

Understanding The Need For Continued Regulatory And Financial Incentives To Support Offshore Wind

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Barriers to Permitting An Offshore Wind Facility in the U.S.

Jurisdictional, Physical and Political Issues

- **Federalism**

- U.S. is less centralized than European governments
- Most projects involve multiple overlapping jurisdictions (3-mile, 200-mile boundaries; Coastal Zones; on-shore and resource agencies)
- Multiple sequential opportunities for administrative opposition and litigation

- **Technology and Geography**

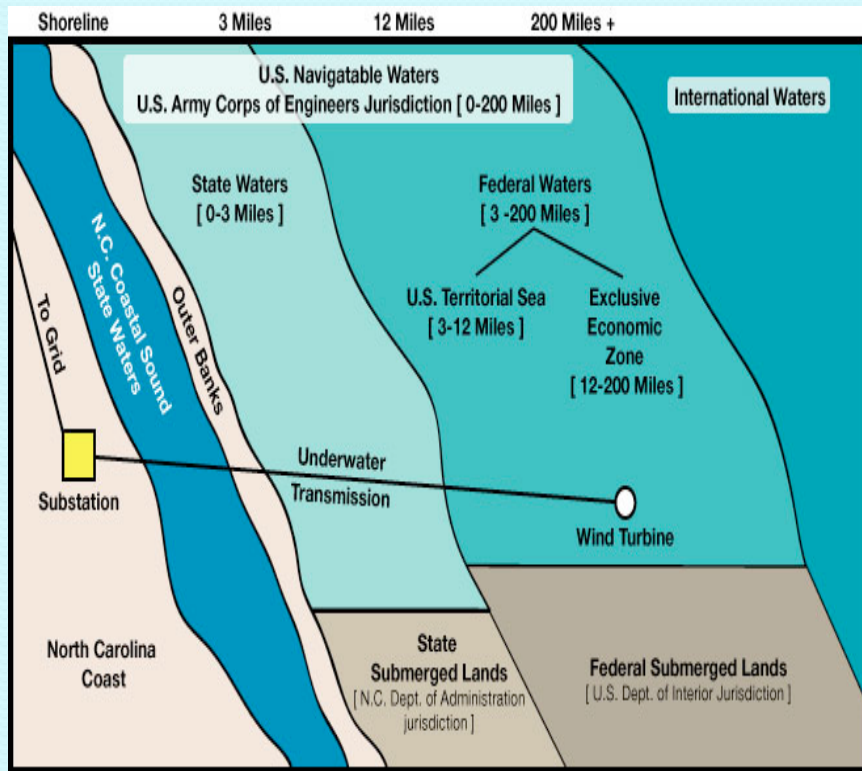
- Shallow waters vs. deep waters (East Coast vs. West Coast)
- Strong tropical storms, especially in Southeast
- Historic and cultural locations

- **Well-funded Opposition**

- Environmental and cultural preservation groups
- Competing industries
- Wealthy coastal landowners

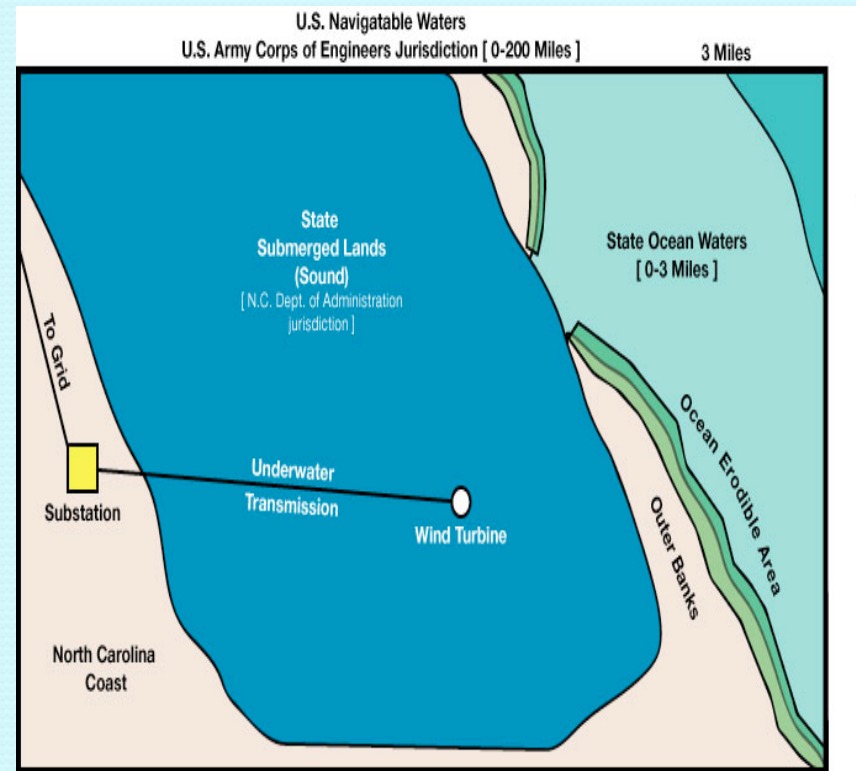
Federal Or State Lease? (NC Example)

