



**CALIFORNIA
ENERGY COMMISSION**



California Energy Commission
COMMISSION REPORT

Assembly Bill 525 Offshore Wind Energy Permitting Roadmap

Gavin Newsom, Governor
April 2023 | CEC-700-2023-004

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ACKNOWLEDGEMENTS

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ABSTRACT

Assembly Bill 525 (AB 525, Chiu, Chapter 231, Statutes of 2021) directs the California Energy Commission (CEC) to complete and submit a permitting roadmap for offshore wind to the Natural Resources Agency and the relevant fiscal and policy committees of the Legislature. This report addresses these requirements to describe permitting time frames and milestones for a coordinated, comprehensive, and efficient permitting process for offshore wind energy facilities off the California coast. This report is one of four work products the CEC is directed by AB 525 to prepare. The CEC, in coordination with federal, state, and local agencies and a wide variety of stakeholders, must develop a strategic plan for offshore wind energy developments installed off the California coast in federal waters.

Keywords: Offshore wind energy, floating offshore wind, offshore energy, offshore development, offshore wind planning goals, decarbonization, coastal resources, approvals, permits, permitting, maximum feasible capacity, renewable energy, reliability, transmission, infrastructure planning, wind energy, Assembly Bill 525, Senate Bill 100

Please use the following citation for this report:

Jones, Melissa, Kristy Chew, Eli Harland, and Jim Bartridge. 2022. *Assembly Bill 525 Offshore Wind Energy Permitting Roadmap*. California Energy Commission. Publication Number: CEC-700-2023-004.

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EXECUTIVE SUMMARY

Assembly Bill (AB) 525 (Chiu, Chapter 231, Statutes 2021) requires the California Energy Commission (CEC) to develop a permitting roadmap that describes time frames and milestones for a coordinated, comprehensive, and efficient permitting process for offshore wind energy facilities off the California coast. The permitting roadmap must include a goal for the permitting time frame and clearly define local, state, and federal agency roles, responsibilities, and decision-making authority. It must also address interfaces with federal agencies, including timing, sequence, and coordination with federal permitting processes and necessary reviews under the California Environmental Quality and the National Environmental Policy Acts. AB 525 further states that the findings resulting from development of the permitting roadmap must be included in a chapter of the AB 525 strategic plan relating to permitting.

The permitting roadmap must be developed in consultation with all relevant local, state, and federal agencies, including the California Coastal Commission, the Department of Fish and Wildlife, and the State Lands Commission, interested California Native American tribes, and affected stakeholders. Federal and state agencies discussed in this report would presumably be involved in any project site along the California coast, while local governmental agency involvement would be site-dependent. Each agency has specific responsibilities for permitting different aspects of offshore wind development, and each agency has its own application and review process for projects within their jurisdictions.

Offshore wind development off the California coast will occur primarily in federal waters under the exclusive jurisdiction of the Department of Interior's Bureau of Ocean Energy Management (BOEM). On December 6 and 7, 2022, BOEM conducted its first auction for California lease sale, known as the Pacific Wind Lease Sale 1 (PACW-1) for commercial leasing wind power on the Outer Continental Shelf in California. This auction resulted in the awards to five provisional lease holders off California's North and Central Coasts. The state has an opportunity, through a permitting roadmap, to ensure coordination of the various state and local permits and environmental reviews for offshore wind projects with BOEM's related processes.

On December 15, 2022, the CEC released the *Assembly Bill 525: Draft Conceptual Permitting Roadmap for Offshore Wind Energy Facilities Originating in Federal Waters off the Coast of California* (Draft Conceptual Permitting Roadmap). The permitting framework from the Draft Conceptual Permitting Roadmap relied on foundational interagency agreements (memoranda of agreement or understanding) and coordination plans to provide a coordinated, comprehensive, and efficient permitting process. These agreements and coordination plans served as location-specific permitting roadmaps for the regions where projects are proposed. A key assumption underlying the Draft Conceptual Permitting Roadmap was that interagency memoranda of agreement (or understanding) and coordination plans could be implemented without new laws. Appendix B summarizes major elements of the Draft Conceptual Permitting Roadmap.

As noted above, AB 525 requires the CEC to provide an opportunity for meaningful input from agencies, tribes, and stakeholders in developing and communicating a permitting roadmap.

While the CEC held a public workshop and allowed for a comment period, the process for developing the Draft Conceptual Permitting Roadmap was condensed to meet the statutory deadline. After consideration, the CEC believes it is important that additional options and suggestions — some from comments received and those identified through additional engagement — be carefully and fully evaluated and vetted before deciding the best permitting pathway.

As a result, in this report, the CEC includes additional information on state permitting agencies and processes for a more complete picture of the permitting landscape beyond the various federal processes. This report outlines additional permitting options or frameworks for consideration in developing a final permitting roadmap. The CEC anticipates inclusion of a final permitting roadmap as part the AB 525 offshore wind strategic plan.

Several approaches are available to serve as a framework for permitting and environmental reviews of offshore wind facilities. In addition to the option described in the Draft Conceptual Permitting Roadmap, several other options could be considered.

Coordinated Permitting Approaches

- Develop a coordinated team approach among the federal and state agencies that work on permitting. Pattern this team after the successful Renewable Energy Action Team (REAT) employed by California to simplify and accelerate permitting for large solar thermal and photovoltaic projects in the California desert.
- Develop a coordinated approach for offshore wind modeled after the San Francisco Bay Restoration Regulatory Integration Team (BRRIT), which improved the permitting process for multi-benefit habitat restoration projects and associated infrastructure in the San Francisco Bay.
- Identify one state agency to serve as a lead coordinator (or project manager) for all state agencies while coordinating information needs with the federal agencies and applicants.
- Develop a coordinated state application process. The process would seek to coordinate each agency's review of application materials to allow concurrent review of project applications and coordinated responses to provide shared feedback and information requests from the relevant state and local agencies.

Consolidated Permitting Approach

- Establish a single permitting agency with the authority to permit offshore wind-related components located within state-jurisdictional waters. All the actions and responsibilities of the state agencies related to offshore wind facilities would need to be considered in establishing a single state agency.

Coordinated Environmental Review

- Develop a joint federal and state agency National Environmental Policy Act and California Environmental Quality Act (NEPA and CEQA) review process for offshore wind

energy projects that provides the required information and analyses for all permitting agencies to complete their environmental review obligations.

- Develop a programmatic environmental impact report, under CEQA, to evaluate the broad policies that offshore wind development addresses. Future project-specific environmental review documents would then tier from the programmatic document.

Implementing one or more of the coordinated approaches would leverage existing expertise and staff resources housed in each state agency, while allowing for permitting process improvements and reductions in permitting timelines. This approach could reduce confusion for the developer, promote agency coordination on overlapping areas of jurisdiction, and provide consistent state communication with the federal agencies. Similarly, coordinated environmental review approaches could avoid redundancy, improve efficiency and interagency cooperation, and be easier for applicants and the public to navigate. A programmatic environmental impact report could also reduce the time needed to prepare the environmental review documents required by CEQA.

For these reasons, CEC staff recommends implementing one or more of the coordinated permitting and environmental review approaches as the preferred approach to achieving permitting process improvements and efficiency. In contrast, consolidated permitting approaches, while offering some simplification of the permitting process, are also likely to increase permitting delays and challenges and result in inefficient use of state funds due to the duplication of existing expertise and roles. Additionally, federal permitting requirements would continue to require other state permitting agencies, like the California Coastal Commission, to have a role in the federal permitting process regardless of state consolidation.

The CEC will conduct additional outreach with its interagency partners, tribes and tribal governments, fisheries, and various stakeholders in the coming months to develop and gather input on the different options outlined in this report. The CEC will also work with the various stakeholders to develop a publicly available visual diagram, chart, or dashboard that illustrates the process for permitting offshore wind projects and related infrastructure. In addition, the CEC will hold workshops to engage robust discussion and vetting of the options and approaches to create a coordinated, comprehensive, and efficient permitting process and develop recommendations for the permitting chapter of the AB 525 strategic plan.

CHAPTER 1:

California Offshore Wind Development

Assembly Bill 525

On September 23, 2021, Governor Gavin Newsom signed into law Assembly Bill 525 (Chiu, Chapter 231, Statutes of 2021) (AB 525), which took effect January 1, 2022. AB 525 requires the California Energy Commission (CEC), in coordination with federal, state, and local agencies; tribes; and a variety of stakeholders, to develop a strategic plan for offshore wind energy development in federal waters off the California coast. The CEC must submit a strategic plan to the California Natural Resources Agency (CNRA) and the Legislature no later than June 30, 2023. The following interim activities and products developed by the CEC will contribute to the strategic plan:

- Evaluate and quantify the maximum feasible capacity of offshore wind to achieve reliability, ratepayer, employment, and decarbonization benefits and establish megawatt (MW) offshore wind energy planning goals for 2030 and 2045 by no later than June 1, 2022.¹
- Complete and submit to CNRA and the relevant fiscal and policy committees of the Legislature a preliminary assessment of the economic benefits of offshore wind as they relate to seaport investments and workforce development needs and standards by no later than December 31, 2022.²
- Complete and submit a permitting roadmap to CNRA and the relevant fiscal and policy committees of the Legislature that describes time frames and milestones for a coordinated, comprehensive, and efficient permitting process for offshore wind energy facilities and associated electricity and transmission infrastructure off the coast of California by no later than December 31, 2022.³

1 On August 10, 2022, the CEC adopted the report titled [Offshore Wind Energy Development in Federal Waters Offshore the California Coast: Maximum Feasible Capacity and Megawatt Planning Goals for 2030 and 2045](https://www.energy.ca.gov/publications/2022/offshore-wind-energy-development-california-coast-maximum-feasible-capacity-and), which set offshore wind energy planning goals of 2 to 5 gigawatts and 25 gigawatts by 2030 and 2045, respectively, <https://www.energy.ca.gov/publications/2022/offshore-wind-energy-development-california-coast-maximum-feasible-capacity-and>.

2 On February 28, 2023, the CEC adopted the report titled [Preliminary Assessment of Economic Benefits of Offshore Wind: Related to Seaport Investments and Workshop Development](https://www.energy.ca.gov/publications/2022/preliminary-assessment-economic-benefits-offshore-wind-related-seaport), <https://www.energy.ca.gov/publications/2022/preliminary-assessment-economic-benefits-offshore-wind-related-seaport>.

3 On December 15, 2022, the CEC released the paper titled [AB 525 Draft Conceptual Permitting Roadmap for Offshore Wind Energy Facilities Originating in Federal Waters off the Coast of California](https://www.energy.ca.gov/event/workshop/2022-12/workshop-assembly-bill-525-developing-permitting-roadmap-offshore-wind), <https://www.energy.ca.gov/event/workshop/2022-12/workshop-assembly-bill-525-developing-permitting-roadmap-offshore-wind>.

This report focuses on the third AB 525 report, a permitting roadmap for offshore wind energy development that meets the following AB 525 requirements:

- Include a goal for the permitting time frame and milestones for a coordinated, comprehensive, and efficient permitting process.
- Clearly define local, state, and federal agency roles, responsibilities, and decision-making authority.
- Include interfaces with federal agencies, including timing, sequence, and coordination with federal permitting agencies, and coordination between reviews under the California Environmental Quality Act and the federal National Environmental Policy Act of 1969.

The permitting roadmap must also be developed in consultation with all relevant local, state, and federal agencies, including the California Coastal Commission, the Department of Fish and Wildlife, and the State Lands Commission, interested California Native American tribes, and affected stakeholders. For the federal and state agencies discussed in this report, they would presumably be involved in any project site along the California coast, while local governmental agency involvement would be site-dependent. Each agency has different responsibilities for permitting different aspects of offshore wind development, along with different application and review processes for projects within their jurisdiction.

On December 15, 2022, the CEC released the *AB 525 Conceptual Permitting Roadmap for Offshore Wind Energy Facilities Originating in Federal Waters off the Coast of California* (Offshore Wind Conceptual Permitting Roadmap). The CEC held a workshop on the report December 19, 2022, to discuss the roadmap. Public comment was heard, and permission to submit additional public comment was extended to February 10, 2023, in response to requests from the Humboldt community affected by the December 20, 2022, earthquake.⁴

Advancing California's Climate and Clean Energy Goals

Development and deployment of offshore wind in federal waters off the California coast can advance California's efforts to meet its ambitious clean energy and climate mandates and provide economic and environmental benefits to the state. The CEC report titled *Offshore Wind Energy Development off the California Coast, Maximum Feasible Capacity and Megawatt Planning Goals for 2030 and 2045* (Offshore Wind Goals Report),⁵ explains how offshore wind energy developed in federal waters off California's coast is poised to play an important role in diversifying the state's portfolio of resources. It would also help California meet the renewable energy and zero-carbon electricity goals of Senate Bill 100 (SB 100, De León, Chapter 312, Statutes of 2018). SB 100 requires that eligible renewable energy resources and zero-carbon

⁴ On December 20, 2022, Humboldt County experienced a 6.4 magnitude earthquake that resulted in the Humboldt County Sheriff declaring an emergency.

⁵ Flint, Scott, Rhett deMesa, Pamela Doughman, and Elizabeth Huber. 2022. [Offshore Wind Development off the California Coast: Maximum Feasible Capacity and Megawatt Planning Goals for 2030 and 2045](https://www.energy.ca.gov/filebrowser/download/4361). California Energy Commission. Publication Number: CEC-800-2022-001-REV, www.energy.ca.gov/filebrowser/download/4361.

resources supply 100 percent of total retail sales of electricity in California to end-use customers and 100 percent of electricity procured to serve all state agencies by 2045.⁶ AB 525 directed the CEC to consider the findings of the *2021 SB 100 Joint Agency Report*, which evaluates the challenges and opportunities of implementing SB 100, when developing its offshore wind planning documents.⁷

To date, nearly all offshore wind energy projects in other parts of the world have used fixed-bottom foundations, which are more suitable for shallow waters of 60 meters (about 200 feet) or less. However, because the Pacific Outer Continental Shelf off California's coast has steep drop-offs and deep waters, offshore wind projects in federal waters off the coast of California will use floating platforms. These platforms will be attached to the sea floor using mooring cables and anchors. The turbines installed on the floating platforms would be connected by electrical cables to undersea or floating interconnection equipment, or floating substations. The power would then be delivered to onshore substations feeding into the bulk transmission grid or to higher-voltage, long-distance subsea cables that bring the electricity to major load centers. The technology is large and complex but is expected to advance rapidly, with some estimates indicating that the global floating offshore wind energy installed capacity could grow to about 10 gigawatts (GW) by 2030 to as much as 264 GW by 2050.⁸

As Governor Newsom has emphasized, the state can meet its clean energy goals by building a vibrant offshore wind industry to help reduce air pollution, increase energy independence, and provide new economic opportunities to Californians while protecting the natural legacy of the coastline.⁹ In response to Newsom's call for bolder climate action, on August 10, 2022, the CEC adopted the most ambitious offshore wind planning goals in the United States, calling for offshore wind resources of between 2 and 5 GW by 2030 and 25 GW by 2045.¹⁰ These aspirational goals are intended to spur development of a floating offshore wind industry.

6 [Senate Bill 1020](#) (Laird, Chapter 361, Statutes of 2022), the Clean Energy, Jobs, and Affordability Act of 2022, accelerates the 2045 policy for eligible renewable and zero-carbon resources by putting milestones of 90 percent by 2035 and 95 percent by 2040 and requiring that all electricity procured to serve state agencies by 2035 come from eligible renewable and zero-carbon resources.

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB1020.

7 CEC, CPUC, and CARB. 2021. [SB 100 Joint Agency Report Achieving 100 Percent Clean Electricity in California: An Initial Assessment](#). Publication Number: CEC-200-2021, <https://efiling.energy.ca.gov/EFiling/GetFile.aspx?tn=237167&DocumentContentId=70349>.

8 U.S. Department of Energy. 2022. [Offshore Wind Market Report: 2022 Edition](#), <https://www.energy.gov/sites/default/files/2022-09/offshore-wind-market-report-2022-v2.pdf>.

9 [July 2, 2022, letter](#) from Governor Gavin Newsom to Liane Randolph, chair of the California Air Resources Board, www.gov.ca.gov/wp-content/uploads/2022/07/07.22.2022-Governors-Letter-to-CARB.pdf?emrc=1054d6.

10 Flint, Scott, Rhett deMesa, Pamela Doughman, and Elizabeth Huber. 2022. [Offshore Wind Development off the California Coast: Maximum Feasible Capacity and Megawatt Planning Goals for 2030 and 2045](#). California Energy Commission. Publication Number: CEC-800-2022-001-REV, www.energy.ca.gov/filebrowser/download/4361.

In AB 525, the Legislature found that, if developed at scale, offshore wind energy can advance California’s progress towards its energy and climate goals while providing substantial economic and environmental benefits to the state and nation. Further, offshore wind energy presents an opportunity to attract investment capital and provide economic and workforce development benefits to the state and local communities.

The permitting of offshore wind infrastructure is complex, involving numerous state, federal, and local agencies, with differing data and information requirements, timelines, and processes. These agencies have the responsibility to implement the various laws and regulations that ensure that environmental impacts from projects are assessed, minimized, and mitigated, and that important ecological and natural resources, commercial and recreational ocean uses, and community values are protected. The successful development of a commercial-scale offshore wind industry depends on minimizing impacts on marine biodiversity and habitat, currents and upwelling, fishing, cultural resources, navigation, aesthetics and visual appeal, and military operations and other coastal users. The environmental review and permits for offshore wind under current processes could take more than five years.

