

FROM POLICY TO POWER

Federal Actions to Deliver on America's Offshore Wind Potential

SUMMARY FOR DECISION-MAKERS

Offshore wind is a critical part of making a rapid transition to clean energy and has enormous potential to reshape the way that energy is produced in the United States. Achieving major carbon emissions reductions in the electricity sector will require development of hundreds of gigawatts of new renewables by 2050, and offshore wind represents the single largest ocean-based mitigation opportunity in both the U.S. and globally. While the promising future and multiple benefits of offshore wind—energy production, climate mitigation, and economic benefits—are within reach, achieving these sweeping advantages while advancing ocean health is only possible if the current challenges facing the industry are addressed.

THE CHALLENGE OF PLANNING & PERMITTING FOR OFFSHORE WIND

Reaching the full clean energy potential of offshore wind requires tackling an array of challenges, including more frequently discussed issues such as managing demand, domestic financing and cost competitiveness, and technological innovation. Yet some of the most serious impediments to progress on offshore wind are driven by questions of tradeoffs among current and proposed uses of ocean space and marine resources, along with a variety of legal, regulatory, and procedural obstacles that must be addressed through the planning and permitting process. Efficient and predictable planning and implementation of federal laws and authorities are crucial to the success of offshore wind but remain major hurdles. The development of large-scale offshore wind projects requires federal agencies with limited staffing and resources like the Bureau of Ocean Energy Management (BOEM), National Oceanic and Atmospheric Administration (NOAA), and the U.S. Coast Guard to make decisions with incomplete information about a new industry in coordination with each other and with rapidly advancing technologies.

The current set of legal and regulatory tools is not well designed for this cross-agency decision-making for a rapidly evolving industry and threatens to stall progress. Our ability to achieve multiple topline priorities for our nation's ocean, coasts, and communities—climate mitigation, conservation, and the equitable accrual of multiple benefits promised from offshore wind development—depends significantly on our success in overcoming these obstacles. Achieving these multiple benefits requires a revised set of policies and approaches, and the time to act is now.

A PATHWAY TO PROGRESS

This report outlines a series of recommendations that, if implemented, would significantly increase the effectiveness, efficiency, and regulatory certainty of U.S. offshore wind and, in so doing, maximize both the deployment of offshore wind and the overall health and sustainability of ocean ecosystems. While no single recommendation will solve the challenge, if adopted as a holistic package, significant progress towards advancing the multiple benefits promised by offshore wind will be achieved.

The recommendations in this report, which were developed by legal and policy experts and informed by discussions with experts in federal ocean policy, federal agency staff, and ocean users (including those from the conservation, maritime, and fishing industries), are actions that the administration, federal agencies, and Congress can take to advance offshore wind, conservation, and the economy.

These recommendations can be implemented largely with a combination of administrative policy changes and regulatory updates. BOEM's regulations governing the offshore wind development permitting process are essentially unchanged since early 2009, and while we recognize that updating offshore wind regulations will be a substantial undertaking when BOEM is also working to facilitate an expansion of offshore wind, it is time to act to correct flawed past assumptions about how offshore wind projects would be developed and to codify a strengthened approach to planning and permitting. In addition to the improvements that federal agencies can make on their own, the White House Ocean Policy Committee has all the key federal ocean and coastal agencies at the table and offers a forum to address a variety of interagency challenges. Potential statutory changes that would further facilitate a more effective and holistic approach to offshore wind development are also outlined.

Taken collectively, the recommendations made in this report would speed offshore wind energy towards fully realizing its climate mitigation benefits with significantly less conflict, ecosystem impacts, litigation, time, and resources spent.

SUMMARY OF RECOMMENDATIONS

Actions federal agencies can take — individually or in partnership — are summarized:

IMPROVEMENTS TO CURRENT MANAGEMENT, AGENCY POLICY, AND REGULATIONS

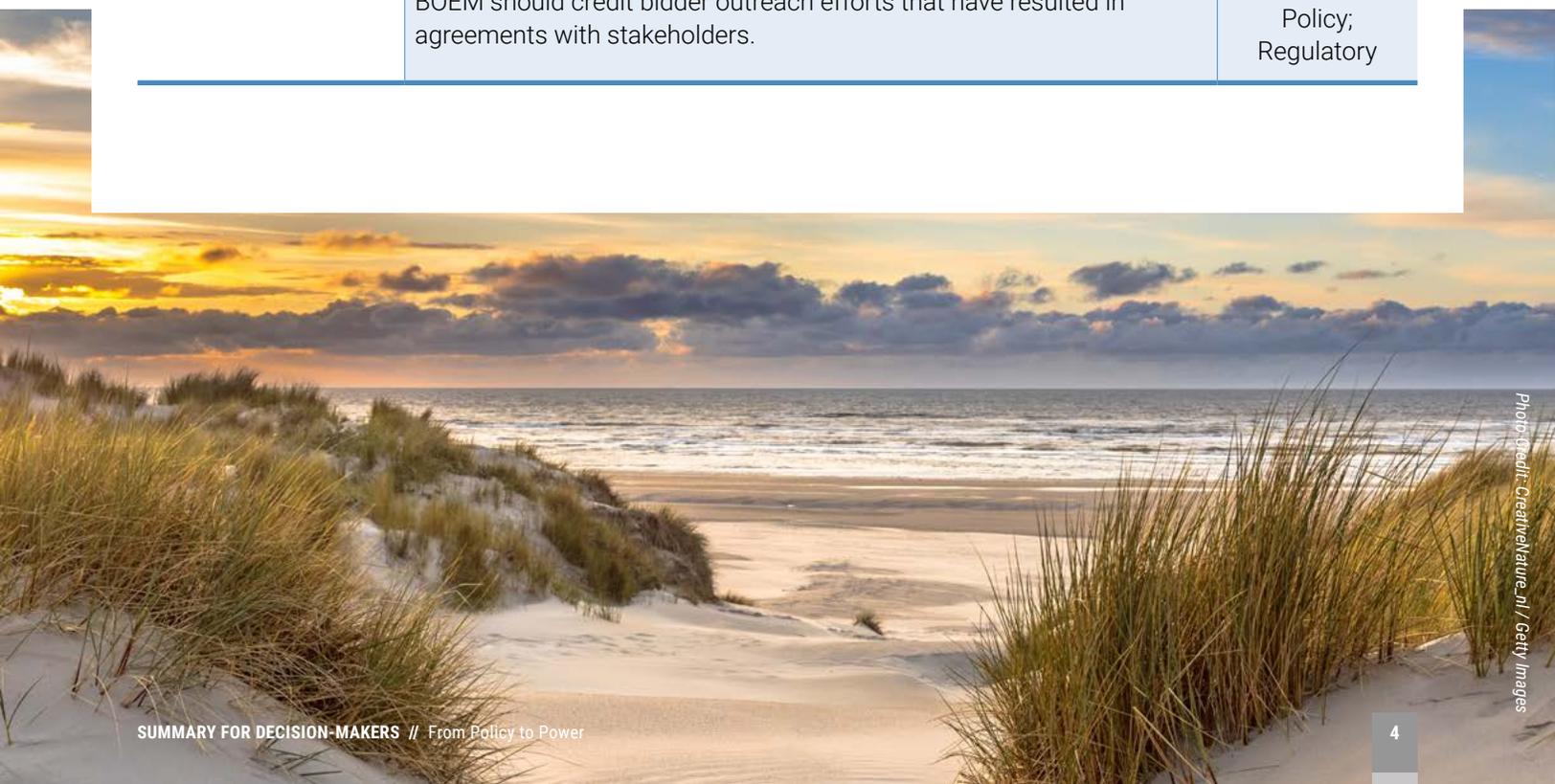
Planning for Wind Energy Areas and Project Siting		
FOCUS AREA	RECOMMENDATION	TYPE OF ACTION
Public Engagement	BOEM should develop a coordination framework to expand on its state-based task forces to engage federal leaders, states, Tribes, underserved communities, and ocean use stakeholders more effectively in advance of defining new Wind Energy Areas.	Administrative Policy
	BOEM should designate staff to coordinate with fisheries interests during the early stages of project siting and throughout construction and operations.	Administrative Policy
Government Coordination Before Project Siting	BOEM, NOAA, the U.S. Coast Guard, and other agencies should partner with the Regional Ocean Partnerships from the earliest stages of the planning process.	Administrative Policy
	The White House should use the Ocean Policy Committee to support the administration’s goal of 30 gigawatts of offshore wind by 2030.	Administrative Policy
	BOEM should create a formal role for the Department of Defense Siting Clearinghouse in Wind Energy Area identification.	Administrative Policy; Regulatory
	The Permitting Council should fund positions dedicated to conflict resolution.	Administrative Policy
Site Identification	Agencies should credit developers that engage with Regional Ocean Partnerships and associated data portals and follow other ocean planning principles.	Administrative Policy; Regulatory
	BOEM should codify ocean planning procedures, including both existing regional best practices and the improved planning and permitting approaches recommended in this report.	Regulatory