Federal - BOEM



Source: http://www.repp.org/articles/static/1/binaries/REPP_Offshore_Wind_Approval.pdf

State – State Lands Agency



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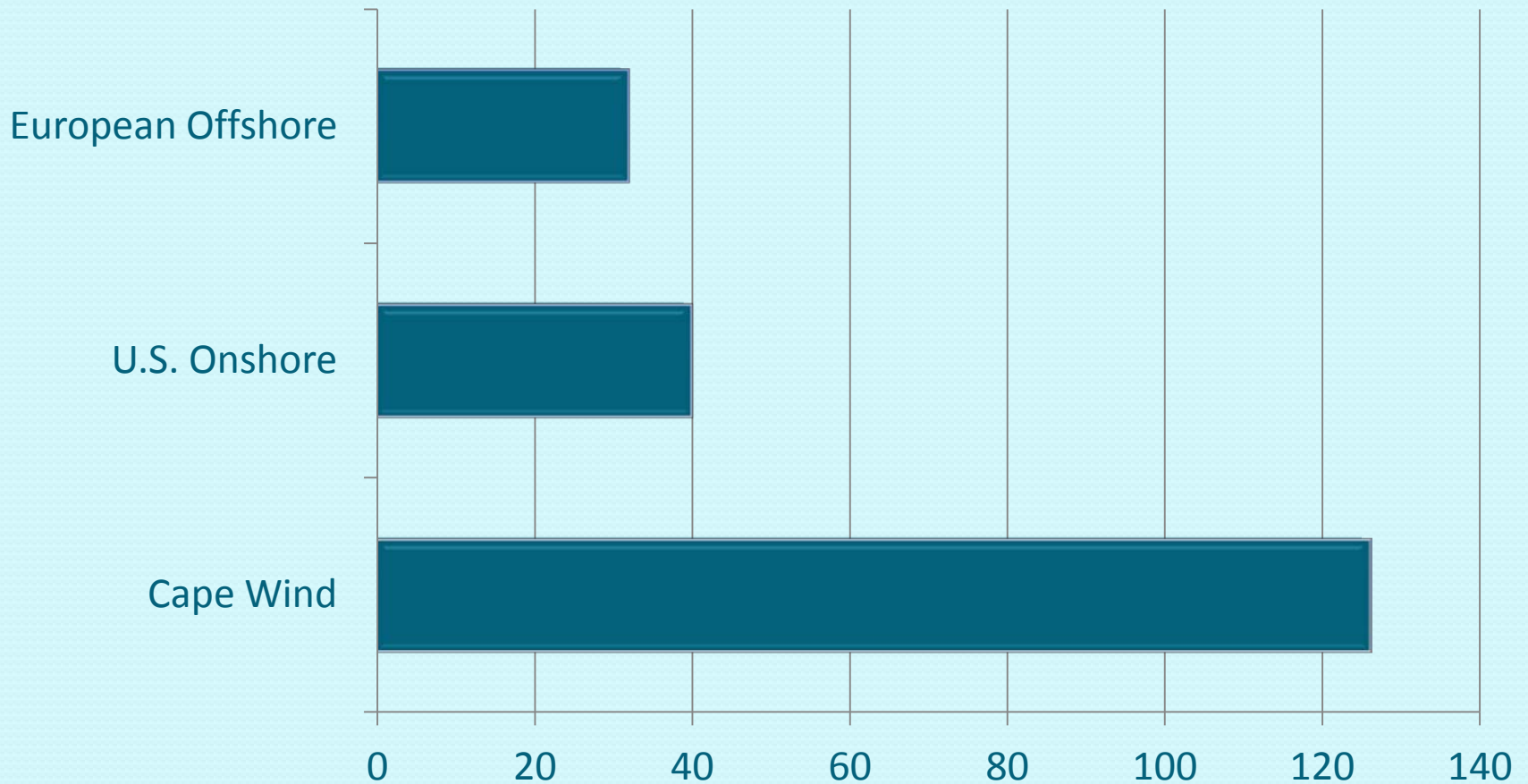
Federal Resource Agencies - Alphabet Soup