Floating offshore wind development will require upgrades to ports and waterfront facilities to support a range of activities, including construction and staging of floating platform foundations, manufacturing and storage of components, final assembly, and long-term operations and maintenance. The conceptual permitting roadmap presented in this document does not focus on the permitting processes for port and waterfront facility upgrades. Floating offshore wind will also require development of new and upgraded transmission infrastructure. The CEC will discuss transmission planning and permitting in the transmission chapter of the strategic plan, which is being developed in consultation with the California Public Utilities Commission (CPUC) and California Independent System Operator (California ISO).

Comments on the Draft Offshore Wind Conceptual Permitting Roadmap

The CEC published the *Draft Conceptual Permitting Roadmap for Offshore Wind Energy Facilities Originating in Federal Waters off the Coast of California* (Draft Conceptual Permitting Roadmap) on December 15, 2022, and held a workshop December 19, 2022. The comment period was extended through February 10, 2023, to accommodate the requests of the Humboldt County administrative officer, and the associate general counsel for the Yurok Tribe.¹¹ The CEC received 19 written comment letters from wind energy developers and

11 Elishia Hayes, Humboldt County Administrative Officer, County of Humboldt. [Letter regarding Preliminary Assessment of Economic Benefits of Offshore Wind and the Draft Conceptual Permitting Roadmap](https://efiling.energy.ca.gov/GetDocument.aspx?tn=248243&DocumentContentId=82556). Docket 17-MISC-01. December 23, 2022, <https://efiling.energy.ca.gov/GetDocument.aspx?tn=248243&DocumentContentId=82556>.

industry groups, environmental organizations, fishing industry groups, electricity transmission development entities, federal and local government agencies, the Yurok Tribe, the Northern Chumash Tribal Council, private citizens, and nongovernmental organizations.

The comment letters contained several similar themes. Several commenters supported the preparation of a programmatic environmental impact statement under NEPA by BOEM and, similarly, a programmatic environmental impact report under CEQA by the state.¹² Several comments supported the development of a “dashboard” or website that shows the status of and provides information on all California offshore wind energy projects.¹³ Lastly, several groups commented on the importance of information gathering and sharing.¹⁴

Alex Mesher, Associate General Counsel for the Yurok Tribe. Yurok Tribe. [Email regarding 17-MISC-01 One Day Extension Request](#). Docket 17-MISC-01. January 26, 2023.
<https://efiling.energy.ca.gov/GetDocument.aspx?tn=248548&DocumentContentId=83016>.

12 Responsible Offshore Development Alliance, “[Draft Conceptual Permitting Roadmap for Offshore Wind Energy Facilities Originating in Federal Waters off the Coast of California](#),” written and submitted February 10, 2023, to Docket 17-MISC-01, TN# 248733. Available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=248733&DocumentContentId=83251>.

Alliance of Communities for Sustainable Fisheries, “[Comments - on the CEC's draft OSW Permit Roadmap](#),” written and submitted February 10, 2023, to Docket 17-MISC-01, TN# 248752. Available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=248752&DocumentContentId=83276>.

13 Offshore Wind California and American Clean Power California, “[Comments by OWC & ACP - Permitting Roadmap](#),” written and submitted February 10, 2023, to Docket 17-MISC-01, TN# 248736. Available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=248736&DocumentContentId=83254>.

Coalition of environmental non-governmental organizations (ENGOS), “[ENGOS Comments - on Permitting Roadmap for Offshore Wind](#),” written and submitted February 10, 2023, to Docket 17-MISC-01, TN# 248737. Available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=248737&DocumentContentId=83257>.

Responsible Offshore Development Alliance, “[Draft Conceptual Permitting Roadmap for Offshore Wind Energy Facilities Originating in Federal Waters off the Coast of California](#),” written and submitted February 10, 2023, to Docket 17-MISC-01, TN# 248733. Available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=248733&DocumentContentId=83251>.

14 Coalition of environmental non-governmental organizations (ENGOS), “[ENGOS Comments - on Permitting Roadmap for Offshore Wind](#),” written and submitted February 10, 2023, to Docket 17-MISC-01, TN# 248737. Available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=248737&DocumentContentId=83257>.

Responsible Offshore Development Alliance, “[Draft Conceptual Permitting Roadmap for Offshore Wind Energy Facilities Originating in Federal Waters off the Coast of California](#),” written and submitted February 10, 2023, to Docket 17-MISC-01, TN# 248733. Available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=248733&DocumentContentId=83251>.

Wind energy developers (RWE and Golden State Wind) and developer groups (American Clean Power California and Offshore Wind California) expressed support for the identification of a lead permitting agency and a clear sequencing of events, requirements, and timelines. They also supported robust coordination among all agencies and the energy developers and adequate funding for the permitting agencies.¹⁵

Electricity transmission developer, Anbaric Development Partners, commented that any future interagency agreements should address subsea transmission options as well as subsea transmission facilities that may be proposed independent of an offshore wind energy project.¹⁶

The Bay Area Municipal Transmission group shared concerns over underused or stranded assets if offshore and onshore transmission infrastructure is developed before final design of the wind energy projects, before the impacts of the energy generation facility and port improvements are known, and before the power purchasers are known.¹⁷

Eight environmental organizations submitted comments expressing the need for and importance of:

- robust public engagement,
- strong mechanisms for interagency coordination,
- environmental review checklists, and

Offshore Wind Now Coalition, "[The permitting roadmap for offshore wind energy development off the coast of California](https://efiling.energy.ca.gov/GetDocument.aspx?tn=248753&DocumentContentId=83274)," written and submitted February 10, 2023, to Docket 17-MISC-01, TN# 248753. Available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=248753&DocumentContentId=83274>.

15 RWE Renewables, "[RWE Renewables comments on the California Energy Commission AB 525 Draft Offshore Wind Permitting Roadmap](https://efiling.energy.ca.gov/GetDocument.aspx?tn=248738&DocumentContentId=83255)," written and submitted February 10, 2023, to Docket 17-MISC-01, TN# 248738. Available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=248738&DocumentContentId=83255>

Golden State Wind, "[Golden State Wind AB525 Draft Permitting Roadmap Comments](https://efiling.energy.ca.gov/GetDocument.aspx?tn=248763&DocumentContentId=83284)," written and submitted February 10, 2023, to Docket 17-MISC-01, TN# 248763. Available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=248763&DocumentContentId=83284>.

Offshore Wind California and American Clean Power California, "[Comments by OWC & ACP - Permitting Roadmap](https://efiling.energy.ca.gov/GetDocument.aspx?tn=248736&DocumentContentId=83254)," written and submitted February 10, 2023, to Docket 17-MISC-01, TN# 248736. Available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=248736&DocumentContentId=83254>.

16 Anbaric Development Partners, "[Comments of Anbaric Development Partners on the Draft Permitting Roadmap for Offshore Wind](https://efiling.energy.ca.gov/GetDocument.aspx?tn=248719&DocumentContentId=83237)," Submitted February 9, 2023, to Docket 17-MISC-01, TN# 248719. Available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=248719&DocumentContentId=83237>.

17 Bay Area Municipal Transmission Group, "[BAMx Comments on the AB 525 Conceptual Permitting Roadmap](https://efiling.energy.ca.gov/GetDocument.aspx?tn=248723&DocumentContentId=83241)," written and submitted February 10, 2023, to Docket 17-MISC-01, TN# 248723. Available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=248723&DocumentContentId=83241>.

- the requirement of mitigation and data collection as part of any permit conditions.

They supported establishment of a separate science entity to direct monitoring and research priorities and house and synthesize information about the effects of offshore wind.¹⁸ The environmental organizations suggested establishing an entity like the Regional Wildlife Science Collaborative for Offshore Wind on the East Coast that could serve the West Coast in advancing the science on offshore wind impacts. They also suggested requiring energy development companies to fund robust scientific research and mitigation. The environmental organizations suggested that all stakeholders would benefit from a publicly available visual diagram, chart, or dashboard that illustrates the process for permitting offshore wind projects and the infrastructure needed to bring electrons from offshore floating turbines to end users.

The County of San Luis Obispo expressed support for engaging with local governments throughout the development of offshore wind projects, as well as the need for funding to local governments so that county staff has the ability stay well-engaged with the state and federal agencies.¹⁹

The Yurok Tribe stated concerns about federal, state, and local agencies making decisions about the tribe's ancestral lands without meaningful participation by the tribe. The tribe also expressed concern that joint review panels created with the purpose of permit streamlining could create a legal vacuum where no agency is legally charged with consulting with tribes. The letter highlighted that the tribe would prefer to have the opportunity to be a member of any panel that will have the authority to make decisions affecting the Yurok ancestral lands. The tribe also stated it is essential that any joint review process satisfy all the NEPA and CEQA requirements with regard to the tribes, such as meaningful consultation, consideration of effects on tribal cultural resources and potential violations of tribal laws protecting the environment, and invitation of tribes to participate in the scoping process and setting time limits on the review process.²⁰

The Northern Chumash Tribal Council expressed concerns over the industrialization of the shoreline, impacts to the environment, and impacts to the proposed Chumash Heritage National Marine Sanctuary. Furthermore, their comments highlighted the importance of and

18 Coalition of environmental non-governmental organizations (ENGOS), "[ENGOS Comments - on Permitting Roadmap for Offshore Wind](https://efiling.energy.ca.gov/GetDocument.aspx?tn=248737&DocumentContentId=83257)," written and submitted February 10, 2023, to Docket 17-MISC-01, TN# 248737. Available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=248737&DocumentContentId=83257>.

19 County of San Luis Obispo, "[County of San Luis Obispo comment on preliminary assessment of OSW economic benefits and permitting roadmap](https://efiling.energy.ca.gov/GetDocument.aspx?tn=248693&DocumentContentId=83208)," written and submitted February 8, 2023, to Docket 17-MISC-01, TN# 248693. Available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=248693&DocumentContentId=83208>.

20 Yurok Tribe, "[Yurok Tribe Comments to Draft Conceptual Permitting Roadmap](https://efiling.energy.ca.gov/GetDocument.aspx?tn=248755&DocumentContentId=83272)," written and submitted February 10, 2023, to Docket 17-MISC-01, TN# 248755. Available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=248755&DocumentContentId=83272>.

need for consultation with the tribe.²¹ The tribe stated that carbon-free sources of electricity can be developed responsibly if siting and permitting decisions are based on sound science and informed by key experts and stakeholders. Avoiding sensitive habitat areas, requiring strong measures to protect wildlife throughout the development process, and comprehensive monitoring of wildlife and habitat before, during, and after construction are all necessary steps for responsible offshore wind energy development. They also noted the importance of baseline monitoring being established before the offshore wind (OSW) farms are explored and developed, to assess the impacts on the broad diversity of marine life. The tribe notes that monitoring must continue through the development, implementation, and lifetime of the OSW farms to assess damage and institute wildlife protection mitigation.

The fishing group, Responsible Offshore Development Alliance, stated its opposition to a process where the Bureau of Ocean Management (BOEM) identifies where offshore facilities will be located instead of a process in which ocean users inform BOEM where offshore facilities could be placed to minimize and avoid impacts to ocean users. It expressed support for using tools like spatial planning suitability models to identify areas where wind energy turbines and other uses could coexist.²² The West Coast Pelagic Conservation Group's comment letter supported Responsible Offshore Development Alliance's comments.²³

The Alliance of Communities for Sustainable Fisheries commented that the permitting roadmap should identify when and how impacts from offshore wind development should be addressed and compensated. Its letter also highlighted its belief that any state agency review of offshore wind energy development should contain a full socioeconomic analysis of the immediate, long-term, and cumulative impacts of offshore wind on California's fishermen and their communities.²⁴

The environmental justice organization, Brightline Defense, commented that the permitting roadmap should clearly identify and include transparent opportunities for public engagement

21 Northern Chumash Tribal Council, "[Comments on the Draft Assembly Bill 525 Report](https://efiling.energy.ca.gov/GetDocument.aspx?tn=248768&DocumentContentId=83302)," written February 10, 2023, and submitted February 13, 2023, to Docket 17-MISC-01, TN# 248768. Available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=248768&DocumentContentId=83302>.

22 Responsible Offshore Development Alliance, "[Draft Conceptual Permitting Roadmap for Offshore Wind Energy Facilities Originating in Federal Waters off the Coast of California](https://efiling.energy.ca.gov/GetDocument.aspx?tn=248733&DocumentContentId=83251)," written and submitted February 10, 2023, to Docket 17-MISC-01, TN# 248733. Available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=248733&DocumentContentId=83251>.

23 West Coast Pelagic Conservation Group, "[OSW econ benefits 17 MISC 01](https://efiling.energy.ca.gov/GetDocument.aspx?tn=248760&DocumentContentId=83277)," submitted February 10, 2023, to Docket 17-MISC-01, TN# 248760. Available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=248760&DocumentContentId=83277>.

24 Alliance of Communities for Sustainable Fisheries, "[Comments - on the CEC's draft OSW Permit Roadmap](https://efiling.energy.ca.gov/GetDocument.aspx?tn=248752&DocumentContentId=83276)," written and submitted February 10, 2023, to Docket 17-MISC-01, TN# 248752. Available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=248752&DocumentContentId=83276>.

and input that go beyond what is minimally required by law. It also commented that the permitting roadmap should describe project impact monitoring and adaptive management practices, as well as decommissioning processes to ensure facilities are not abandoned. Its letter also stated that the permitting roadmap should identify opportunities to decommission fossil fuel infrastructure, especially near low-income and disadvantaged communities.²⁵

The Offshore Wind Now Coalition commented that the permitting roadmap should provide more clarity on how California agencies will coordinate environmental permitting and studies, develop strategies to protect wildlife and the environment, and further identify opportunities for communities and California tribes to provide feedback.²⁶

BOEM's comments informed the CEC of recently proposed BOEM rule changes that would modernize its existing rules and provide clarity, streamline processes, and help decrease costs and uncertainty with offshore wind development.²⁷ The CEC will take these proposed changes into account in finalizing a permitting roadmap as part of the AB 525 strategic plan.

These and other suggestions or recommendations will be considered when developing the potential permitting options outlined in this report for inclusion of a final permitting roadmap in the AB 525 strategic plan.

Finalizing the Permitting Roadmap

The CEC will conduct additional outreach with its interagency partners, tribes and tribal governments, fisheries, and various stakeholders over the next couple of months to gather input on the different options outlined in this report. The CEC will also work with the various stakeholders to develop a publicly available visual diagram, chart, or dashboard that illustrates the process for permitting offshore wind projects and related infrastructure. The CEC will also hold workshops to engage robust discussion and vetting of the options and approaches to create a coordinated, comprehensive, and efficient permitting process and develop recommendations for the permitting chapter of the AB 525 strategic plan.

25 Brightline Defense, "[The permitting roadmap for offshore wind energy development off the coast of California](https://efiling.energy.ca.gov/GetDocument.aspx?tn=248754&DocumentContentId=83273)," written and submitted February 10, 2023, to Docket 17-MISC-01, TN# 248754. Available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=248754&DocumentContentId=83273>.

26 Offshore Wind Now Coalition, "[The permitting roadmap for offshore wind energy development off the coast of California](https://efiling.energy.ca.gov/GetDocument.aspx?tn=248753&DocumentContentId=83274)," written and submitted February 10, 2023, to Docket 17-MISC-01, TN# 248753. Available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=248753&DocumentContentId=83274>.

27 Bureau of Ocean Energy Management, "[BOEM Comments - on CEC's Draft Conceptual Permitting Roadmap](https://efiling.energy.ca.gov/GetDocument.aspx?tn=248699&DocumentContentId=83216)," written and submitted February 8, 2023, to Docket 17-MISC-01, TN# 248699. Available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=248699&DocumentContentId=83216>.

Organization of the Report

This report updates the *Offshore Wind Conceptual Permitting Roadmap* to include additional discussion of the options available to provide for a coordinated, comprehensive, and efficient process for federal, state, and local permitting and environmental reviews for offshore wind energy facilities.²⁸ In this report, Chapter 1 provides background on offshore wind development in California and the development of this report. Chapter 2 describes the existing federal permitting and environmental review processes. Chapter 3 describes the existing state and local permitting and environmental review processes. Chapter 4 discusses critical interfaces between the state and federal permitting and environmental reviews and opportunities for increased coordination and collaboration. Chapter 5 discusses the options available for coordinated processes for review of future offshore wind development.

²⁸ Public Resource Code Section 25991.(b)(4).

CHAPTER 2:

Federal Permitting Agencies and Processes

This chapter provides an overview of the federal permitting agencies and processes associated with commercial offshore wind development off California's coast as required by AB 525.²⁹ The Department of Interior's BOEM has primary authority over permitting of offshore wind projects. The following eight primary federal agencies are involved in ocean wind energy development and permitting:

- Bureau of Ocean Energy Management (BOEM)
- Bureau of Safety and Environmental Enforcement (BSEE)
- Federal Aviation Administration (FAA)
- Department of Defense (DOD)
- U.S. Fish and Wildlife Service (USFWS)
- National Marine Fisheries Service (NMFS)
- U.S. Army Corps of Engineers (USACE)
- Environmental Protection Agency (EPA)
- U.S. Coast Guard (USCG)

In addition to the BOEM processes discussed in this chapter, offshore wind development would require compliance with some or all of the following: air and water quality regulations, endangered species reviews (both marine and terrestrial), military mission compatibility, aids to navigation, and local development permits.

