

**LETTER OF INTENT TO COORDINATE REVIEW AND APPROVAL PROCESSES**

The State of Maine (Maine) by and through its Governor and Departments of Conservation, Environmental Protection, Inland Fisheries and Wildlife, Marine Resources, State Planning Office, Historic Preservation Office and Governor's Office of Energy Independence and Security AND the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) the United States Fish & Wildlife Service (USFWS), the United States Army Corps of Engineers (ACOE), the National Marine Fisheries Service (NMFS), and the National Oceanic and Atmospheric Administration (NOAA), Department of Defense (DOD), U.S. Coast Guard, and Federal Aviation (FAA), as Signatories to this Letter of Intent to Coordinate Review and Approval Processes (Letter of Intent), hereby acknowledge and declare as follows:

- A. Well-established national policy seeks to ensure that by 2030 20% of the nation's burgeoning electric power demand is met with wind power resources;
- B. Other inter-related national, regional, and state environmental, economic, and energy policy goals clearly call for and anticipate significant development of OCS wind energy resources, and deep-water wind energy is the widely acknowledged to have the potential to play a major role in meeting those goals.
- C. Maine state waters and federal waters in the Gulf of Maine contain vast, untapped renewable ocean energy resources, including wind and tidal power resources with significant potential to contribute to Maine's and the region's renewable energy mix and create related business opportunities while reducing greenhouse gas emissions that contribute to climate change;
- D. Maine has enacted legislation (P.L. 2009, Chapter 615), "An Act to Implement the Recommendations of the Governor's Ocean Energy Task Force", that aligns with the Nation's 20% wind by 2030 goal, establishes a goal of 5000 megawatts from offshore wind generation facilities in state or federal coastal waters by 2030, and, to help jump-start the requisite offshore wind energy development, directs the Maine Public Utilities Commission (MPUC) to issue a Request for Proposals soliciting up to 20-year contracts to supply energy from one or more deep-water wind energy projects for up to 25 MW and at least 10 miles off the coast of Maine;
- E. BOEMRE issues commercial leases for renewable ocean energy development on the Outer Continental Shelf offshore Maine and numerous state and federal governmental agencies have statutory roles related to OCS renewable ocean energy projects;
- F. BOEMRE has established the BOEMRE-Maine Renewable Ocean Energy Task Force (task force), comprised of federal, tribal, and state and local government representatives, to assist government decision-making regarding potential renewable energy leasing and development on the OCS off the coast of Maine and to ensure the most efficient and effective review of proposed renewable energy projects;
- G. Maine is a member of the Atlantic Offshore Wind Energy Consortium (AOWEC) initiated by the Department of Interior Secretary Ken Salazar and formalized by a Memorandum of Understanding signed by ten Atlantic States on June 8, 2010;
- H. As an aspect of AOWEC's policy development initiative, Maine has proposed and received BOEMRE's conceptual endorsement of a "Maine Pilot Pioneer Project, which will model a streamlined, three-year process for completing the NEPA and all other applicable environmental reviews and issuing all requisite approvals for siting a 25-MW deep-water wind technology-testing project that meets the criteria of the above-described MPUC RFP;

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I. The Signatories have mutual interest in ensuring that the NEPA review process for OCS wind energy projects is timely, well-coordinated, and efficient and facilitates informed decisions on siting such projects in a manner that meets applicable environmental approval standards, avoids and minimizes potential adverse effects on the marine environment and related human uses and optimizes their potential for production of clean, renewable energy. The Signatories also have mutual interest in increasing the interagency communication, information-sharing, and coordination in the regulatory review of the proposed Pioneer Pilot Project and avoiding duplication and inconsistency in state and federal agency review processes

J. Because the proposed Maine Pilot Pioneer Project will serve as a vehicle to explore and assess the efficacy of methods to coordinate environmental review on an emerging ocean use of national significance, help test the efficacy of existing environmental standards as applied to deep-water wind and the utility of adaptive management to address related operational or environmental issues that may arise, and thus inform policy decisions regarding potential improvement of the governance framework, the Signatories have mutual interest in working collaboratively and creatively, within the framework of their existing legal authorities, to fulfill their environmental review and approval responsibilities for this technology-testing project within the proposed three-year time period;

K. The Signatories intend that information, methodologies, and policy options developed during the Maine Pilot Pioneer Project will assist in the decision-making process of other ocean wind projects and inform discussions at the state, regional, national, and potentially international level on potential improvements to the regulatory and leasing framework needed to ensure that the process for environmental review and approval of renewable ocean energy proposals is both thorough and timely; and

L. The purpose of this Letter of Intent is to coordinate the procedures and schedules for environmental review and related approvals required for an up to 25- MW Pioneer Pilot Project to be located in federal waters to ensure that they are responsive to and efficiently address environmental, economic, navigation, cultural, and other relevant concerns while providing a timely, stable, and predictable means for project review and approval that may serve as a model for subsequent deep-water wind energy and other renewable ocean energy development projects;

Therefore, the Signatories agree that:

- a. No later than 14-days after it is notified in writing of a prospective lessee for a Maine Pioneer Pilot Project in federal waters BOEMRE will notify in writing all other Signatories to enable coordinated review of the project. In its notice, BOEMRE will request Signatories to identify:
  - i. all environmental reviews and related approvals required for the development activity as described by the prospective lessee;
  - ii. all information needed to initiate and complete NEPA and other requisite environmental review of the activity;
  - iii. the nature and purpose, timing, and duration of any pre-construction or post-construction studies or monitoring that are necessary to provide information for all applicable reviews and approvals identified;
  - iv. for recommended pre-construction studies or monitoring, why the results of the study or monitoring are needed prior to construction; and



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- v. potential issues or concerns regarding the activities' consistency with laws and regulations identified as applicable;
- b. To the maximum extent feasible under applicable law, each Signatory will work with the prospective lessee and other Signatories in developing information pursuant to paragraph a;
- c. The Signatories will respond to the request for information in BOEMRE's notice within 30 days of its receipt and in writing, copying all other Signatories and the prospective lessee;
- d. Within 60 days of its notice pursuant to paragraph a, BOEMRE will propose a schedule for initiation and completion of the NEPA review process and other applicable environmental review and approval processes within a three-year period, commencing with a determination of no competitive interest or selection of a competitive bidder. Within 30 days of receipt of the proposed schedule, the Signatories will notify BOEMRE of any issues or concerns regarding the proposed schedule. BOEMRE will work with the Signatories to reach agreement on the proposed schedule for NEPA and related review of the Project as expeditiously as practicable while ensuring sufficient time for Signatory review; and such schedule will include milestones for the NEPA review and final issuance of all requisite permits and other approvals. As soon as feasible following completion of consultation with Signatories, BOEMRE will provide the prospective lessee and Signatories the final review schedule. The BOEMRE schedule will also identify any review and approval processes for which BOEMRE determined it was unable to reach agreement with the responsible Signatory(ies) and the basis for the lack of agreement and its potential consequences, if any, for completion of all requisite environmental review and approval processes within a three-year period;
- e. To the extent feasible, Signatories will complete their review and approval processes in accordance with the schedule developed by BOEMRE pursuant to paragraph d and, in any event, in accordance with the decision-making schedules provided for by law;
- f. Signatories will use their best efforts to encourage other agencies and stakeholders that have an interest in the Maine Pioneer Pilot Project to help develop and participate in a coordinated schedule of review for the project;
- g. Signatories will work to coordinate their environmental and NEPA reviews of the Maine Pioneer Pilot Project, through their participation as cooperating agencies in BOEMRE's NEPA review or other comparable means, so that documents, studies, information and data requested by them from the project applicant will be coordinated to the maximum extent practicable;
- h. Each Signatory will strive to ensure that its individual permitting or authorization processes and related review activities occur on a concurrent rather than sequential basis with the objective of avoiding unnecessary delays in the process and schedule set by BOEMRE;
- i. Each Signatory will identify a permitting or authorization point of contact to assist with coordination of that agency's participation in review of the project, facilitate the agency's timely and coordinated review of the project, and ensure the agreed-upon review timelines are met;

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- j. Each Signatory will provide adequate staffing and resources to implement the completion of all environmental review and approval processes within the three-year period;
- k. Each Signatory will place a high priority on processing applications for the Project in an expeditious fashion and within the agreed-upon timelines;
- l. Each Signatory will cooperate in preparation of requests for information and studies from the prospective lessee that are at the appropriate level of detail and proportionate to the importance of the environmental issue involved and associated risk presented by the Proposed Pilot Project;
- m. Each Signatory will share all relevant information gathered, considered or relied upon during the review of the project with all other Signatories in a timely fashion, subject to laws governing confidentiality and exemptions under state and federal freedom of information laws;
- n. Each Signatory will cooperate in developing consistent and reasonable mitigation and adaptive management measures that will be conditions of any approval for the Project;
- o. BOEMRE will consider and to the maximum extent practicable adopt as conditions of approval of its leasing authorization the conditions of approval or project modifications which Signatories with regulatory jurisdiction over the Project have developed and provided to BOEMRE during the review process;
- p. BOEMRE will prepare a unified environmental review document for the Project, incorporating, to the maximum extent practicable, a single environmental record, which addresses all issues federal and state agencies with authority to issue authorizations for the Project must consider in making their decisions;
- q. BOEMRE will be responsible for oversight of the activities described in this Letter of Intent given its lead role to coordinate NEPA review of proposed renewable wind energy projects and OCS leases;
- r. Nothing in this Letter of Intent requires any Signatory to take any action that is contrary to any federal or state law or regulation. This Letter of Intent neither expands nor limits nor modifies the power and authorities vested in the Signatories by any applicable law or regulation;
- s. This Letter of Intent is not a binding contract enforceable in a court of law or in an administrative forum. It is intended only to describe a process to further cooperation among the governmental entities signing this document pursuant to their legal authorities, now existing or as amended subsequently; and
- t. This Letter of Intent shall not be construed to create any legal obligation, right, claim, entitlement, or cause of action for any Signatory; nor to create any legal obligation, right, claim, entitlement, or cause of action, as a third party beneficiary or otherwise, for any person, corporation, or other entity that is not a Signatory.

Signatories.....