- USACOE
- USFWS
- NMFS
- NOAA
- USCG
- FAA
- USEPA
- ACHP
- DOD
- DOE
- CEQ
- Potentially several others

State/Local Separate & Overlapping Jurisdiction

- Coastal Zone Management Act provides State coastal agency “veto” of federal approvals
- States have direct jurisdiction over coastal zones/tidelands
- Great Lakes = States own bottom land
- State and local land use/environmental permitting and regulation of onshore facilities
- Potential for administrative and litigation challenges to each separate approval

Typical Permitting & Litigation Timeline Comparison (Months)



Lessons Learned, Especially From Cape Wind

Permitting Experience

- **Permitting process must be streamlined and redundant reviews avoided**
- **State involvement and jurisdictional disputes should be anticipated and minimized where possible**
- **Given lengthy and expensive process, Federal and State incentives are critical**
- **Early & consistent coordination on siting & environmental issues is essential**

Government Efforts To Shorten Timelines for Permitting OSW

Proactive Response By Federal Government

- **The Energy Policy Act of 2005**
 - Amended OCSLA: DOI (MMS) empowered to grant leases for renewable projects, not just oil/gas
 - Consultation with other federal agencies, but DOI is lead agency for leasing
- **OCS Alternative Energy and Alternate Use Program in 2007**
 - Conceptual ideas for OCS development; calls for regulations
 - Issues NEPA Programmatic EIS
- **MOU between MMS and FERC in 2009**
- **MMS adopts OCS Alternative Energy Program leasing regulations in 2009**
- **MMS → BOEMRE → BOEM**
 - Generally reasonable application & lease terms
 - Streamlined, but still lengthy, process

Making Strides – BOEM's OCS Wind Lease Process

Three Lease Phases (30 CFR 585.235):

1) Preliminary

- Competitive commercial leases only
- 6 months for preparation of Site Assessment Plan (SAP) & NEPA EA

2) Site Assessment and Planning

- 5 years to submit Construction and Operations Plan (COP)
 - Full EIS likely under NEPA to support COP
- Term automatically extended while BOEM evaluates COP

3) Commercial Operations

- Typically 25 years, but may be longer where negotiated and warranted
 - Cape Wind's lease is 28 years

“Smart From The Start” – Progress?

- **Establish “Wind Energy Areas”**
 - NJ, MD, DE, NC (2011); RI, MA (2012)
 - 2012 – new calls for lease nominations
- **Streamline BOEM lease approval process**
 - Dispense with multiple public notices
 - “Aggressive” NEPA review (WEA EAs and G&G Program EIS)
 - State Task Forces slowly coming along (action plans?)
 - Atlantic Offshore Wind Consortium
- **Simultaneously permit transmission lines to shore**
 - Atlantic Wind Connection – on hold?
 - Often overlooked topic, especially given overlapping jurisdictions
- ***Limitation – Atlantic states only, not West Coast or Great Lakes***

Other Ideas to Streamline The Process

- **Copy DOE 2012 Rulemaking for Renewable Energy Transmission?**
 - Specifically tailored to multi-agency situations
 - Lead Agency coordinates, organizes and combines various agencies' requests
 - Early pre-application coordination...no surprises!
 - Projects can opt out
- **Copy California REAT “One-Stop” Approach?**
 - Joint processing by resource agencies
 - Designed to cut overall processing time in half
- **Congress – NEPA Exemptions for Limited Leases or Site Assessment Work?**
 - HR 2173
 - Low probability of significant impacts
 - Unlikely given environmental stakeholders?