Bureau of Ocean Energy Management

BOEM manages development of the nation's offshore energy and mineral resources and has exclusive authority to grant leases and approve facility construction and operations plans for renewable energy development in federal waters in the U.S. Outer Continental Shelf (OCS).³⁰ The Pacific OCS encompasses the area between state jurisdiction over the seafloor and waters

²⁹ PRC Section 25991.5(c) requires the CEC clearly define local, state, and federal agency roles, responsibilities, and decision making authority.

³⁰ The Energy Policy Act of 2005 authorized BOEM to issue leases, easements, and rights of way to allow for renewable energy development on the Outer Continental Shelf of the United States.

https://www.boem.gov/sites/default/files/renewable-energy-program/Regulatory-Information/hr6_textconfrept.pdf.

— from the mean shoreline out to 3 nautical miles — to 200 nautical miles from shore.³¹ As the lead federal agency for offshore lease processes, BOEM would consult with other federal agencies with jurisdiction over offshore wind permitting. BOEM may establish formal *cooperating agency* agreements with other agencies to facilitate the required environmental review under the National Environmental Policy Act (NEPA) for all required permits.³² BOEM consults with federally recognized tribes on a government-to-government basis throughout the offshore wind authorization process.

BOEM issues leases and approvals for construction and operations plans for offshore wind energy development under a clearly articulated leasing process conducted under the authority of the Outer Continental Shelf Lands Act.³³ The leases and approvals for offshore wind development are carried out under the implementing regulations of the act, other applicable federal laws, and the final sale notice and accompanying lease documents.³⁴ BOEM's regulatory process consists of four sequential phases: planning and analysis, leasing, site assessment, and construction and operations.³⁵ As described below, BSEE shares some responsibilities with BOEM in the site assessment and construction and operations phases.

Figure 1 depicts BOEM's energy approval process timeline, which could take up to 10 years to complete — beginning with initiation of the leasing process and ending with an operating wind energy project.³⁶

31 BOEM webpage "Outer Continental Shelf," <https://www.boem.gov/environment/outer-continental-shelf>.

32 A cooperating agency means any federal agency, other than a lead agency, that has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposed project or project alternative.

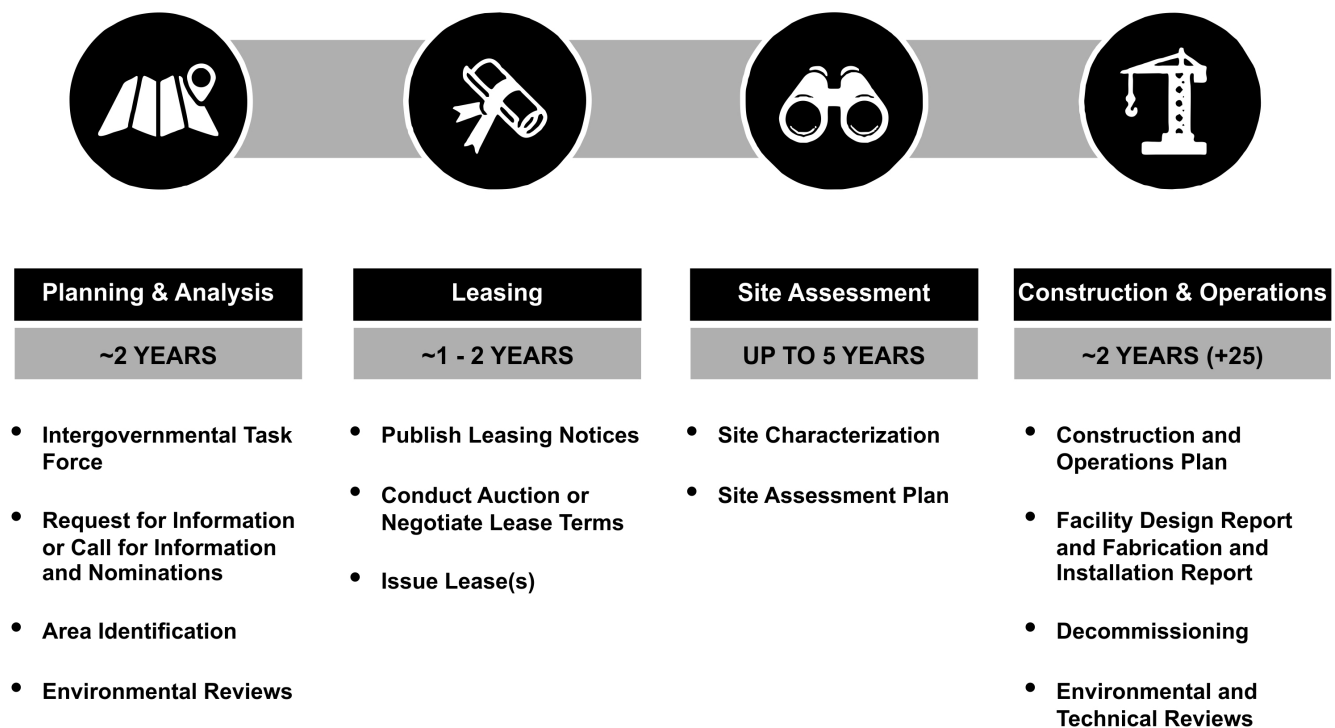
33 <https://www.boem.gov/oil-gas-energy/leasing/ocs-lands-act-history#:~:text=The%20Outer%20Continental%20Shelf%20Lands,which%20are%20under%20U.S.%20jurisdiction.>

34 https://www.boem.gov/sites/default/files/uploadedFiles/30_CFR_585.pdf

35 For more information, see BOEM California Activities: <https://www.boem.gov/California>, and A Citizens Guide to the Bureau of Ocean Energy Management's Renewable Energy Authorization Process: <https://www.boem.gov/sites/default/files/renewable-energy-program/KW-CG-Broch.pdf>

36 This figure only shows BOEM activities. BSEE's responsibilities are described later in this chapter.

Figure 1: BOEM’s Four-Phase Process for Energy Project in the OCS



Source: BOEM webpage, [Regulatory Framework and Guidelines](https://www.boem.gov/renewable-energy/regulatory-framework-and-guidelines), <https://www.boem.gov/renewable-energy/regulatory-framework-and-guidelines>

Planning and Analysis Phase

During the planning and analysis phase, BOEM publishes a call for information and nominations in the Federal Register to seek out interested developers and obtain comments on potential site conditions and resources for the area. Through this call, BOEM seeks public input and stakeholder engagement. After reviewing the public input and developer nominations, BOEM delineates wind energy areas (WEAs), which are the boundaries within a given call area that will be considered for a competitive lease auction. Once these WEAs have been identified, BOEM initiates the first phase of its NEPA review, for which BOEM serves as the lead agency. This first NEPA review begins with BOEM issuing a notice of intent to conduct an environmental analysis for the call area.

Under current regulations, this analysis is most likely to be an environmental assessment (EA).³⁷ Federal and state agencies, as well as tribes, will be contacted for input, and early

³⁷ An Environmental Assessment is a comprehensive study that identifies whether or not a federal action has the potential to cause significant environmental effects, such as impacts to biodiversity, environmental justice, wetlands, air and water pollution, traffic, geotechnical risks, public safety issues and others. In contrast, a federal agency must prepare an Environmental Impact Statement when it determines that a proposed action may have

public comment periods will be held during the initial NEPA review process. The EA prepared by BOEM for WEAs focuses on the potential environmental consequences of activities that take place after issuance of wind energy leases. These include site characterization activities (that is, biological, archaeological, geological, and geophysical surveys and core samples) and site assessment activities (that is, installation of meteorological buoys). Otherwise, if it is determined, based on the evidence and analysis in the EA, there are no significant environmental effects, BOEM will issue a finding of no significant impact. If BOEM determines that the proposed project is a major federal action that will significantly affect the environment and more information is needed, BOEM will issue a notice of intent to draft an environmental impact statement (EIS) for the second NEPA review.

Leasing Process

The second phase is the leasing process, which begins once BOEM issues a proposed sale notice (PSA) for the identified WEAs. The leasing phase results in the issuance of a commercial wind energy lease. Leases offshore California are expected to be issued through a competitive process. A commercial lease gives the lessee the exclusive right to subsequently seek BOEM approval for development of the leasehold, but the lease does not grant the lessee the right to construct any facilities. Rather, the lease grants the lessee the right to use the lease area in developing its plans, which must be approved by BOEM before the lessee can move on to the next stage of the process. BOEM then publishes a final sale notice (FSN) and conducts a competitive auction. The leasing phase ends when the lease is awarded to the winning applicant(s). Once a lease is issued and executed, the lessee is permitted to submit their site assessment and construction plans, which must be approved by BOEM before the lessee can construct the facilities. BOEM is issuing leases off the California OCS, as discussed in Chapter 4.

Site Assessment Phase

The third phase of BOEM's regulatory process is site assessment and includes the submission of a site assessment plan (SAP), which describes the proposed site assessment facility, the installation and operation of the facility, and the site conditions. The lessee will also submit survey plans to BOEM and conduct surveys during the site assessment phase that described the collection of site characterization data to inform the SAP and construction and operations plan. BOEM estimates that the site assessment phase can take up to six years after lease issuance — up to one year for a *preliminary term* to develop a SAP and up to five years for the *site assessment term*.

significantly environmental effects. A categorical exclusion is when a Federal agency determines that individually or cumulatively an action does not have a significant environmental affect for which neither an environmental assessment nor an environmental impact statement is normally required. <https://www.epa.gov/nepa/national-environmental-policy-act-review-process>

During the preliminary term, the California lessees are required to prepare specific types of communications plans, described below.

Lessees must prepare and submit survey plans to BOEM in support of physical, biological, or cultural resources surveys. The survey plans must be consistent with the communications plans described below. BOEM must review survey plans prior to lessees conducting any surveys. If a lessee chooses to develop a SAP, it must be submitted to BOEM no later than one year from the date of lease issuance. A SAP describes the activities, such as installation of meteorological towers or meteorological buoys; a lessee's plans to perform for the characterization of the commercial lease, including a project easement; or testing of technology devices.³⁸ BOEM's experience over the last 12 years shows that meteorological buoys (MET buoys) have proven to be a cost-effective way to collect data.³⁹

After winning a renewable energy lease, the awardee has one year to submit a SAP to BOEM. The SAP must be approved by BOEM before the applicant can install the described site assessment facility within the lease area. While it is possible to request an extension on the one-year deadline to submit the SAP, doing so could extend the permitting timeline.

Lessee Communication Plans

The lessees must provide an agency communication plan (ACP) and host a related meeting with federal, state, and local agencies (including harbor districts) with authority related to the lease area. The ACP ensures early information sharing and focused discussion of potential issues. The ACP must describe the strategies that the lessee intends to use for communicating with these entities and should outline specific methods for engaging with and disseminating information. It also allows collaborative identification of solutions to improve the quality and efficiency of various agency decision-making processes and promotes the sustainable development of offshore wind energy projects. Accordingly, the ACP should include detailed information and protocols for regular engagement with permitting, planning, and resource agencies, including:

38 More specifically, a SAP must describe how a lessee will conduct a resource assessment (e.g., meteorological and oceanographic data collection) or technology testing activities; and include data from physical characterization surveys (e.g., geological and geophysical surveys or hazards surveys); and baseline environmental surveys (e.g., biological or archaeological surveys).

39 MET buoys are data collection buoys fitted with meteorological and oceanographic sensors, deployed at specific locations to observe in-situ Met-Ocean data and subsea parameters at regular intervals. BOEM has proposed to eliminate unnecessary requirements for deployment of MET buoys and other rule changes to streamline and improve the process for offshore wind.

<https://www.boem.gov/sites/default/files/documents/renewable-energy/regulatory-framework-and-guidelines/Mod%20Rule%20NPRM.pdf>

- The types of engagement activities, for example, one-on-one meetings, interagency meetings, open information sharing meetings, and so forth.
- The frequency of proposed engagements and meetings, for example, monthly, quarterly, biannually, annually, and so forth.
- Meeting locations and virtual platforms, and contact information, such as telephone numbers, email addresses, and so forth.

By the time of the first meeting with federal, state, and local agencies, within the 120 days of the lease effective date, all entities with likely review and approval authority will have been identified.

In addition to requirements for an ACP, each lessee must develop a Native American tribes communications plan (NATCP) that describes the strategies that the lessee intends to use for communicating with tribes that have cultural and historical ties to the lease area. The NATCP ensures early information sharing and focused discussion about potential issues. It is also intended to promote collaborative identification of solutions to ensure that tribes have an early and active role in providing input to the lessee before it makes decisions that may impact their cultural, economic, environmental, and other interests.

Lessees must also develop a fisheries communications plan (FCP) that describes the strategies the lessee intends to use for communicating with commercial fishing communities before and during activities in support of the submission of future plans (for example, survey plans, SAP, and construction and operations plans (COP). Among other things, the FCP must also include the strategy and timing of discussions with commercial fishing communities regarding the reduction of conflicts with facility designs and marine vessel operations.

Construction and Operations Phase

The fourth phase of BOEM's regulatory process includes COP review, which describes all proposed facilities and the installation and operational activities that the lessee will use for developing wind energy projects on a lease. This review includes the lessee's proposed construction activities, commercial operations, and conceptual decommissioning plans for all planned facilities, including onshore and support facilities and all anticipated project easements.⁴⁰ BOEM conducts environmental and technical reviews of COPs to decide whether to approve, approve with modification, or disapprove a COP. The lessee must receive BOEM approval or approval with modifications of the COP before any of the approved activities on the lease can begin.

BOEM will conduct a NEPA review for a COP, which will include coordination and consultation with other federal agencies as required by federal law. In addition, a lessee might need approvals from other federal agencies that could include, but not be limited to:

⁴⁰ <https://www.ecfr.gov/current/title-30/chapter-V/subchapter-B/part-585#585.620>

- the U.S. Department of Homeland Security,
- U.S. Coast Guard,
- U.S. Department of Defense
- U.S. Army Corps of Engineers
- U.S. Department of Transportation
- Federal Aviation Administration
- U.S. Environmental Protection Agency, and
- U.S. Department of Commerce, National Oceanic and Atmospheric Administration.

Applicants may wish to consider submitting their SAP and COP together to BOEM. By drafting and submitting the documents together, rather than waiting for the SAP decision before submitting a COP, applicants could potentially shorten the amount of time required for the overall offshore wind development permitting process. This second NEPA review process would begin when an applicant submits their SAP and COP documents, which would be applicable if the state and federal agencies agree to a joint NEPA and CEQA review. Under current regulations, it is anticipated that an EIS will be needed to fulfill the NEPA requirements for any offshore wind facility off California's coast.

BOEM's regulations describe the requirements for a COP and BOEM has also published a *Draft Notice of Intent (NOI) Checklist*, as guidance, to help lessees prepare their COPs.⁴¹ In October 2022, BOEM proposed revisions to the NOI Checklist that reflects BOEM's determination it can begin processing incomplete COP submissions, subject to a BOEM-reviewed supplemental filing schedule that allows lessees to submit information under a phased approach. According to BOEM, this revised approach identifies the minimum threshold for a partial COP submission that an applicant generally should meet before BOEM will initiate the NEPA analysis. Moreover, BOEM will consider conformance with the NOI Checklist when considering acceptance of federal Fixing America's Surface Transportation Act (FAST-41) initiation notices and setting timelines within coordinated project plans, where applicable."⁴²

The FAST-41 is a program that is designed to provide increased coordination, transparency, and accountability for infrastructure *covered projects*.⁴³ FAST-41 also increases accountability

41 A Notice of Intent is a formal announcement of intent to prepare an EIS as defined in Council on Environmental Quality (CEQ) NEPA regulations (40 CFR 1508.22). DOE publishes NOIs in the Federal Register. <https://www.boem.gov/sites/default/files/documents/about-boem/COP%20Guidelines.pdf>

42 [Draft BOEM NOI Checklist All ASLM Edits Incorporated CLEAN 9-29-22](#)

43 A covered project means any activity in the United States that requires authorization or environmental review by a Federal agency involving construction of infrastructure for renewable or conventional energy production, electricity transmission, surface transportation, aviation, ports and waterways, water resource projects, broadband, and others. [Public Law 114-94 Dec. 5, 2015](#).

through consultation and reporting on projects.⁴⁴ A covered project is subject to NEPA, likely to require a total investment of more than \$200 million and does not qualify for abbreviated authorization or environmental review processes under any applicable law.⁴⁵ Proposed infrastructure projects must obtain various permits and environmental reviews to ensure they are designed and constructed in a manner that protects public health, safety, cultural resources, and the environment, and that the public is informed about their potential impacts.⁴⁶

The FAST-41 includes an online Permitting Dashboard for federal agencies, project developers, and interested members of the public to track the federal government’s environmental review and authorization processes for large or complex infrastructure projects. This is intended to increase transparency through the publication of project-specific timetables with completion dates for all federal authorizations and environmental reviews.⁴⁷ As a data source for environmental review and authorization timelines, the Permitting Dashboard provides consistent data Federal agencies can use to analyze permit and review practices and identify ways to further improve the effectiveness and efficiency of these processes. FAST-41 is not mandatory; rather, project owners can request to take part in the FAST-41 process and an application for an eligible project must be approved.⁴⁸

Historically, BOEM has included in its commercial leases an operations term of 25 years. Commercial offshore wind leases issued by BOEM within the past several years—including the leases offshore California that were provisionally awarded in December 2022—have an operations term of 33 years.