Transmission Planning		
FOCUS AREA	RECOMMENDATION	TYPE OF ACTION
Agency Coordination	The Federal Energy Regulatory Commission (FERC) and BOEM should enter into a Memorandum of Understanding to strengthen coordination in the review of offshore wind projects and associated transmission planning needs.	Administrative Policy
FERC Rulemaking	FERC should open a rulemaking to propose targeted additional reforms to transmission planning processes of Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs).	Regulatory
	FERC should open a rulemaking to propose targeted reforms to cost allocation and generator interconnection procedures of RTOs/ISOs.	Regulatory
BOEM Rulemaking	In coordination with Department of Energy, FERC, and regional authorities, BOEM should incorporate transmission planning into its regulations.	Regulatory



Leasing		
FOCUS AREA	RECOMMENDATION	TYPE OF ACTION
Multifactor Bidding	To avoid conflicts and improve coordination in project approvals, BOEM should expand multifactor bidding to recognize the value of developers' engagement with stakeholders.	Administrative Policy; Regulatory
	BOEM should credit bidder outreach efforts that have resulted in agreements with stakeholders.	Administrative Policy; Regulatory





Permitting		
FOCUS AREA	RECOMMENDATION	TYPE OF ACTION
Pre-Application	BOEM should implement a pre-application approach to help frame a well-designed proposal before it is submitted for agency review.	Administrative Policy; Regulatory
Review Procedures	Agencies should coordinate and focus data and information requirements to ensure that site characterization surveys collect data and information that is useful both for project-specific decisions and the development of shared, publicly available databases.	Administrative Policy; Regulatory
	NOAA and BOEM should require all non-proprietary biological and oceanographic data collected to be made publicly available.	Administrative Policy; Regulatory
	BOEM environmental review and authorization procedures should allow adaptive management for mitigation, monitoring, and continual improvement.	Administrative Policy; Regulatory
	BOEM should revise its regulations to allow for technological advances.	Regulatory
Programmatic and Cumulative Effects Review	BOEM should develop a programmatic program for permitting.	Administrative Policy; Regulatory
	BOEM should develop a comprehensive analysis of cumulative effects for proposed and anticipated projects within a defined region using a programmatic approach to analyze cumulative impacts and comprehensively plan for offshore wind energy.	Administrative Policy
Permitting Requirements	BOEM should replace the provisions requiring a Site Assessment Plan with site characterization guidelines.	Regulatory
	BOEM should update its regulations to resolve competing interpretations of the Outer Continental Shelf Lands Act (OCSLA) section 8(p)(4)(I).	Regulatory
Governmental Coordination in Environmental Review	The Ocean Policy Committee and the Permitting Council should establish a regional approach to permitting coordination through Memoranda of Understanding with jurisdictional states, Tribes, and local agencies under FAST-41.	Administrative Policy
	BOEM should more actively integrate input from state, federal, and local agencies and Tribal governments into its environmental review.	Administrative Policy
	Agencies should coordinate with Regional Ocean Partnerships, Indigenous knowledge and local knowledge experts, and institutions to obtain data and information needed for environmental reviews.	Administrative Policy



Construction and Operation		
FOCUS AREA	RECOMMENDATION	TYPE OF ACTION
Ongoing Regulatory Compliance	BOEM and National Marine Fisheries Service should develop guidelines outlining avoidance, minimization, and compensatory mitigation strategies for incidental take under the Endangered Species Act and Marine Mammal Protection Act and conduct programmatic reviews.	Administrative Policy
	BOEM and NOAA should establish a collaborative process to issue Incidental Harassment Authorizations and Letters of Authorization that protect North Atlantic right whales and incentivize conservation initiatives by project developers.	Administrative Policy; Regulatory
	U.S. Fish and Wildlife Service should develop guidelines outlining risks associated with incidental take under the Migratory Bird Treaty Act.	Administrative Policy
Ongoing Public Input	BOEM should establish regional offices for ongoing engagement with ocean users, states, communities, and Tribal governments.	Administrative Policy
Changing Technologies	Agencies should develop guidance that considers technological advancements in determining how to protect wildlife.	Administrative Policy; Regulatory

Recognizing that the above recommendations are designed to work within the existing, imperfect statutory framework for offshore wind, the report outlines opportunities for more comprehensive action that policymakers should consider as part of an ambitious wind energy agenda.

OPPORTUNITIES TO STRENGTHEN THE OVERARCHING AUTHORITIES FOR OFFSHORE WIND

OPPORTUNITY	TYPE OF ACTION
Revise OCSLA to create a separate title for offshore wind to fully account for the different needs and opportunities it poses and to reflect best practices for integrated ocean management.	Congressional
Establish a comprehensive ocean statute, comparable to those that exist for public lands, to provide the basis for landscape-scale conservation and renewable energy programs.	Congressional

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