Government Efforts To Provide Financial Incentives for OSW

Current Federal Financial Assistance is Out of Reach

- **1603 grants (window missed)**
 - Construction (or 5% of property investment) required by end of 2011
- **PTC/ITC (expiring)**
 - Applicants required to commence construction/operations by 2012
- **1705 loan guarantee program (stalled)**
 - Required construction to commence by September 30, 2011
 - Supposedly cheap & low-risk...but then Solyndra fails
 - NRG Bluewater suspends operations
 - Replace with 1703 program?
- **Efforts to extend financial programs?**
 - December 2011 efforts during payroll tax negotiations
 - Stabenow Amendment denied March 2012
 - S. 2201 (Grassley) would extend PTC two years (onshore and offshore) – no action yet
 - Carper/Snowe/Pascrell bills (credits for first 3,000 MW) – no action yet

State Incentives & Market Creation Programs

- **Georgia**

- PTC for 1.9¢/kWh

- **Maryland**

- Proposed legislation to require utilities to purchase OSW energy
- Stranded in Senate Finance Committee

- **North Carolina SB 747**

- “Net economic benefit”
 - More palatable to politicians and ratepayer advocates
- Extends existing tax credits through 2020

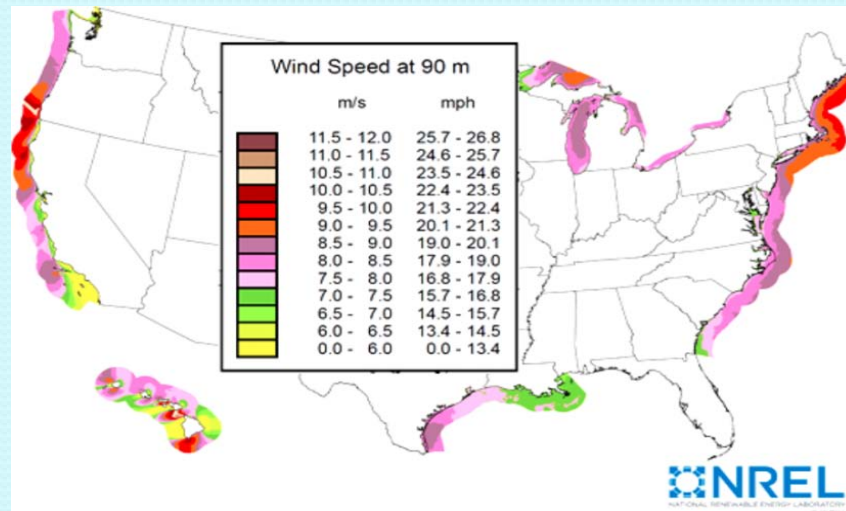
- **New Jersey**

- Tax Credits – applications due by 2013
- Offshore REC program requires utility purchases of OSW power where BPU finds net benefit
- Early application reviews have been too harsh?

Recommendations to Help Finances/Markets

- **Government utility OSW power purchases/carve-outs**
 - TVA/others in region?
- **Government-sponsored OSW projects**
 - Fukushima pilot project – sponsored by prefecture
- **Government OSW power purchases/PPAs**
 - Dept. of Army RFP for \$7 billion of renewables
 - Create a specific carve-out for OSW like other energy types
- **Require IOUs to purchase OSW**
 - Ease standards for “net benefits” (non-economic factors?)
 - European model – utility “balance sheet” financing
- **Public supports advancing OSW...but are these measures too “socialist” given current political climate in U.S.?**

Other Ongoing Collaborative/Incentive Efforts




Source: <http://www.windpoweringamerica.gov/windmaps/offshore.asp>

- **Great Lakes Wind Consortium**
 - Working alliance from many sectors
 - Who is lead agency since no BOEM involvement?
- **NOAA/NY joint report on undersea biology in NY Bight**
- **R&D grants - \$43 million for 41 projects in 2011; \$20 million more in 2012**
 - Focused on technological and market research

Final Thoughts

- **After Cape Wind, the U.S. & many States have made great efforts to shorten permit timelines and incentivize OSW.**
- **Jurisdictional battles remain and opponents will have many opportunities to challenge projects through administrative and litigation proceedings.**
- **Permitting processes must continue to evolve to shorten overlaps and simultaneously incorporate collaboration among agencies and stakeholders.**
- **Current political climate and economic realities suggest different incentive approaches may be necessary.**
- **Don't forget the West Coast and Great Lakes!**



“I find the great thing in this world is not so much where we stand, as in what direction we are moving. We must sail sometimes with the wind and sometimes against it - but we must sail, and not drift, nor lie at anchor.”

— Oliver Wendell Holmes Sr.

Questions?



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