Bureau of Safety and Environmental Enforcement

The Bureau of Safety and Environmental Enforcement (BSEE) now has authorities for renewable energy development on the Outer Continental Shelf, primarily for safety and environmental compliance in Phases 3 and 4. A final rule reassigning renewable energy

44 <https://www.energy.gov/oe/mission/transmission-permitting-and-technical-assistance-division/fast-41>
<https://www.energy.gov/oe/fast-41#%3A%7E%3Atext%3DFAST-41%20The%20Fixing%20America%E2%80%99s%20Surface%20Transportation%20Act%20was%2Cfor%20infrastructure%20projects%20being%20reviewed%20by%20federal%20agencies>

45 <https://uscode.house.gov/view.xhtml?path=/prelim@title42/chapter55/subchapter4&edition=prelim.>

46 <https://www.permits.performance.gov/about>

47 <https://www.permits.performance.gov/about>

48 The Infrastructure Investment and Jobs Act established FAST-41 permanent law and required that permitting performance schedules typically not exceed two years. <https://www.permits.performance.gov/fpisc-content/congress-expands-power-agency-reformed-infrastructure-permitting.>

responsibilities between BOEM and BSEE was published in the Federal Register on January 31, 2023. BOEM's regulatory process is now shared with BSEE. BOEM reviews construction and operation plans, followed by BSEE reviewing Facility design reports, fabrication and installation reports, and all things involving operations, including decommissioning.⁴⁹ The change recognizes that the scopes of the bureaus' roles and responsibilities have matured over the last decade and supports the department's commitment to independent regulatory oversight and enforcement in the renewable energy program. The transfer of regulations helps maintain high standards for worker safety and environmental compliance.

Federal Aviation Administration

The Code of Federal Regulations, Title 14, Part 77, requires an obstruction evaluation by the FAA's Obstruction Evaluation Group for any objects to ensure the safety of air navigation and efficient use of navigable airspace by aircraft. This could include wind turbines that may affect the national airspace, air navigation facilities, or airport capacity.⁵⁰

Department of Defense

The Department of Defense's (DOD) Mission Compatibility Evaluation (MCE) process (Part 211 of Title 32 of the Code of Federal Regulations) analyzes potential impacts to military operations. If impacts are identified, the DOD Clearinghouse works to identify mitigation strategies to minimize those impacts.⁵¹ Energy development project applicants are encouraged to seek informal reviews as early as possible to identify potential compatibility issues before submitting applications to the DOD Clearinghouse for the formal review. If a proposed energy project is known to be inside a military training route or in a radar surveillance line-of-sight that the DOD owns or operates in, then the project must be filed at least one year before construction.⁵²

U.S. Fish and Wildlife Service

The Migratory Bird Treaty Act prohibits the take — including killing, capturing, selling, trading, and transport — of protected migratory bird species without prior authorization by the U.S. Fish

49 <https://www.federalregister.gov/documents/2023/01/31/2023-00871/reorganization-of-title-30-renewable-energy-and-alternate-uses-of-existing-facilities-on-the-outer>

50 [Federal Aviation Administration, Obstruction Evaluation – Overview; https://www.faa.gov/air_traffic/obstruction_evaluation/.](https://www.faa.gov/air_traffic/obstruction_evaluation/)

51 The Clearinghouse acts as a single point of contact for Federal agencies; State, Indian tribal, and local governments; developers; and landowners, and provides a central forum for internal staffing. <https://www.acq.osd.mil/dodsc/>

52 10 U.S. Code § 183a (c)(6)

and Wildlife Service (USFWS). The USFWS provides environmental review for proposed energy projects for public and private lands.

The USFWS is one of two lead federal agencies for implementing the Endangered Species Act (ESA). The other lead federal agency is the National Oceanic and Atmospheric Administration (NOAA) Fisheries Service (discussed below). ESA provides a program for the conservation of threatened and endangered plants and animals and habitats in which they are found. The law requires consultation with the USFWS and or NOAA Fisheries Service to ensure that actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of designated critical habitat of such species. The law also prohibits any action that causes a "taking" of any listed species of endangered fish or wildlife. Likewise, import, export, interstate, and foreign commerce of listed species are all generally prohibited.⁵³

National Marine Fisheries Service (NMFS)

As discussed above, NMFS shares the responsibility of implementing the Endangered Species Act. In addition, NMFS shares the responsibility of implementing the Marine Mammal Protection Act (MMPA). The MMPA established a national policy to prevent marine mammal species and population stocks from declining beyond the point where they ceased to be significant functioning elements of the ecosystems of which they are a part. The MMPA specifically prohibits the "taking" of marine mammals in U.S. waters and by U.S. citizens on the high seas, and the importation of marine mammals and marine mammal products into the United States. The NMFS and USFWS are responsible for implementing the MMPA and have shared responsibility depending on the mammal species being affected.

For activities related to offshore energy development and production, there is a potential exemption, in the form of an incidental take authorization (ITA). The ITA authorizes the unintentional taking of small numbers of marine mammals, provided the activity would have a negligible impact on marine mammals and would have no unmitigable adverse impact on subsistence use of marine mammals.⁵⁴ The ITA may be issued as an "incidental harassment authorization" — an annual, site-specific authorization for activities with no potential for serious injury or mortality to marine mammals. This form requires a public review and

⁵³ 16 U.S. Code §1531 et seq.

⁵⁴ Instead of assessing impacts to the animals, this section of the ITC application assesses how proposed activities have the potential to impact the ability of Alaska Natives to conduct subsistence hunts. <https://www.fisheries.noaa.gov/national/marine-mammal-protection/apply-incidental-take-authorization#section-7:-anticipated-impact-of-the-activity>

comment period, as well as monitoring and reporting of the taking to verify a negligible impact.⁵⁵

The Magnuson-Stevens Fisheries Conservation and Management Act (MSA) is the primary law that governs marine fisheries management in U.S. federal waters. Its objectives include preventing overfishing, rebuilding overfished stocks, increasing long-term economic and social benefits, ensuring a safe and sustainable supply of seafood, and protecting habitat that fish need to spawn, breed, feed, and grow to maturity. NMFS is responsible for the implementation of the MSA and ensuring that U.S. fisheries comply with a wide range of conservation and management requirements. When a federal agency authorizes, funds, or undertakes an action that may adversely affect essential fish habitat, it must consult with NMFS.⁵⁶

U.S. Army Corps of Engineers

The U.S. Army Corps of Engineers (USACE) issues the Clean Water Act (CWA) Section 404-Individual Permit. The CWA Section 404 is to ensure that no fill or dredging will occur as part of a project if a practical alternative exists that is less damaging to aquatic environments and will not degrade national waters. A permit must be issued by the USACE before any dredging or constriction activities within U.S. navigable waters, unless the activity is exempt from Section 404 regulation.⁵⁷

The USACE also authorizes activities under the Rivers and Harbors Appropriation Act Section 10 (for Individual Permit), which regulates the construction of any structure in or over any navigable water of the U.S. A permit must be issued by the USACE before any activities can begin.⁵⁸

U.S. Environmental Protection Agency

The U.S. Environmental Protection Agency implements and enforces the Clean Air Act requirements for the OCS sources offshore of California. Projects within 25 nautical miles of the state's seaward boundary are required to comply with the air quality and permitting requirements of the nearest or corresponding onshore area. In some cases, OCS regulation may be delegated to a corresponding state or local air permitting agency. Projects beyond 25

55 <https://www.fisheries.noaa.gov/topic/marine-mammal-protection>

56 <https://www.fisheries.noaa.gov/topic/laws-policies/magnuson-stevens-act>

57 <https://www.epa.gov/cwa-404/policy-and-guidance-documents-under-cwa-section-404>

58 <https://www.spn.usace.army.mil/Missions/Regulatory/Jurisdiction-Determinations/>

nautical miles from the seaward boundary are subject to federal air quality requirements and will likely need an OCS permit.⁵⁹

U.S. Coast Guard

Under federal law, the U.S. Coast Guard (USCG) regulates the Approval for Private Aids to Navigation (PATON).⁶⁰ A PATON is a buoy, light, or day beacon owned and maintained by anyone other than the USCG. A permit is required for any PATON within navigable waters that are regulated by the federal government.⁶¹

Furthermore, the Ports and Waterways Safety Act authorizes the USCG to establish vessel traffic service or separation schemes for ports, harbors, and other waters subject to congested vessel traffic.⁶²

59 <https://www.epa.gov/caa-permitting/caa-permitting-epas-pacific-southwest-region-9>

60 Title 33 of the Code of Federal Regulations, Part 66 (33CFR66) <https://www.ecfr.gov/current/title-33/chapter-I/subchapter-C/part-66>

61 <https://www.pacificarea.uscg.mil/Our-Organization/District-11/Prevention-Division/PatonOne/>

62 For more information, visit: <http://uscode.house.gov/view.xhtml?path=/prelim@title33/chapter25&edition=prelim>

CHAPTER 3:

State and Local Permitting

This chapter provides an overview of the state permitting agencies and processes associated with commercial offshore wind development off California's coast as required by AB 525.⁶³ Since 2016, the CEC has been working closely with its state and local agency partners and a broad set of stakeholders to coordinate the planning and deployment of offshore wind resources. An essential element of developing floating offshore wind infrastructure, including the generation projects and associated transmission needed to bring the energy to shore, is conducting environmental reviews and securing necessary permits and entitlements. Components of wind energy projects in federal waters off California's coast, such as power export and data cables, extend from the BOEM lease areas to shore, crossing into the state's coastal zone and other state jurisdictions. California's coastal zone begins inland, ranging from several hundred feet to several miles shoreward of the mean high tide line of the sea and extends to three nautical miles offshore, including all offshore islands.

This chapter discusses the permitting and environmental review activities for offshore wind energy projects of the following primary state agencies:

- California State Lands Commission (CSLC)
- California Coastal Commission (CCC)
- San Francisco Bay Conservation and Development Commission (BCDC)
- California Department of Fish and Wildlife (CDFW)
- California Office of Historical Preservation (COHP)
- California State Water Resources Control Board (CSWRCB)

The CCC and the CSLC work together in regulating and managing the coastal zone, with the CCC overseeing permits for development activities within the coastal zone and state waters and the CSLC overseeing leases for activities and facilities on or over state-owned tide and submerged lands. Under current regulation, there are three key state processes: the California Submerged Lands Act (SLA), enforced by the CSLC, and the California Coastal Act and the Coastal Zone Management Act (CZMA), which are implemented by the CCC. In addition to discussing the CCC and CSLC, this chapter provides an overview of other state agencies with related permitting responsibilities. Local permitting processes are described as the various agencies and authorities depend on the specific location of offshore wind projects.

⁶³ PRC Section 25991.5(c) requires the CEC clearly define local, state, and federal agency roles, responsibilities, and decision making authority.

Appendix A presents a summary table that outlines the different permits required, the primary statutes under which permits are granted, and a short description of the agency's jurisdiction.

California State Lands Commission

The CSLC is the primary land manager for lands underlying state marine waters and has the authority to lease state lands for uses that are consistent with the *public trust* protections involving navigable waterways. The CSLC is expected to be the lead state agency responsible for the project components in state waters and onshore following CEQA.⁶⁴ As the CEQA lead agency, the CSLC would consult with state and local agencies to ensure that the prepared CEQA document adequately addresses each required law, regulation, and permit.⁶⁵

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and other waterways upon its admission to the United States in 1850. On tidal waterways, the state's sovereign fee ownership extends landward to the mean high tide line, except for areas of fill or artificial accretion or where the boundary has been fixed by agreement or a court. The California Legislature has periodically transferred portions of the state's prime waterfront lands, in trust, to about 85 cities, counties, and harbor districts. The lands are known as *granted lands* and include the major ports of Los Angeles, Long Beach, San Diego, San Francisco, Oakland, Richmond, Benicia, and Eureka. CSLC staff monitors the granted lands to ensure compliance with the terms of the statutory grants, the California Constitution, and the Public Trust Doctrine. However, land-use permissions and CEQA determinations for projects on these granted lands would come from the grantees and not the CSLC. Except for certain statutory provisions, the CSLC is not typically involved in day-to-day management operations for legislatively granted public trust lands.

In summary, the CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways and holds certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6301, 6306). All these tidelands and submerged lands granted or ungranted, as well as navigable lakes and waterways are subject to the

64 The California Environmental Quality Act (CEQA) CEQA applies to all California public agencies that carry out or approve projects. Generally, it requires state and local government agencies to inform decision makers and the public about the potential environmental impacts of proposed projects, and to reduce those environmental impacts to the extent feasible.

65 The Lead Agency is the public agency that has the primary responsibility for carrying out or approving a project. (State CEQA Guidelines Section 15367.)

The laws and rules governing the CEQA process are contained in the CEQA statute (Public Resources Code Section 21000 and following), the CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 and following), published court decisions interpreting CEQA, and locally adopted CEQA procedures.

protections of the Common Law Public Trust. In deciding whether to grant leases or permits, the CSLC will evaluate whether a proposed project is consistent with the Public Trust Doctrine. Courts have recognized that the Public Trust Doctrine is flexible and includes water-related public serving and recreational uses, as well as environmental protection, open space, and preservation of scenic areas. The overarching principle of the Public Trust Doctrine is that trust lands and trust assets belong to the statewide public and are to be used to benefit the statewide public rather than for local community or municipal purposes.

State Tidelands Lease

Any renewable energy project or ancillary facilities proposed for California's state waters, except those on legislatively granted lands discussed above, will be required to obtain a lease from the CSLC for use of state sovereign lands. After deciding on a specific area for the proposed project, a project proponent should seek a determination from CSLC staff of whether the project would occupy state sovereign lands under the jurisdiction of the CSLC or granted lands under the management of a legislative grantee. Uses of sovereign lands include both structures floating on the water, such as wind turbines, and the structures affixed to the ocean floor, such as any form of anchoring that may be used. After a determination of jurisdiction, CSLC staff will also identify the type of lease or approval required. For projects on state sovereign lands, the CSLC will act as the lead agency in the CEQA review for the project. Consequently, applicants should apply to the CSLC early on, as the application and the CEQA review processes can take significant time. Applicants must complete and submit to the CSLC all sections of the CSLC application, along with an application processing fee and minimum expense deposit.

Once the application is accepted as complete, CSLC staff will take all steps necessary to process the application, including title work, land descriptions, appraisals, and engineering and environmental review. CSLC staff will deem an application complete when an applicant has provided sufficient information to allow staff to determine the level and scope of CEQA review, the extent and location of state lands involved, fair compensation for the lease area to be used, and determination if the project is consistent with public trust resources and values and is otherwise in the state's best interests. CSLC staff will process the application and prepare necessary documents, including title work, land descriptions, appraisals, a lease, and engineering and environmental review.

Finally, CSLC prepares a staff report for the commission and recommends whether to approve or deny a proposed lease or permit. The staff report analyzes whether the proposed use or activity is in the State's best interest, consistent with the Public Trust Doctrine, and meets regulatory, tribal consultation, and CSLC environmental justice policy requirements.

California Coastal Commission

The California Coastal Commission (CCC), in partnership with coastal cities and counties, plans and regulates the use of land and water in the coastal zone under the California Coastal Act. The California Coastal Zone extends seaward to 3 nautical miles from shore, including all offshore islands, and extends inland to the Coastal Zone boundary, as defined in the Coastal

Act. The Coastal Zone boundary was drawn by the Legislature and in urban areas may be less than 1,000 yards from shore, while in rural areas it may extend 5 miles inland. Maps of the Coastal Zone are available on the CCC's website.⁶⁶

Coastal Development Permit

The CCC issues Coastal Development Permits (CDPs) for development within the areas of retained jurisdiction in the Coastal Zone and offshore in state waters. However, activities in the San Francisco Bay would require a permit from the Bay Conservation and Development Commission (BCDC). CDP applications must include adequate information to support a thorough analysis of impacts to coastal resources and consistency with Coastal Act policies, which is often satisfied through submittal of copies of any environmental documentation prepared for the project (CEQA reports). Although this application may be submitted after other permits are acquired, it is recommended that all project applicants consult early with the CCC on the information to be required with the application, as well identify key stakeholders that should be consulted. Application forms, information about permit fees, and other guidance are available on the CCC's website.⁶⁷ Many local jurisdictions have the authority to issue CDPs within their jurisdiction, in accordance with their certified local coastal program (LCP). In many circumstances, these permits may be appealed to the CCC for review. Please see the Local and Other Permitting section later in this chapter.

The CCC has suggested exploring options for consolidating local CDPs with CDPs in the CCC's original or retained jurisdiction. When a project straddles the jurisdictions of the CCC and a local government (with a certified LCP), the Coastal Act authorizes the CCC to process a consolidated permit if all parties agree. This would eliminate the need for separate CDPs using different standards of review and instead result in a single CDP where the standard of review is the Coastal Act, with the LCP providing guidance. In addition to simplifying the application review and hearing process, it would also eliminate a potential appeal process associated with a local CDP and could avoid the need to process and LCP amendment if there is a conflict with LCP policies. The consolidated permit process is currently being implemented to reduce regulatory timelines in the Coastal Zone for the statewide Broadband Middle Mile Network project.

