of EPA policies, guidance, templates, and regulations under TSCA new chemicals program
  - Broader inquiry & regulation under Significant New Use Rule based on all conditions of use of a new chemical, not only foreseeable use
  
- Workplace Safety
  - Reevaluate workplace exposures that are regulated by OSHA
  - Regulation under TSCA in addition to OSHA's worker protection standards and updated Safety Data Sheets

- David Uhlmann, Nominee for Assistant Administrator for Enforcement and Compliance Assurance, Environmental Protection Agency
- Targeting communities in need
  - Increased inspections
  - Additional air quality monitoring / fence-line monitoring
  - Direct community outreach
  - Data mining to target sources
- Corporate compliance
  - Evaluating corporate compliance programs
  - Climate-related disclosures in SEC filings
- Hope for reinstatement of Supplemental Environmental Projects (SEPs)



# Questions?



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