Federal Coastal Zone Consistency

Section 307 of the federal CZMA requires that federally licensed or permitted activities be consistent with state coastal management policies. The CCC is a designated coastal zone management agency under California's Coastal Management Program. This means that the CCC conducts federal consistency review for federal activities or for projects that affect the coastal zone that need federal permits and licenses. The effects of a proposed project, rather

⁶⁶ <https://www.coastal.ca.gov/maps/czb/>

⁶⁷ See: <http://www.coastal.ca.gov/cdp/cdp-forms.html>

than the location, will determine whether a federal consistency review is required. Therefore, regardless of the location of an offshore wind farm, whether it is located inside or outside California's coastal zone, it can trigger a federal consistency review by the CCC if it will cause foreseeable effects on California's coastal resources.⁶⁸ For example, projects that require a federal action, permit, or license, such as a Rivers and Harbors Act Permit, a Clean Water Act permit, or a BOEM lease, would require a consistency review and submittal of a consistency certification (CC). When projects also need a CDP, the federal consistency review is generally done concurrently with CDP reviews as described above. Federal agencies cannot issue their license or permit until the CCC has either concurred with the CC or has waived the need for consistency.⁶⁹

The time needed to complete a CDP or CC (or both) review processes varies based on the type and amount of information needed about a particular proposed project, the complexity of the project and associated potential effects on coastal resources, and the level of coordination with other permit review processes. CCC staff recommends early consultation before preparing and submitting a CDP or CC application to ensure that biological reports, habitat reports, and hazard assessments provide the information needed for an efficient analysis. Once the CC application is complete and the CCC staff has the necessary information about a project, it has up to six months to schedule the CDP or CC for a decision at a public meeting. CCC staff prepares a report for the CCC that includes a recommended decision and conditions meant to ensure the project is fully consistent with the chapter three policies of the Coastal Act.⁷⁰ The recommendation is then considered at a monthly public hearing the CCC holds at different locations around the state.

Therefore, CEC staff encourage federal agencies to perform their permitting reviews concurrent with state coastal management agency review under the CZMA and encourage federal agencies to engage and coordinate with state agencies during the CZMA review to problem-solve and create efficiencies under each agency's authority.

San Francisco Bay Conservation and Development Commission

The BCDC was created by the California Legislature in 1965 to protect and regulate the land and water in the San Francisco Bay Area. As noted above, BCDC is also responsible for administering the federal CZMA within the San Francisco Bay segment of the California coastal zone to ensure that federal activities reflect BCDC policies.

⁶⁸ <https://www.coastal.ca.gov/fedcd/fedcndx.html>

⁶⁹ <http://www.coastal.ca.gov/fedcd/fedcndx.html>

⁷⁰ The Chapter 3 policies of the Coastal Act are the state's enforceable policies under its federal consistency authority.

A BCDC permit is required for any marine renewable energy project in the San Francisco Bay Area (land and in-water bay) that includes:

- Placing solid material, building or repairing docks, having pile-supported or cantilevered structures, disposing of material, or mooring a vessel for a long period in San Francisco Bay or in certain tributaries that flow into the bay.
- Dredging or extracting material from the bay bottom.
- Substantially changing the use of any bay structure or area.
- Constructing, remodeling, or repairing a bay-located structure

For projects in San Francisco Bay, BCDC (instead of the CCC) either concurs or objects to certification of federal coastal zone consistency.

California Department of Fish and Wildlife

As the trustee for the state's fish and wildlife resources, the CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, and habitat necessary for biologically sustainable populations of those species. In this capacity, the department administers the California Endangered Species Act (CESA), the Native Plant Protection Act, and other provisions of the California Fish and Game Code that afford protection to the state's fish, wildlife, and plant resources. CDFW is also recognized as a *trustee agency* under the CEQA. Under its jurisdiction, CDFW will provide comments, concerns, and recommendations regarding potential project impacts. Within CDFW, its Marine Region division provides project and CEQA review, as well as CESA consultation for all projects in marine and estuarine waters. For projects with a component above the mean high-tide line, the appropriate coastal land region of CDFW should also review potential projects. CDFW will review and provide comments with regards to potential impacts to the state's fish, plant, and wildlife and their habitats. Potential impacts include those to water quality and pollution, as well as impacts to recreational and commercial fisheries and sensitive habitats such as eelgrass.

State agencies are required to consult with CDFW to ensure that any action they undertake is not likely to jeopardize the continued existence of any endangered or threatened species or result in destruction or adverse modification of essential habitat, per CESA. If the project will result in the take of any fish, wildlife, or plant species listed as endangered or threatened under CESA, the applicant must apply for an incidental take permit (ITP) to avoid criminal and civil prosecution for unlawful take. CDFW can authorize take and issue an ITP if it finds that:

- the take is incident to an otherwise lawful activity,
- the impacts of the authorized take will be minimized and fully mitigated,
- the applicant has ensured adequate funding for the minimization and mitigation measures to be adopted, and
- the take associated with the project will not jeopardize the continued existence of the species.

In addition, CDFW requires a scientific collecting permit (SCP) that allows the take or possession of wildlife, including mammals, birds and the nests and eggs thereof, reptiles, amphibians, fish, certain plants, and invertebrates for scientific, educational, and propagation purposes.⁷¹ Please see the Site Assessment Phase section in Chapter 4 for details about the SCP.

Lastly, if a project would substantially impact any river, stream, or lake, a project applicant must comply with CDFW's Lake and Streambed Alteration Program, which requires avoidance, minimization, and mitigation measures to protect fish and wildlife and their habitat.⁷²

California Office of Historical Preservation

The National Historic Preservation Act (NHPA) of 1966, Section 106, as amended (16 U.S.C. 470- 470t) requires federal agencies to consider the impact of federally funded projects on historic resources (any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register). BOEM has determined that issuing commercial or research leases and granting rights-of-way and rights-of-use and easements within the region constitutes an undertaking subject to Section 106 of the NHPA (16 U.S.C. 470f) and associated implementing regulations (36 Code of Federal Regulations Section 800) as the resulting site characterization and site assessment activities have the potential to cause effects on historical properties.⁷³

California State Water Resources Control Board

The State Water Resources Control Board works in coordination with its nine regional water boards to preserve, protect, enhance, and restore water quality in the state's marine and inland waters. The regional water boards have jurisdiction over their designated regions out to 3 nautical miles. For projects that overlap more than one regional jurisdiction, the State Water Resources Control Board will review the project.

Clean Water Act National Pollutant Discharge Elimination Permit

For offshore energy projects that have point source discharges of waste, either during the construction phase or in the operation phase, a National Pollutant Discharge Elimination System (NPDES) permit may be required. To apply for an NPDES permit, an applicant must submit a report of waste discharge at least 180 days before the proposed discharge. The report of waste discharge must be submitted to each regional water board for a project in its region. The Regional Water Boards may determine that a project is not a point source of water

⁷¹ <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=161295&inline>

⁷² <https://wildlife.ca.gov/Conservation/Environmental-Review/LSA>

⁷³ Public Resources Code 5024 compliance/consultation with OHP may also be required for any state owned historic resources affected by the lease granting agency (such as SLC).

pollution but is instead a nonpoint source. According to the state's Nonpoint Source Policy, the regional water boards may decide to regulate the discharge in one of three ways, by issuing 1) waste discharge requirements (WDR); 2) a conditional waiver of WDR; or 3) a prohibition.

Clean Water Act 401 Water Quality Certification

In California, a Clean Water Act Section 401 water quality certification (401 certification) and associated WDRs are required for all projects or activities that entail dredge and fill activities that may affect wetlands or the bed, banks, shore or sea bottom of any waters of the state. All aspects of the project, including energy production devices and any cables in, on, or under state waters (including wetlands), are considered in the review.

State law requires that a final environmental document developed under CEQA must be certified by a lead agency before a 401 certification may be issued. If the project is exempt from CEQA, the application should explain why and provide appropriate documentation. Such documentation should be in the form of a statement from an agency qualified to act as lead agency certifying the exemption. Applicants should consult with the appropriate regional water board or Division of the State Water Board during planning to ensure that the project CEQA analysis and application for a 401 certification address all impacts that may be regulated through 401 certifications.

Other State Agency Permitting Authorities

To ensure that the state's energy is safe, affordable, reliable, and clean, California has established three governing institutions: the CEC, the California Public Utilities Commission (CPUC), and the California Independent System Operator (California ISO). While these agencies do not have primary jurisdiction over the permitting of offshore wind projects, they have related responsibilities discussed below.

California Public Utilities Commission

The CPUC provides input on planning the bulk transmission system owned by the investor-owned utilities (IOUs). The CPUC has permitting authority and typically acts as a lead agency under CEQA for transmission and distribution infrastructure owned by the IOUs. In addition, energy projects that will be connected to the IOU distribution system or California ISO transmission system will likely require additional transmission infrastructure to enable the power produced by the project to be delivered to end users. The infrastructure connections may include a generation intertie line, a substation, a switching station, and other electrical elements. If the end user is a customer of an investor-owned utility, the equipment that is utility-owned or -operated may require the IOU to seek approval from the CPUC and will be subject to environmental review under CEQA. It is unclear what specific infrastructure may be required as part of generator development include potential upgrades to distribution or transmission systems that may be subject to CPUC permitting requirements. As discussed in Chapter 1, transmission permitting will be addressed in the AB 525 strategic plan.

California Independent System Operator

The California ISO is an independent, nonprofit public benefit corporation responsible for overseeing transmission infrastructure planning, operating a wholesale energy market, and managing the flow of electricity on the high-voltage, long-distance electric transmission lines that make up 80 percent of California's electricity system. While participating transmission owners (mainly California's private electric utilities) still own their lines, the California ISO independently manages power flow on the electric transmission system, much like a traffic controller routing electricity. This arrangement allows the California ISO to maximize the use of the electric transmission system and its electricity generation resources. The California ISO also ensures that electricity flows as intended within federal operational standards, and plans for any needed expansion or upgrade of the ISO-managed portions of the electric transmission system.

California Energy Commission

The CEC has exclusive permitting authority for all thermal power plants 50 megawatts (MW) and greater that are proposed for construction and operation in California. The issuance of a certificate by the CEC is in lieu of any permit, certificate, or similar document required by any state, local or regional agency, or federal agency (to the extent permitted by federal law), for such use of the site and related facilities. The authority supersedes any applicable statute, ordinance, or regulation of any state, local, or regional agency, or federal agency (to the extent permitted by federal law). This authority also covers the associated infrastructure for a project such as electric transmission lines, natural gas lines, and water pipelines. The CEC's permitting process (application for certification or AFC) ensures that proposed thermal power plants are reviewed in a transparent, public proceeding and are designed, constructed, and operated in a manner that protects public health and safety, promotes the general welfare, and preserves environmental quality. The application for certification process is a certified regulatory program under CEQA and the functional equivalent of a CEQA review. The certification process includes coordination with local, state, and federal agencies to ensure that these agencies' permit requirements are incorporated in the CEC's certificate for the facility.

In 2022, Assembly Bill 205 (Committee on Budget, Chapter 61, Statutes of 2022) authorized the CEC to establish a new certification program for eligible non-fossil-fueled power plants and related facilities to optionally seek certification ("opt-in" certification) from the CEC. Under this new opt-in certification process, a person proposing an eligible facility may file an application no later than June 30, 2029, for certain types of facilities that can be certified by the CEC, which now include:

- solar photovoltaic electrical generating and terrestrial wind power plants (50 MW or greater);
- energy storage system (capable of storing 200 MWh or more);
- a stationary power plant using any source of thermal energy (50 MW or greater), excluding fossil or nuclear fuels;
- certain transmission lines associated with these generating and storage facilities; and

- specified facilities that manufacture or assemble clean energy or storage technologies or related components.

The CEC is the lead agency under CEQA and is required to prepare an environmental impact report (EIR) for any facility that elects to opt-in to the CEC's jurisdiction. With exceptions, the issuance of a certificate by the CEC for an eligible facility is in lieu of any permit, certificate, or similar document required by any state, local, or regional agency, or federal agency to the extent permitted by federal law. The certificate issuance supersedes any applicable statute, ordinance, or regulation of any state, local, or regional agency, or federal agency to the extent permitted by federal law. Under the Opt-in Certification program, the CEC's authority does not supersede the authorities of the CSLC, CCC, BCDC, SWRCB or applicable regional water quality control board, or, in the case of manufacturing facilities, the applicable local air quality management district or the Department of Toxic Substances Control.

Local and Other Permitting

Of California's 58 counties, 19 border the Pacific Ocean. Depending on the location of proposed offshore wind development areas, several counties and cities could be involved in permitting some portion of an offshore wind development project. Counties and cities with certified local coastal programs may conduct Coastal Act review and issue CDPs within their areas of jurisdiction. County and city jurisdictions start at the mean high tide line and extend to the end of the coastal zone, which may vary based on location. A developer must obtain a local coastal development permit for development within the coastal zone. In addition, city permits could be required depending on the location and nature of offshore wind development and any ancillary portions of the project. Additional local ministerial approvals (such as grading, sewer, waste permits, and so forth) may also be required for offshore wind projects.

For offshore wind projects in the vicinity of the Humboldt and Morro Bay WEAs, permits and approvals may be needed from the following land use agencies.

Humboldt WEA

- Humboldt Bay Harbor, Recreation and Conservation District
- Humboldt County⁷⁴
- The cities of Arcata, Blue Lake, Eureka, Ferndale, Fortuna, Rio Dell, and Trinidad
- The North Coast Air Quality Management District
- Other jurisdictions if seaport facilities are outside the county

Morro Bay WEA

⁷⁴ Humboldt County is currently updating its Local Coastal Program, with a goal of gaining approval for permitting authority within the coastal zone in the county

- San Luis Obispo County
- The cities of Arroyo Grande, Atascadero, Grover Beach, Morro Bay, Paso Robles, Pismo Beach, and San Luis Obispo. Of note, the City of Morro Bay manages Morro Bay Harbor.
- San Luis Obispo County Air Pollution Control District
- Other jurisdictions if seaport facilities are outside the county

Staff will further evaluate how to address local permitting as part of the permitting roadmap in the AB 525 strategic plan.

Sequencing of Required Permits

An offshore wind project will likely require more than 20 permits or approvals from federal, state, and local jurisdictions. Some agencies require completion of permits or approvals by other agencies before they can initiate or finalize their own permit process. The following five dependent approval processes are foundational: CEQA, NEPA, the federal Endangered Species Act (FESA), California Coastal Act, and the federal CZMA.

CEQA review determines the timeline of the California Air Resources Board (CARB), California Endangered Species Act (CESA), Coastal Development, and discretionary local development permitting processes. The CARB and local development permits can be issued once the CEQA review has been completed. Coastal Development Permit review is usually conducted concurrently with CEQA, with a CDP decision issued shortly after CEQA review is concluded. The CESA process begins after completion of the CEQA review.

The FESA review determines the timeline of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and Clean Air Act permitting processes, and the approval of a construction and operations plan. The FESA and MSA reviews are initiated together, and both processes must be completed before approval of the construction and operations plan. The FESA review must also be completed before a Clean Air Act Permit can be issued. The Marine Mammal Protection Act (MMPA) cannot permit the take of FESA-listed marine mammals, which must be addressed through the FESA.

CZMA review is generally conducted in coordination with NEPA review and determines the timeline for the Rivers and Harbors Appropriations Act Section 10 (RHA), Fish and Game Code Section 1600 (FGC), CWA Sections 401 (CWA-401) and 404 (CWA-404), and the Private Aids to Navigation (PATON) processes. The CZMA review process relies on information included in NEPA review and should not be formally initiated until after a draft NEPA document has been issued, at the earliest. In addition, the CZMA review must be completed before the RHA and CWA-404 permits can be issued by the USACE. The CWA-401 and FGC applications must be submitted in conjunction, along with copies of the CWA-404 application. CWA-401 certification must be obtained from the Environmental Protection Agency before the Army Corps of Engineers can issue a CWA-404 permit. The RHA and CWA-404 permits must be issued by the USACE before the PATON permit application can be submitted to the U.S. Coast Guard. CCC has indicated that simultaneous review with federal agencies for CZMA creates efficiencies and allows problem solving between the state and federal agencies. They believe it will streamline

the process, allow regulatory certainty, create efficiencies, support information sharing, and reduce the need to request additional information from applicants.

The following eight permitting processes do not depend on the initiation or completion of other approvals. Each offshore wind developer would obtain these permits concurrent with the federal, state, and local permitting processes described in the previous chapters:

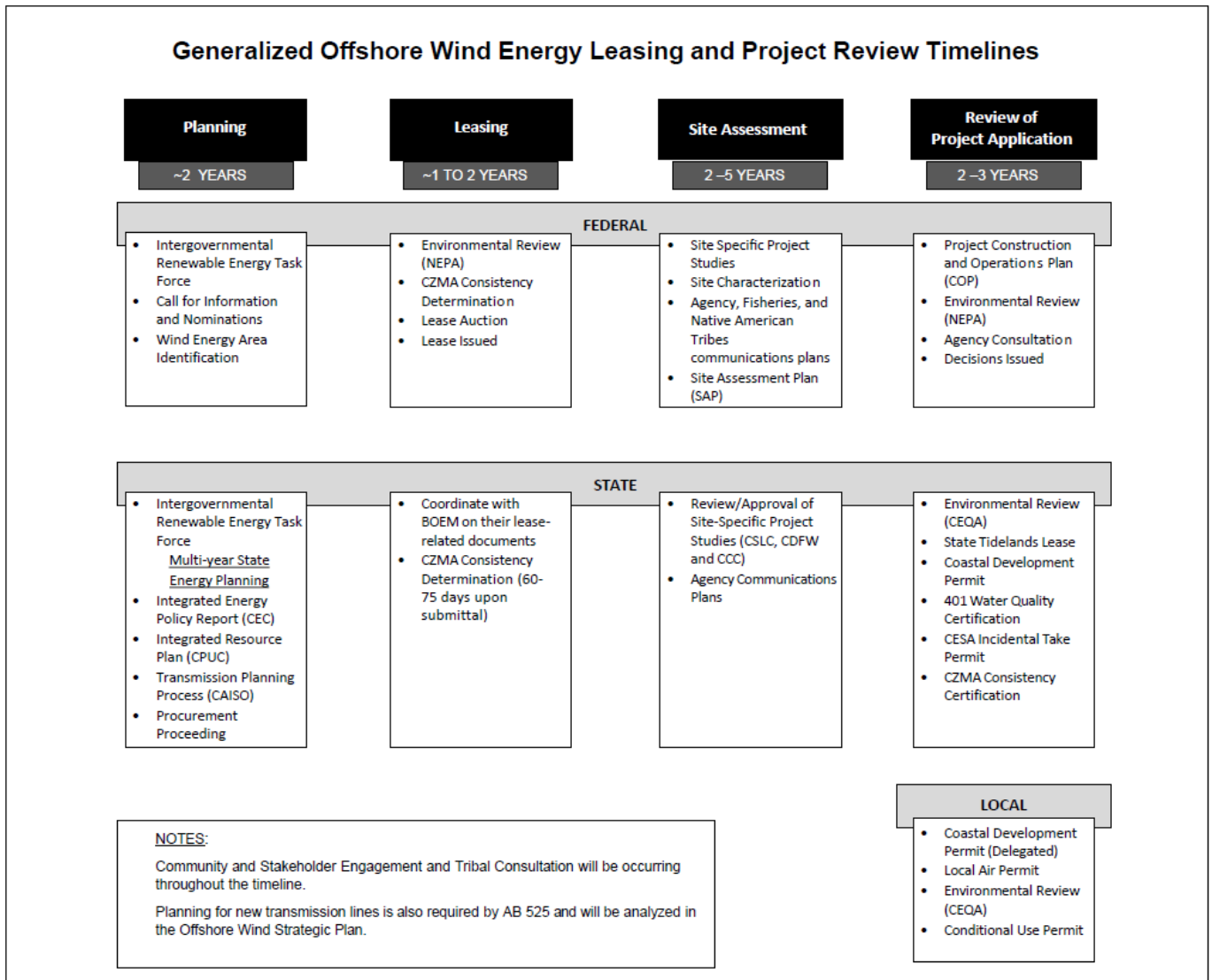
- Bald and Golden Eagle Protection Act
- Determination of No Hazard to Air Navigation
- Marine Mammal Protection Act
- Migratory Bird Treaty Act
- Mission Compatibility Evaluation
- National Historic Preservation Act Section 106
- Storm Water Permit
- Submerged Lands Act

General Timeline of Required Permits and Approvals

Figure 2 illustrates a general timeline for obtaining the required permits and approvals from federal, state, and local agencies. As shown, it could take between 6 and 10 years for a project developer to obtain all the needed federal approvals, 4 to 6 years to obtain the state approvals, and 2 to 3 years to obtain local approvals. This timeline does not include the construction period, which would begin after all permits are obtained.⁷⁵

⁷⁵ The transmission approvals shown in Figure 2 above are only for the “project gen-tie” (line from generator to first point of interconnection to the transmission grid). The major interconnection lines to which offshore wind project related lines would connect are *not* expected to be planned, permitted, and constructed in the 3-5 years window shown above.

Figure 2: Generalized Offshore Wind Energy Leasing and Project Review Timelines



Source: CEC

CHAPTER 4:

Federal and State Interfaces in Offshore Wind Permitting and Environmental Reviews

This chapter describes the interfaces between state and federal permitting agencies and coordination between environmental reviews under CEQA and NEPA as required by AB 525.⁷⁶ As described in the previous two chapters, numerous entities and review processes at the state and federal levels are involved in developing offshore wind projects. The sequence of reviews and approvals for offshore wind in federal waters begins with BOEM, which manages development of the national offshore energy and mineral resources. Ensuring close coordination between state and federal agencies will be critical to the timely and efficient permitting and review of offshore wind projects. There are numerous intersections between the permitting and environmental reviews of offshore wind projects at the state and federal levels, which are discussed below.

BOEM Activities in California to Date

As discussed in Chapter 2, BOEM's coordination and collaboration with federal, state, local, and tribal governments through intergovernmental renewable energy task forces begin in the planning and analysis phase and can continue throughout the construction and operations phase.⁷⁷ These task forces provide forums for information sharing to inform all facets of the BOEM process. Since 2016, the BOEM-California Intergovernmental Renewable Energy Task Force has been instrumental in informing and shaping BOEM's approach toward initiating a lease sale in the Pacific OCS.

The planning and analysis phase in BOEM's process has been completed for California's first offshore leases with calls for information and nominations and the establishment of wind energy areas (WEAs) for the North and Central Coasts of California. The OCS Lands Act authorizes BOEM to offer renewable energy leases for sale on the OCS competitively, unless BOEM determines there is no competitive interest. On October 19, 2018, BOEM published a *Call for Information and Nominations* in the Federal Register ("2018 Call") that identified three geographically distinct call areas on the OCS offshore California, delineated as the Humboldt

76 PRC Section 25991.5(c) requires the CEC include interfaces with federal agencies, including timing, sequence, and coordination with federal permitting agencies, and coordination between reviews under the California Environmental Quality Act (Division 13 (commencing with Section 21000)) and the federal National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.).

77 BOEM Fact Sheet on Wind Energy Commercial Leasing Process, [BOEM Wind Energy Commercial Lease Fact Sheet](#).

Call Area (offshore the North Coast), the Morro Bay Call Area, and the Diablo Canyon Call Area. (The latter two are located offshore the Central Coast.)⁷⁸ On July 29, 2021, BOEM published a *Call for Information and Nominations* in the Federal Register ("2021 Call") that delineated two extensions to the Morro Bay Call Area, known as the East and West Extensions.⁷⁹ In response to the 2018 Call and 2021 Call, BOEM identified the Humboldt Wind Energy Area (WEA) on July 28, 2021, and the Morro Bay WEA on November 12, 2021, which together total 373,267 acres. BOEM proposed a lease sale on May 31, 2022, for five lease areas in the Humboldt and Morro Bay WEAs in a proposed sale notice (PSN) published in the Federal Register.⁸⁰

BOEM conducted environmental assessments (EAs) under NEPA and made findings of no significant impact for leasing related activities conducted in the WEAs off the California coast. On January 11, 2022, BOEM announced the availability of the draft EA that assesses potential environmental impacts from site characterization and site assessment activities expected to take place after the issuance of commercial leases within the identified Humboldt WEA. On April 6, 2022, BOEM announced the availability of the draft EA that assesses potential environmental impacts from site characterization and site assessment activities expected to take place after issuance of commercial leases within the identified Morro Bay WEA. The EAs focused on potential environmental consequences of lease issuance, which include site characterization activities and site assessment activities expected to take place after issuance of wind energy leases in the Humboldt and Morro Bay WEAs. The availability of the final EA and finding of no significant impact for the Humboldt WEA were announced May 5, 2022.⁸¹ The availability of the final EA and finding of no significant impact for the Morro Bay WEA were announced October 5, 2022.⁸²

Concurrent with the environmental assessments under NEPA, BOEM also prepared *consistency determinations* required by the CZMA for the California WEAs.⁸³ BOEM's consistency determinations were reviewed by the CCC under the enforceable policies of the state's coastal

78 <https://www.federalregister.gov/citation/83-FR-53096>.

79 <https://www.federalregister.gov/documents/2021/07/29/2021-16134/commercial-leasing-for-wind-power-development-on-the-outer-continental-shelf-ocs-offshore-morro-bay>.

80 <https://www.federalregister.gov/citation/87-FR-32443>.

81 <https://www.boem.gov/renewable-energy/state-activities/humboldt-wind-energy-area>.

82 <https://www.boem.gov/renewable-energy/state-activities/morro-bay-wind-energy-area>.

83 The California Coastal Commission application of CZMA to BOEM's consistency determinations and the final reviews and adopted conditions and findings for each WEA. See: [Humboldt WEA Coastal Commission Consistency Determination Adopted Findings and Conditions](#) and [Morro Bay WEA Coastal Commission Consistency Determination Adopted Findings and Conditions](#).

program, and the CCC unanimously conditionally concurred with BOEM's consistency determinations in April and June 2022. BOEM determined that the CCC stipulations are appropriate and reasonable to balance the factors set forth in the Outer Continental Shelf Lands Act and included several conditions in the lease, sale including vessel speed requirements, marine mammal monitoring measures, site-specific spill prevention and response plan, fisheries liaison, and several other requirements.⁸⁴ The lease stipulations also require coordination with the CCC to ensure the lessee's survey and SAP submissions are coordinated and consistent, minimize impacts to coastal resources, and provide the data and information necessary for analysis of future consistency certifications.

Additional BOEM review and environmental analysis could trigger additional review by the CCC under authority granted by the federal CZMA.⁸⁵ Site assessment activities are reviewed under the CCC consistency determinations covering leasing activities.⁸⁶ Any activities not fully covered in these consistency determinations could require supplemental review.

Concurrently with its preparation of the EAs, BOEM conducted federally required consultations under the FESA and the Magnuson-Stevens Fishery Conservation and Management Act regarding potential impacts to listed species, designated critical habitat, and essential fish habitat.

BOEM prepared and executed a programmatic agreement to guide its consultations under Section 106 of the National Historic Preservation Act of 1966, which requires federal agencies to consider the effects on historic properties of projects they carry out.⁸⁷ Consulting parties include the State Historic Preservation Officers and Tribal Historic Preservation Officers. The programmatic agreement for the WEAs provides for consultations to continue through the construction and operations phase. BOEM initiated this consultation through letters on November 24, 2021, with the California State Historic Preservation Office (SHPO), Advisory Council on Historic Preservation, and the federally recognized Tribal Nation, Santa Ynez Band of Chumash Indians.

Although significant environmental review has been completed, BOEM has indicated that it "will conduct additional environmental reviews upon receipt of a lessee's proposed project-

⁸⁴ <https://www.federalregister.gov/documents/2022/10/21/2022-22871/pacific-wind-lease-sale-1-pacw-1-for-commercial-leasing-for-wind-power-on-the-outer-continental>

⁸⁵ 16 U.S.C. §§ 1451-1464.

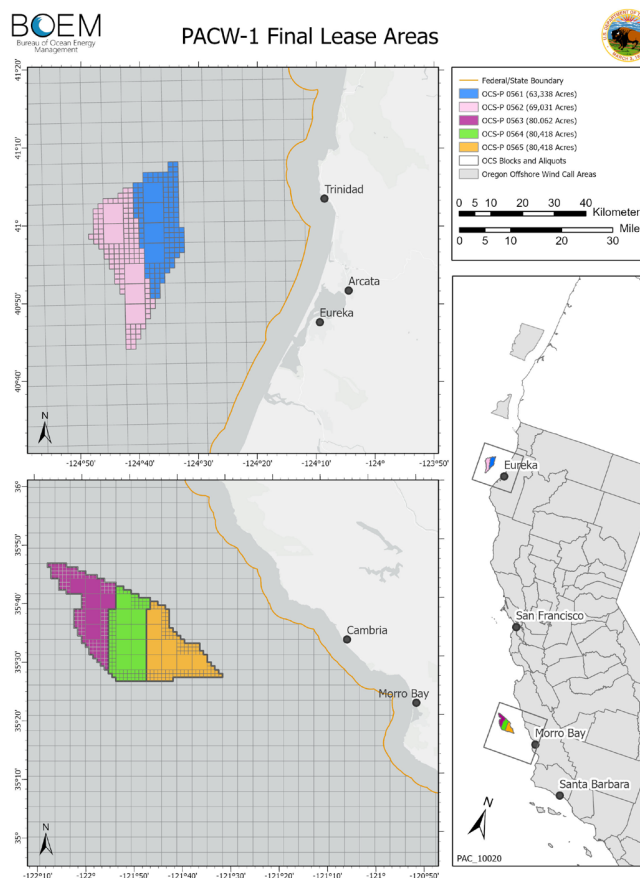
⁸⁶ [Federal Consistency Program \(ca.gov\)](https://www.ca.gov/federal-consistency-program).

⁸⁷ <https://www.federalregister.gov/documents/2022/10/21/2022-22871/pacific-wind-lease-sale-1-pacw-1-for-commercial-leasing-for-wind-power-on-the-outer-continental>

specific plans, such as a Site Assessment Plan or Construction and Operations Plan.”⁸⁸ The CEC understands this to mean that BOEM will conduct additional reviews if significant new information becomes available after a lessee completes site assessment activities.⁸⁹

On October 18, 2022, the Department of the Interior announced that BOEM would hold an offshore wind energy lease sale on December 6, 2022, for two lease areas within the Humboldt Wind Energy Area and three lease areas in the Morro Bay Wind Energy Areas, collectively “the WEAs.” Figure 3 shows the WEAs and lease sale areas. The WEAs are entirely within federal waters; the Morro Bay WEA is about 20 miles off the coast of Cambria, in San Luis Obispo County, and the Humboldt WEA is located about 20 miles off the coast of Eureka, in Humboldt County. Actions to finalize leases are expected in the next several months.

Figure 3: California Lease Sale Areas



Source: BOEM website, [CA PSN Lease Area Maps \(boem.gov\)](https://www.boem.gov/CA-PSN-Lease-Area-Maps)

88 Ibid.

89 30 CFR § 585.601(c)(2).

Site Assessment Phase

As discussed, BOEM is poised to begin Phase Three, or site assessment, activities. Some site assessment activities may require state permits or entitlements (for example, geophysical permit, scientific collecting permit, CDP, or CC), but they would not normally require preparation of a separate CEQA document. These are information collection activities that generally would not have significant impacts on the environment. Site assessment activities occur before the initiation of the major state permitting processes, such as an application for a state tidelands lease or coastal development permit. These activities also precede associated CEQA compliance through environmental review that is generally expected to lead to preparation of an EIR.

Site assessment activities also may require permits or other approvals from the CSLC and CDFW. Subject to several exceptions, CSLC requires a geophysical survey permit for activities performed on state sovereign lands, including tidelands, submerged lands, and the beds of navigable waterways.⁹⁰ A permittee must also obtain any permits or authorizations from other federal, state, and local agencies, as necessary. CSLC issues this permit under its Geophysical Survey Permit Program.⁹¹

CDFW requires a scientific collecting permit that allows “the take or possession of wildlife, including mammals, birds and the nests and eggs thereof, reptiles, amphibians, fish, certain plants and invertebrates for scientific, educational, and propagation purposes.”⁹² CDFW has 40 calendar days to determine if a permit application is complete and will generally approve or deny the permit within 60 calendar days of determining an application is complete.⁹³ Neither process requires permit-specific CEQA review. CDFW also issues Incidental Take Permits for the take of endangered, threatened, and candidate species under certain conditions.⁹⁴ CDFW has 30 calendar days to determine if an application is complete and 90 days to develop a permit. Scientific collecting permits and incidental take permits may be required in all four phases of offshore wind development depending on the activities needed to complete each phase and any ongoing requirements (for example, monitoring).

⁹⁰ [CCR, title 2, section 2100.02](#), [CCR, title 2, section 2100.04](#).

⁹¹ [CCR, title 2, section 2100.02 et.seq.](#)

⁹² <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=161295&inline>

⁹³ Cal. Code Regs., tit. 14, § 650 (e)(3)(B)

⁹⁴ Fish and Game Code, § 2081, subds. (a) and (b)

In certain circumstances, site assessment activities may require review under the Coastal Act or CZMA. If the proposed activity constitutes development or may have an effect on California's coastal resources, CCC authorization may be required. Applicants should consult with CCC staff to assess whether and what type of authorization may be appropriate.

As discussed above, site assessment may require state permits or entitlements, but they would not normally require preparation of a separate CEQA document, as they are information collection activities that generally would not have significant impacts on the environment. The initiation of the major state permitting processes, such as an application for a state tidelands lease or coastal development permit, is expected to lead to the preparation of an EIR for compliance with CEQA. However, there is a critical link with BOEM's site assessment phase in that the eventual EIR would rely on the best available scientific information, which will be developed, in part, through the site surveys and SAPs. It will be important for state lead CEQA agencies to require adequate site and resource assessments and studies for this phase. The information will allow the development of a robust and accurate description of the *environmental baseline* and *environmental setting* against which potential impacts would be measured in the state's CEQA documents.⁹⁵ Joint review of SAPs would facilitate this.

In addition to needing coordination between state and federal agencies to ensure the adequacy of site assessment and survey, the site assessment phase is also where lessees develop their communications plans for agencies, tribes, and fisheries. Close coordination in developing these plans, including who should be part of the ACP, will improve overall efficiency, save time, and allow state agencies to articulate their expectations on how certain outreach, engagement, and consultation should be carried out to meet state requirements. A potential roadblock to efficient permitting is receiving insufficient information for state and local agencies to find development applications complete, a necessary step to beginning environmental analysis under CEQA. State agency collaboration with BOEM and lessees during the site assessment phase can help ensure the information coming out of site assessment and site characterization activities, as well as communication plans, is adequate to inform future development applications and potentially reduce delays.

Construction and Operations Phase

Several state agencies have been coordinating on offshore wind planning since 2016 under the umbrella of the BOEM California Intergovernmental Renewable Energy Task Force. To date, a more formal permitting or leasing process by state or local agencies, along with required CEQA

⁹⁵ Under CEQA, the impacts of a proposed project must be evaluated by comparing expected environmental conditions after project implementation to conditions at a point in time referred to as the baseline. The changes in environmental conditions between those two scenarios represent the environmental impacts of the proposed project. The description of the environmental conditions in the project study area under baseline conditions is referred to as the environmental setting.

<https://ceqaportal.org/tp/Baseline%20and%20Environmental%20Setting%20Topic%20Paper%2008-23-16.pdf>

compliance, has not been initiated. State permitting processes rely on completion of CEQA before decisions on any discretionary permits. The only official state actions have been the CZMA consistency determinations for the WEAs discussed above.

BOEM's construction and operation phase is where the most substantial environmental review under CEQA and NEPA occurs. As discussed in Chapter 2, a COP is a detailed plan for the construction and operation of a wind energy project in a BOEM issued lease.⁹⁶ Before a lessee can enter the construction and operations phase, it must submit a COP for the operation of a wind energy project no later than six months before the completion of the five-year site assessment phase. The construction and operations phase involves BOEM conducting a NEPA review of the COP. The CEQA review begins at the state level when the lessee applies to a state agency for permitting. Concurrent COP review by BOEM and the various local and state lead and responsible agencies can also facilitate joint CEQA-NEPA review.⁹⁷ This joint review is possible if the state lead agency and BOEM agree that a joint document is appropriate, or if consistency can be achieved between separate documents for NEPA and CEQA, as appropriate.

The most extensive state permitting, and associated environmental review, would be initiated upon a lessee's application for a lease from the CSLC or local trustee of granted public trust lands.⁹⁸ For most industrial marine projects in or crossing state waters — including linear seafloor facilities like the subsea cables for the offshore wind projects — the initial application would be to the CSLC for a tidelands lease, and under that scenario the CSLC would be the CEQA lead agency.

The process and determinations related to the CCC are unique. Under the CZMA, an applicant for a COP submits a *consistency certification* to the CCC before the COP is approved.⁹⁹ The consistency certification certifies that the proposed development is consistent with California's

⁹⁶<https://www.boem.gov/sites/default/files/documents/about-boem/COP%20Guidelines.pdf>.

⁹⁷ A lead agency is the public agency that has the principal responsibility for carrying out or approving a project that is subject to CEQA. In contrast, a responsible agency is a public agency with discretionary approval authority over a portion of a CEQA project.

⁹⁸ A regional grantee agency is a local government who manages state tidelands and submerged lands in trust on behalf of the state of California pursuant to various statutes and the common law Public Trust Doctrine subject to the oversight of the California State Lands Commission. Additional information about the roles and responsibilities of a grantee local government can be found at: <https://www.slc.ca.gov/granted-lands/>

⁹⁹ 30 C.F.R. § 585.627. <https://www.govinfo.gov/app/details/CFR-2012-title30-vol2/CFR-2012-title30-vol2-sec585-627>.

Coastal Management Program and includes all necessary supporting data and information.¹⁰⁰ After the CCC receives a complete consistency certification, CCC staff will prepare a report and recommendation for CCC action. After public notice, the CCC, during public hearing, will decide whether to concur with, condition, or object to the applicant's consistency certification.¹⁰¹ If the CCC objects to the consistency certification, BOEM cannot approve the COP unless the objection is appealed and subsequently overturned by the U.S. Secretary of Commerce.¹⁰²

The CCC's review process for a consistency certification is separate but substantively similar to the CCC's consideration of a Coastal Development Permit (CDP). Both reviews consider the consistency of a project with the enforceable policies of the Coastal Act. For CDPs, the CCC typically acts as a responsible agency under CEQA and requires that applicants have landowner approval (that is, approval of a lease from the CSLC for offshore projects) before issuing a CDP. The CCC plans to consider CZMA and Coastal Act authorizations for offshore wind projects concurrently, including conducting a joint public hearing in front of the CCC. For this and other reasons, it is important that CEQA and NEPA processes are closely coordinated or undertaken jointly, to ensure both processes are completed on a timeline that aligns.

CEQA and NEPA Reviews

In many respects, the CEQA process mirrors the NEPA process, and there are many opportunities to ensure efficiency and consistency. Similar to the federal NEPA process that officially begins with BOEM's publication of an NOI, the public phase of the CEQA process is initiated with the publication by the lead agency of a notice of preparation (NOP). With the many unknowns about future projects, there is still uncertainty about whether the timing of issuance of an NOI would align with the timing of publication of the state's NOP. However, as discussed, a coordinated approach to jointly reviewing SAPs and COPs would help ensure these two-time frames stay aligned.

After receiving public comment and hosting a public *scoping* meeting,¹⁰³ the state lead agency would proceed with preparing a draft EIR, which can take roughly a year or more. This assumes the proposed project description is complete, and the baseline environmental

100 15 CFR §§ 930.57(a); 930.58. <https://www.ecfr.gov/current/title-15/subtitle-B/chapter-IX/subchapter-B/part-930/subpart-D/section-930.57>.

101 15 CFR §930.60. <https://www.govinfo.gov/app/details/CFR-2017-title15-vol3/CFR-2017-title15-vol3-sec930-60>.

102 CZMA § 307(c)(3)(A), 15 CFR §§ 930.121, 930.122, 930.64. <https://www.ecfr.gov/current/title-15/subtitle-B/chapter-IX/subchapter-B/part-930>.

103 Scoping is the gathering and analysis of information that a state agency will use to establish the breadth, or scope, of environmental review of a proposed project. A scoping meeting is an opportunity to meet with the local, state and federal officials who will ultimately review a project.

conditions are adequately characterized, as discussed in the section on BOEM's site assessment phase above. During development of the draft EIR, coordination among the state lead, responsible, and trustee agencies, and BOEM should occur to ensure that the EIR addresses and analyzes all resources and issues adequately and ensure all feasible and necessary mitigation measures are developed and incorporated. During the CEQA process, as with NEPA, the lead agency is required to describe and analyze a range of reasonable alternatives to the proposed project that would result in fewer environmental impacts.

Joint review is frequently organized through the execution of a memorandum for a joint review panel and is an effective way to facilitate issuance of permits and entitlements by responsible agencies and ensure alignment with the NEPA lead agency. These joint reviews allow responsible agencies to begin preparing their own permitting documentation early on so that once the EIR is final, those agencies can rely on that EIR with confidence that all issues under that agency's jurisdiction are addressed.

The state would also initiate government to government consultation with California Native American tribes under Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014). This process could be coordinated with BOEM's consultation process, under the National Historic Preservation Act, to ensure consistency, reduce duplication, and reduce the burden on tribal governments to fully engage.¹⁰⁴ The state and BOEM may also, with consent of consulting tribes, engage in a programmatic level consultation that encompasses several lessees and their projects — for example, one for the Central Coast WEA and one for the North Coast WEA — as a means of increasing efficient engagement and consistent outcomes or agreements.

Once a draft EIR has been published, CEQA requires the lead agency to accept comments for a *minimum* of 45 days, which can be extended to 60 days or more at the discretion of the lead agency, and hold at least one public meeting. Several public meetings might be needed for an EIR related to offshore wind development; however, to coordinate and expedite the process, the meetings could either be held jointly with BOEM or be held for multiple projects.

The timing for preparing the final EIR will depend on the nature and extent of public comment, as the lead agency must meaningfully respond to all public and agency comments. Also, depending on the information gathered during the public process, revising the EIR to incorporate changes to respond to comments can extend for up to a year. Between the draft and final EIRs, the lessee is likely to begin submitting their applications for permits from responsible agencies. Permits include a Streambed Alteration Agreement and Incidental Take Permit from CDFW, Coastal Development Permit from the CCC, a Clean Water Act Section 401 permit from the Regional Water Quality Control Board, and others.

104 https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/_RWF_NHPA_handout_508.pdf

Once the final EIR is completed, it must be considered by the decision-making body of the lead agency. For example, if the CSLC is the lead agency, the final EIR would be considered for certification as compliant with CEQA at one of its regularly scheduled business meetings.¹⁰⁵ This includes consideration and approval of the required CEQA findings and, if applicable, statement of overriding considerations, along with a mitigation monitoring program. Following approval, the decision-making body could consider approving the project and issue the primary entitlement, for example, CSLC's state tidelands lease. To reduce potential confusion, it is important that the state and BOEM are clear and agree on the project alternatives that are reviewed and the alternative that is ultimately selected as the preferred alternative. Once the state certifies the EIR, the responsible agencies with permitting authority can move forward with their own actions.

¹⁰⁵ Public Resources Code section 21081.

CHAPTER 5:

Offshore Wind Permitting Roadmap Options

California state agencies have worked with BOEM and the BOEM-CA Intergovernmental Renewable Energy Taskforce since 2016 to assess offshore wind. This partnership was originally memorialized in an MOU related to planning for BOEM leasing for offshore wind. The state agencies have continued to meet with BOEM as they move into the next phase of their process and execute the first leases for offshore wind in federal waters off California's coast. As discussed above/below, the next phase of the BOEM process is an opportune time to engage more formally with BOEM on coordinating and increasing the efficiency of the CEQA and NEPA processes for offshore wind. California can continue to build on this process for coordinated team approaches to permitting and environmental reviews, as discussed in the following chapter. Some of these options may require legislative actions, while others could be implemented through other mechanisms, for example, agreements, memoranda of understanding, or executive orders. In considering the various options it is essential to ensure that there is meaningful consultation with tribes and tribal governments, as well as engagement with fisheries and other stakeholders.

Coordinated Team Approaches

One option is to develop a coordinated team approach between the federal and state agencies that work on permitting patterned after the Renewable Energy Action Team (REAT) employed by California for permitting large solar thermal and photovoltaic projects in the California desert. Starting in 2008, California and the federal government coordinated the permitting of large-scale solar projects in the California desert to meet the requirements of federal loan guarantees and tax incentives under the American Recovery and Reinvestment Act (ARRA). Chief among REAT priorities were advancing state and federal renewable energy and conservation goals, meeting requirements of federal and state endangered species acts, and facilitating the efficient permitting of renewable energy projects in the Southern California desert. The REAT agencies took coordinated action through memoranda of understanding and a planning agreement. The REAT agencies also created the Desert Renewable Energy Conservation Plan (DRECP) with agency representatives from the four primary permitting agencies, including the CEC, Bureau of Land Management, U.S. Fish and Wildlife Service, and California Department of Fish and Wildlife.¹⁰⁶

¹⁰⁶ The primary goals of the DRECP were (1) advance federal and state natural resource conservation goals and other federal land management goals; (2) meet the requirements of the federal Endangered Species Act (ESA), California Endangered Species Act (CESA), Natural Community Conservation Planning Act (NCCPA), and Federal Land Policy and Management Act (FLPMA); and (3) facilitate the timely and streamlined permitting of renewable energy projects, in the Mojave and Colorado/Sonoran desert regions of California. The landscape-scale planning

Since 2016, California and BOEM have been working together in the BOEM-California Intergovernmental Renewable Energy Task Force.¹⁰⁷ The state agencies have coordinated their work in this forum, thereby establishing a more formal entity such as a REAT for offshore wind projects would naturally build upon and recognize the agency coordination to date. A REAT structure would not change agency authorities or jurisdictions but would add an element of coordination. Appropriate state and federal agencies' participation would be defined in establishing a group similar to the REAT.

Another coordination approach for offshore wind could be modeled after the San Francisco Bay Restoration Regulatory Integration Team (BRRIT). The BRRIT was formed by the San Francisco Bay Restoration Authority to improve the permitting process for multibenefit habitat restoration projects and associated infrastructure in the San Francisco Bay and along the shoreline of nine Bay Area counties. BRRIT consists of staff from state and federal regulatory agencies with jurisdiction over the projects. Together, these agencies implement a three-step process, which encompasses preapplication meetings with each other and applicants, postfiling coordination with each other and continuing communication with applicants, and permit issuance. A policy and management committee composed of agency managers coordinates with the BRRIT.

In addition to a coordinated team approach such as a REAT, an additional option could include designating one state entity to serve as a lead coordinator or project manager for all state agencies. The lead coordinator could work with the federal and other state and local agencies to communicate clearly information needs to lessees seeking state and local permits and entitlements. Having one state entity responsible for coordinating agency reviews could reduce confusion for applicants, maximize the efficiency of overlapping agency review and analyses, and ensure accountability of permitting agencies and lessees seeking agency approvals. This arrangement could include establishing schedules, sequencing, and milestones for the various processes required. This lead coordination agency could also serve as a central point of contact for noticing permitting hearings and working with interested stakeholders and the public. Outreach work would not take the place of the noticing requirements of each permitting agency but would enable stakeholders to better track projects.

Another option would be to develop a coordinated application process, consistent with applicable statutory and regulatory requirements of individual agencies. This would allow for a single application to the state with all information relevant for review, and concurrent, rather than sequential, review by all relevant state agencies of application materials submitted. This

effort included 22.5 million acres in seven California counties – Imperial, Inyo, Kern, Los Angeles, Riverside, San Bernardino, and San Diego.

107 The BOEM California Intergovernmental Renewable Energy Task Force, a partnership of members of state, local and federally-recognized Tribal governments and federal agencies. <https://www.boem.gov/renewable-energy/state-activities/california>.

would facilitate a consolidated application process for project applicants, allow for a single point of contact for applicants seeking updates about the status of their various state permits, and set up a framework for agencies to work together to evaluate their agencies' application materials and to provide coordinated responses to streamline information requests and application processing. To the extent concurrent permitting is feasible, this could also be explored.

Consolidated Permitting Approach

Another option would be for the state to establish the authority to permit offshore wind-related components located within state-jurisdictional waters with a single state agency. Under this option, all the actions and responsibilities of the state agencies related to offshore wind facilities as described in Chapter 3 would be considered in a single state agency permitting process. Reviews and approvals would also include subsea cables, electrical substations, or other infrastructure located within three miles of the shoreline. While this option could simplify some aspects of OSW permitting and provide clear jurisdiction among the state agencies as to which agency is the lead agency under CEQA, it also has significant drawbacks. For example, this option would require one entity to develop the technical and regulatory expertise to carry out the unique and complex permitting requirements in the marine and coastal environment instead of relying on the existing expertise already present in the agencies currently operating in this space. This could be an inefficient use of state resources and could contribute to permitting delays and provide an opening for legal challenges, which could introduce additional delays. This may also create confusion for stakeholders who are familiar with the current ocean planning and regulatory process and have been interacting with a suite of agencies for the last several years. The single agency option may be especially difficult to implement as it requires statutory changes to carefully integrate multiple permits and reviews in a seamless and sound process that creates efficiencies. For these reasons, coordinated permitting rather than consolidated permitting may be more appropriate to streamline permitting while making best use of existing agency expertise.

Joint Environmental Reviews

Joint NEPA and CEQA Review

The preparation of joint NEPA/CEQA documents could be considered to support the various state and federal permitting processes required for offshore wind energy projects. NEPA and CEQA serve the same purposes and have similar requirements in approach and content. Both laws are intended to promote coordination, improve public understanding, and lead to more informed decisions.¹⁰⁸ In addition, both statutes encourage a joint federal and state review in cases where a project requires both federal and state approvals. Joint documents could avoid

108 https://ceq.doe.gov/docs/ceq-publications/NEPA_CEQA_Handbook_Letter_Feb_2014.pdf

redundancy, improve efficiency and interagency cooperation, and be easier for applicants and the public to navigate.¹⁰⁹

There are challenges to preparing joint documents because there are differences between the requirements of each statute that require careful coordination between the federal and state agencies. For example, the treatment of alternatives is more stringent under NEPA, and NEPA does not require need to mitigate impacts while CEQA does. A joint document could be developed to meet the more demanding requirement. In addition, the agency timelines could be very different, partially because noticing requirements associated with NEPA documents (involving Federal Register notices and review by multiple levels of review by regional and Washington office staff) could impose additional time.

Joint documents could effectively communicate the needs of the state and federal agencies in the introductory sections, explaining how the joint document meets the requirements of both CEQA and NEPA. The joint document could also define the decision processes of each agency and ways that the consideration and selection of alternatives is approached by each, so the ultimate decisions made by each agency are consistent with their own legal requirements and provide an implementable project decision for the developer.

Early coordination among all lead and permitting agencies is essential when a joint document is being considered. Not only the two lead agencies' needs could be considered, but those of all other state and federal permitting agencies that will rely on the EIR/EIS. Such coordination is often achieved through a joint review panel with members from all lead and permitting agencies.

Not all federal agencies follow the same NEPA processes and outlines; each agency has a "NEPA handbook" that defines its process. Similarly, not all state agencies follow the same CEQA processes. However, these specific differences and processes could be defined early in a joint process through a detailed schedule and a memorandum of understanding.

Programmatic Environmental Review for CEQA

Another approach to facilitating permitting of complex regional projects is to develop a programmatic (or "program") EIR (PEIR) under CEQA. PEIRs can evaluate the general impacts that offshore wind development may create and can present either specific or broad mitigation approaches. Subsequent project-specific CEQA documents would then tier from the programmatic document, potentially limiting the scope and complexity of these subsequent documents.

Existing law provides the opportunity to prepare a PEIR that would be "prepared on a series of actions that can be characterized as one large project and are related ..." either geographically

109 https://ceq.doe.gov/docs/ceq-publications/NEPA_CEQA_Handbook_Letter_Feb_2014.pdf

or over time and are all part of the implementation of a program with a particular goal.¹¹⁰ The development of offshore wind is consistent with this type of goal. The advantages to using a PEIR are that it could “(1) Provide an occasion for a more exhaustive consideration of effects and alternatives than would be practical in an EIR on an individual action, (2) Ensure consideration of cumulative impacts, (3) Avoid duplicative reconsideration of basic policy considerations, (4) Allow the Lead Agency to consider broad policy alternatives and program wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts, and (5) Allow reduction in paperwork.”¹¹¹

After completion of a PEIR, subsequent CEQA analyses of individual projects can vary from requiring no new study to requiring a full project EIR. The law allows lead agencies to tier from the PEIR, potentially streamlining project-level review.¹¹² This ability to tier is furthered by the requirement that an agency incorporate feasible mitigation measures and alternatives developed in the PEIR into later activities.

A PEIR could be implemented for environmental review of offshore wind energy generation projects located in federal waters, because the permitting responsibility of state and regional agencies extends to state waters and coastal lands. A PEIR that includes a complete description of potential actions and a full range of potential impacts could provide substantial efficiencies during project-level reviews. While there could be challenges in defining impacts and mitigation due to the nascency of floating turbine technology and uncertain transmission interconnections, a PEIR could define a range of impact parameters that are known at the time of its writing.

110 CEQA Guidelines Section 15168 (a)

111 CEQA Guidelines 15168 (b)

112 “Tiering” refers to using the analysis of general matters contained in a broader EIR (such as one prepared for a general plan or policy statement) with later EIRs and negative declarations on narrower projects; incorporating by reference the general discussions from the broader EIR; and concentrating the later EIR or negative declaration solely on the issues specific to the later project.

APPENDIX A:

Offshore Wind Permits and Approvals

Table 1 provides a summary of the needed permits or approvals and identifies the agency with the responsibility for issuing the permit or providing the authorization.

Table 1: Agencies and the Permits and Actions Likely Required by Them for Wind Energy Development Offshore of California

Permit or Required Regulatory Authorization	Primary Statute	Jurisdiction
<u>Federal Agencies</u>		
Bureau of Ocean Energy Management (BOEM)		
Limited or Commercial Outer Continental Shelf (OCS) Lease	<ul style="list-style-type: none"> OCS Lands Act Energy Policy Act of 2005 	OCS Federal waters
National Environmental Policy Act (NEPA) Determination	NEPA (40 Code of Federal Regulations, Parts 1500-1508)	Federal actions
Bureau of Safety and Environmental Enforcement		
Safety and environmental oversight, compliance, and enforcement regulations for the Department's Offshore Renewable Energy Program	30 CFR 285	OCS Federal waters
U.S. Fish and Wildlife Service (USFWS)		
Mandatory consultation	<ul style="list-style-type: none"> Fish and Wildlife Coordination Act Endangered Species Act Federal Power Act of 2005 Migratory Bird Treaty Act 	<ul style="list-style-type: none"> Nationwide Federal waters and actions Endangered species and habitat
Eagle Take Permit	Bald and Golden Eagle Protection Act	Nationwide
National Marine Fisheries Service (NMFS) (also known as NOAA Fisheries, an office of the National Oceanic and Atmospheric Administration)		
Essential Fish Habitat Mandatory Consultation and Assessment	Magnuson-Stevens Fisheries Conservation and Management Act	Living marine resources within the U.S. Exclusive Economic Zone
NMFS and USFWS		

Permit or Required Regulatory Authorization	Primary Statute	Jurisdiction
Marine Mammal Protection Act (MMPA) Permit (Incidental Take Authorization)	MMPA (16 U.S. Code 1361-1407)	<ul style="list-style-type: none"> Federal waters U.S. citizens on the high seas Importation of marine mammals and marine mammal products into the U.S.
NMFS and/or USFWS		
§ 7 Endangered Species Act (ESA) Consultation, § 10 Take Permit if consultation finds a project would result in take	<ul style="list-style-type: none"> ESA Fish, marine mammal, seabird consultations 	<ul style="list-style-type: none"> NMFS for marine and anadromous species USFWS for select seabirds, terrestrial and freshwater species
U.S. Army Corps of Engineers (ACOE)		
Nationwide or Individual Clean Water Act (CWA) § 404 Permit and ACOE § 10 Permits	Section 404 CWA; Section 10, Rivers & Harbors Act	Nationwide
U.S. Coast Guard		
Private Aids to Navigation (PATON) Permit	Ports and Waterways Safety Act	Vessel traffic and marine environment safety and protection
Federal Aviation Administration (FAA)		
FAA No-Hazard Determination to Air and Navigation	Federal Aviation Act	Air traffic and airspace uses
Advisory Council on Historic Preservation		
Section 106 Consultation	National Historic Preservation Act	Federal actions
Environmental Protection Agency		
Clean Air Act (CAA) General Conformity	Clean Air Act	Federal actions
Department of Defense (DoD)		
DoD Siting Clearinghouse review	Mission Compatibility Evaluation 32 Code of Federal Regulation 211 - DoD Compatibility Approval	Military installations and areas

Permit or Required Regulatory Authorization	Primary Statute	Jurisdiction
<u>State Agencies</u>		
California Coastal Commission		
Certification of Consistency, Coastal Zone Management Act (CZMA) Federal Consistency Determination	CZMA §307	Statewide, where projects or activities may affect the state's coastal zone.
Coastal Development Permit	California Coastal Act, Public Resources Code §30000 et seq. CEQA Certified Regulatory Program	Statewide. Land and water in the Coastal Zone under the Coastal Act (~3 nm) except for San Francisco Bay
State Lands Commission		
State Tidelands Lease	Public Resources Code, §2000 et seq.	<ul style="list-style-type: none"> State marine waters except those on legislatively granted lands Ungranted tidelands, submerged lands, and beds of navigable lakes and waterways From mean high tide line out to 3 geographical miles
California Environmental Quality Act (CEQA)	Pub. Res. Code § 21000 et seq.	State and local discretionary projects
California Department of Fish and Wildlife		
Incidental Take Permit, California Endangered Species Act (CESA) Consultation	CESA, California Fish and Game Code §§ 2080 and 2081	Statewide. Conservation, protection, and management of fish, wildlife, plants, natural communities. Marine and estuarine waters.
Scientific Collecting Permit	California Fish and Game Code §§ 1002, 1002.5 and 1003	Statewide.
Lake and Streambed Alteration Agreement	California Fish and Game Code §1602	Statewide.

Permit or Required Regulatory Authorization	Primary Statute	Jurisdiction
State Water Resources Control Board (SWRCB)		
§ 401 Water Quality Certification	Clean Water Act § 401; Cal. Code Regs. tit. 23, § 3.28	Statewide to 3 nautical miles. SWRCB reviews projects overlapping multiple of its 9 regions/boards. If project is in one region, the appropriate Regional Water Quality Control Board (Regional Water Board) will review.
National Pollutant Discharge Elimination System (NPDES) Permit	Clean Water Act	Nationwide
California Public Utilities Commission (CPUC)		
Certificate of Public Convenience and Necessity (CPCN) or Permit to Construct (PTC)	Public Utilities Act, Public Utilities Code, section 1001 et seq, General Order 131-D	Statewide. Regulates privately owned electric, natural gas, telecommunications, water, railroad, rail transit, and passenger transportation companies. Investor-owned utility grid infrastructure (e.g., transmission lines, substations, switching stations).
California Independent System Operator (CAISO)		
Interconnection Agreement	Generator Interconnection Agreement per CAISO's Tariff as regulated by the Federal Energy Regulatory Commission	CAISO balancing authority areas. New electricity generating facilities.
Local Air Districts & California Air Resources Board (CARB)		
Air permit	Federal Clean Air Act	Statewide. CARB guides 35 local air pollution control districts or air quality management districts, which issue the permit.

Permit or Required Regulatory Authorization	Primary Statute	Jurisdiction
<u>Local Agencies</u>		
San Luis Obispo County and cities in San Luis Obispo County		
Encroachment or conditional use permit, lease, or easement	Varies by jurisdiction	
City of Morro Bay		
Encroachment or conditional use permit, lease, or easement	<ul style="list-style-type: none"> • Titles 13 to 17 of the Morro Bay Municipal Code. • Pub. Res. Code § 30600. • Morro Bay Muni. Code § 17.58.030 	Morro Bay Harbor
Humboldt County and cities in Humboldt County		
Encroachment or conditional use permit, lease, or easement	Varies by jurisdiction	
Humboldt Bay Harbor, Recreation and Conservation District		
Harbor permit or tideland lease	Humboldt Bay Harbor, Recreation and Conservation District Act, Pub. Res. Code § 6312	Humboldt Bay Harbor
Other (for local agency entitlements that would be necessary beyond Humboldt and San Luis Obispo counties)		

Source: CEC.

APPENDIX B:

Draft Conceptual Permitting Roadmap – Interagency Agreement Option

The *Draft Conceptual Permitting Roadmap*, released December 15, 2022, outlined an approach in which robust interagency agreements that articulate a common vision and shared commitments formed the cornerstone of successful large-scale planning efforts. In this report, this approach is referred to as the “interagency agreement approach.” This approach builds from other successful coordination processes such as the Desert Renewable Conservation Plan,¹¹³ the San Francisco Bay Restoration Regulatory Integration Team (BRRIT),¹¹⁴ and the FAST-41 model discussed in Chapter 2. These processes are described in more detail in the *Draft Conceptual Permitting Roadmap*, and the approach based on them is summarized below for the ease of the reader.

The interagency agreement approach to permitting envisions formalizing federal, state, and local agency relationships through memoranda of understanding (or agreements) and coordination plans to determine who does what by when, and how, considering unique needs and entitlements for north coast and central coast projects. The agreements are expected, at minimum, to contain the following elements.

Parties

Envision at minimum, all local, state, and federal entities with known or likely environmental review or permitting jurisdiction during the preliminary term (for example, site assessment surveys), site assessment plan, and construction and operations plan phases. The structure should allow for flexibility so that entities with known responsibilities can join the agreements at any time.

Efficient Permitting

The parties would:

- Commit to developing a single permit application checklist and, if necessary, one for the North Coast and one for the Central Coast that encompasses requirements of each permitting entity.
- Develop an integrated process for submittal and review of application materials whereby, to the extent feasible, applicants can submit one set of application materials that meets

113 https://eplanning.blm.gov/public_projects/lup/66459/133460/163124/DRECP_BLM_LUPA_ROD.pdf.

114 <https://www.sfbayrestore.org/sites/default/files/2021-03/BRRITFlowChart.jpg>.

the needs of each agency and is shared and reviewed jointly by the relevant state and local agencies.

- Create and implement a schedule for interagency coordination on review of site assessment survey plans, SAPs, COPs, CEQA review and compliance, and applications for local, state, and federal entitlements.
- Implement a project-specific permitting schedule with interim and final milestones, with a commitment to use best efforts to complete state and local permitting — collectively — within two years after the first project application is deemed complete by the lead agency.
- Create a process for a coordinated review of the completeness of project applications and work with lessees to expeditiously address project application deficiencies.
- Identify, in consultation with lessees, opportunities for joint environmental documents under NEPA and CEQA.
- Identify the CEQA lead agency and establish a joint review panel with appropriate parties to promote timely, collaborative, and comprehensive review and agreement on impact analyses and mitigation measures.

Staff-Level Interagency Coordination of Environmental and Permitting Processes

Establish a staff-level working group, modeled on the BRRIT and Renewable Energy Action Team (REAT), for coordination and engagement with lessees from prefilling through permitting to encompass site assessment surveys, SAPs, COPs, CEQA review and compliance, and applications for local, state, and federal entitlements.

State, Federal, and Local Agency Principal Coordination

Designate agency principals to meet regularly under a set schedule (at least one meeting per quarter and as necessary to achieve an agreed upon schedule) to receive updates from lessees and agency staff and provide a venue to resolve issues and hear from stakeholders and tribes.

Dispute Resolution

Establish a process to allow agency principals to resolve disputes.

Tribal and Stakeholder Engagement

Provide a venue for tribes and stakeholders to engage publicly with agency staff and principals to provide input into the agency processes (separate from and in addition to legally required tribal consultation and public process). As feasible, use the efforts of lessees to meet the requirements of their leases with BOEM to implement their NATCP, FCP, and other required outreach and engagement activities. Look to models of early public engagement, such as the

CSLC approach to engagement in their environmental review of offshore wind projects being proposed in state waters.¹¹⁵

Visibility and Accountability

Designate one state or local agency to establish permitting dashboard pages similar to the federal FAST-41 dashboard pages for status of federal infrastructure projects, but for state and local requirements. This same agency should host a webpage and public docket for each project.

Time Frames

The interagency agreement approach envisions the memoranda of understanding (or agreement) and coordination plans to be developed and executed by all participating federal, state, and local agencies within 180 days after lease issuance. There would be an option for agencies to be added as participants to agreements and coordination plans at any time moving forward. Figure 3 of the *Draft Conceptual Permitting Roadmap* shows the conceptual permitting roadmap, including a vision for public, stakeholder, and tribal opportunities to provide input into developing and communicating the environmental review and permitting of offshore wind off the coast of California.

¹¹⁵ <https://www.slc.ca.gov/renewable-energy/offshore-wind-applications>

APPENDIX C:

List of Acronyms

Term	Definition
401 certification	Clean Water Act Section 401 water quality certification
AB 525	Assembly Bill 525 (Chiu, Chapter 231, Statutes 2021)
ACP	Agency Communication Plan
ARRA	American Recovery and Reinvestment Act
BCDC	San Francisco Bay Conservation and Development Commission
BOEM	Bureau of Ocean Energy Management
BRRIT	San Francisco Bay Restoration Regulatory Integration Team
BSEE	Bureau of Safety and Environmental Enforcement
CAISO	California Independent System Operator
CARB	California Air Resources Board
CC	Consistency certification
CCC	California Coastal Commission
CDFW	California Department of Fish and Wildlife
CDP	Coastal Development Permit
CEC	California Energy Commission
CEQA	California Environmental Quality Act
CESA	California Endangered Species Act
CNRA	California Natural Resources Agency
COHP	California Office of Historical Preservation
COP	Construction and operations plans
CPUC	California Public Utilities Commission
CSLC	California State Lands Commission
CSWRCB	California State Water Resources Control Board
CWA	Clean Water Act
CZMA	Coastal Zone Management Act
DOD	Department of Defense
DRECP	Desert Renewable Energy Conservation Plan
EA	Environmental Assessment
EIR	Environmental Impact Report
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
FAA	Federal Aviation Administration
FAST-41	Fixing America's Surface Transportation Act
FCG	Fish and Game Code
FCP	Fisheries communications plan
FESA	Federal Endangered Species Act
FSN	Final sale notice

GW	Gigawatt
IOU	Investor-owned utility
ITA	Incidental take authorization
ITP	Incidental take permit
LPC	Local coastal program
MCE	Mission Compatibility Evaluation
MMPA	Marine Mammal Protection Act
MSA	Magnuson-Stevens Fishery Conservation and Management Act
MW	Megawatt
NATCP	Native American tribes communications plan
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NOI	Notice of Intent
NOP	Notice of Preparation
OCS	Outer Continental Shelf
PACW-1	Pacific Wind Lease Sale 1
PATON	Private Aids to Navigation
PEIR	Program Environmental Impact Report
PSA	Proposed Sale Notice
REAT	Renewable Energy Action Team
RHA	Rivers and Harbors Appropriations Act
SAP	Site assessment plan
SB 100	Senate Bill 100 (De León, Chapter 312, Statutes of 2018)
SCP	Scientific collecting permit
SHPO	State Historic Preservation Office
SLA	Submerged Lands Act
USACE	U.S. Army Corps of Engineers
USCG	U.S. Coast Guard
USFWS	U.S. Fish and Wildlife Service
WEA	Wind energy area
WDR	Waste discharge requirement

APPENDIX D:

Glossary of Terms

Gigawatt (GW): One thousand megawatts (1,000 MW) or, one million kilowatts (1,000,000 kW) or one billion watts (1,000,000,000 watts) of electricity. One GW is enough to supply the electric demand of about one million average California homes.

Call Area: BOEM-identified areas with potential for wind energy development.

California Coastal Zone: Generally, it is the land and water area of the State of California from the Oregon border to the border of the Republic of Mexico, extending seaward to the state's outer limit of jurisdiction, including all offshore islands, and extending inland generally 1,000 yards from the mean high tide line of the sea.

Construction and Operations Plan (COP): A COP is an application an offshore wind developer makes to the Bureau of Ocean Energy Management for a permit to develop offshore wind energy.

CPUC Integrated Resource Planning (IRP): A planning proceeding to consider all the CPUC's electric procurement policies and programs and ensure California has a safe, reliable, and cost-effective electricity supply. The integrated resource planning process ensures that load-serving entities (LSEs) detail the procured and planned resources in their portfolios that allow the electricity sector to contribute to California's economywide greenhouse gas emissions reductions goals.

Environmental Document: Reports required by the National Environmental Policy Act and the California Environmental Quality Act that contain analyses of a project's environmental impacts that require discretionary approval by a government agency. Examples of environmental documents include environmental impact statements, environmental impact reports, environmental assessments, initial studies, negative declarations, and so forth.

Megawatt (MW): One thousand kilowatts (1,000 kW) or 1 million (1,000,000) watts. One MW is enough electrical capacity to power 1,000 average California homes. (Assuming a loading factor of 0.5 and an average California home having a 2 kilowatt peak capacity.)

Outer Continental Shelf (OCS): Includes the area between state jurisdiction to 200 nautical miles from shore.

Renewables Portfolio Standard: One of California's key programs for advancing renewable energy. The program sets continuously escalating renewable energy procurement requirements for the state's load-serving entities.

Site Assessment Plan (SAP): A plan that describes how a lessee intends to gather data to characterize the leased site, such as the construction or installation of meteorological buoys, device testing, and acquired easements.

The ISO Transmission Planning Process (TPP): Annual stakeholder process that provides a comprehensive evaluation of the ISO transmission grid to identify upgrades needed to

maintain reliability, successfully meet public policy goals, and identify transmission projects that can bring economic benefits to consumers.

Wind Energy Area: BOEM-designated call area(s) with sufficient potential for wind development where it can hold a future lease sale.

