

MAY 2022

VOL. 22-5

PRATT'S

ENERGY LAW

REPORT



LexisNexis

EDITOR'S NOTE: ENERGY COAST-TO-COAST

Victoria Prussen Spears

PLANNING FOR NEW YORK'S ENERGY AND ENVIRONMENTAL FUTURE: THE CLIMATE COUNCIL'S DRAFT SCOPING PLAN

Aaron Gershonowitz

NEW YORK STATE ANNOUNCES NATION-LEADING OFFSHORE WIND INVESTMENTS

Lara M. Rios, Stephen J. Humes and Mark C. Kalpin

CALIFORNIA OFFSHORE WIND RAMPING UP

Ankur K. Tohan and Christina A. Elles

THE LONG-AWAITED SOLAR PANEL TARIFF DECISION IS HERE: KEY POINTS FOR INDUSTRY STAKEHOLDERS

Vanessa Richelle Wilson, Nate Bolin and Martin Schaefermeier

CARBON DIOXIDE SHORTAGE IN THE UNITED KINGDOM

Ankur K. Tohan and Alyssa A. Moir

MARITIME LAW: THE GATEWAY TO FEDERAL COURT: ADMIRALTY JURISDICTION AND LIMITATION OF LIABILITY

Noe S. Hamra and Zachary R. Cain

Pratt's Energy Law Report

VOLUME 22

NUMBER 5

May 2022

Editor's Note: Energy Coast-to-Coast Victoria Prussen Spears	153
Planning for New York's Energy and Environmental Future: The Climate Council's Draft Scoping Plan Aaron Gershonowitz	155
New York State Announces Nation-Leading Offshore Wind Investments Lara M. Rios, Stephen J. Humes and Mark C. Kalpin	168
California Offshore Wind Ramping Up Ankur K. Tohan and Christina A. Elles	171
The Long-Awaited Solar Panel Tariff Decision Is Here: Key Points for Industry Stakeholders Vanessa Richelle Wilson, Nate Bolin and Martin Schaefermeier	174
Carbon Dioxide Shortage in the United Kingdom Ankur K. Tohan and Alyssa A. Moir	178
Maritime Law: The Gateway to Federal Court: Admiralty Jurisdiction and Limitation of Liability Noe S. Hamra and Zachary R. Cain	181

QUESTIONS ABOUT THIS PUBLICATION?

For questions about the **Editorial Content** appearing in these volumes or reprint permission, please email:

Jessica Carnevale, Esq. at (212) 229-4942
Email: jessica.carnevale@lexisnexus.com
Outside the United States and Canada, please call (973) 820-2000

For assistance with replacement pages, shipments, billing or other customer service matters, please call:

Customer Services Department at (800) 833-9844
Outside the United States and Canada, please call (518) 487-3385
Fax Number (800) 828-8341
Customer Service Website <http://www.lexisnexus.com/custserv/>

For information on other Matthew Bender publications, please call

Your account manager or (800) 223-1940
Outside the United States and Canada, please call (937) 247-0293

ISBN: 978-1-6328-0836-3 (print)
ISBN: 978-1-6328-0837-0 (ebook)
ISSN: 2374-3395 (print)
ISSN: 2374-3409 (online)

Cite this publication as:

[author name], [*article title*], [vol. no.] PRATT’S ENERGY LAW REPORT [page number]
(LexisNexis A.S. Pratt);

Ian Coles, *Rare Earth Elements: Deep Sea Mining and the Law of the Sea*, 14 PRATT’S ENERGY
LAW REPORT 4 (LexisNexis A.S. Pratt)

This publication is designed to provide authoritative information in regard to the subject matter covered. It is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional services. If legal advice or other expert assistance is required, the services of a competent professional should be sought.

LexisNexis and the Knowledge Burst logo are registered trademarks of RELX Inc. Matthew Bender, the Matthew Bender Flame Design, and A.S. Pratt are registered trademarks of Matthew Bender Properties Inc. Copyright © 2022 Matthew Bender & Company, Inc., a member of LexisNexis. All Rights Reserved.

No copyright is claimed by LexisNexis or Matthew Bender & Company, Inc., in the text of statutes, regulations, and excerpts from court opinions quoted within this work. Permission to copy material may be licensed for a fee from the Copyright Clearance Center, 222 Rosewood Drive, Danvers, Mass. 01923, telephone (978) 750-8400.

Editorial Office
230 Park Ave., 7th Floor, New York, NY 10169 (800) 543-6862
www.lexisnexus.com

MATTHEW  BENDER

Editor-in-Chief, Editor & Board of Editors

EDITOR-IN-CHIEF

STEVEN A. MEYEROWITZ

President, Meyerowitz Communications Inc.

EDITOR

VICTORIA PRUSSEN SPEARS

Senior Vice President, Meyerowitz Communications Inc.

BOARD OF EDITORS

SAMUEL B. BOXERMAN

Partner, Sidley Austin LLP

ANDREW CALDER

Partner, Kirkland & Ellis LLP

M. SETH GINTHER

Partner, Hirschler Fleischer, P.C.

STEPHEN J. HUMES

Partner, Holland & Knight LLP

R. TODD JOHNSON

Partner, Jones Day

BARCLAY NICHOLSON

Partner, Norton Rose Fulbright

ELAINE M. WALSH

Partner, Baker Botts L.L.P.

SEAN T. WHEELER

Partner, Kirkland & Ellis LLP

Hydraulic Fracturing Developments

ERIC ROTHENBERG

Partner, O'Melveny & Myers LLP

Pratt's Energy Law Report is published 10 times a year by Matthew Bender & Company, Inc. Copyright © 2022 Matthew Bender & Company, Inc., a member of LexisNexis. All Rights Reserved. No part of this journal may be reproduced in any form—by microfilm, xerography, or otherwise—or incorporated into any information retrieval system without the written permission of the copyright owner. For customer support, please contact LexisNexis Matthew Bender, 9443 Springboro Pike, Miamisburg, OH 45342 or call Customer Support at 1-800-833-9844. Direct any editorial inquiries and send any material for publication to Steven A. Meyerowitz, Editor-in-Chief, Meyerowitz Communications Inc., 26910 Grand Central Parkway Suite 18R, Floral Park, New York 11005, smeyerowitz@meyerowitzcommunications.com, 631.291.5541. Material for publication is welcomed—articles, decisions, or other items of interest to lawyers and law firms, in-house counsel, government lawyers, senior business executives, and anyone interested in privacy and cybersecurity related issues and legal developments. This publication is designed to be accurate and authoritative, but neither the publisher nor the authors are rendering legal, accounting, or other professional services in this publication. If legal or other expert advice is desired, retain the services of an appropriate professional. The articles and columns reflect only the present considerations and views of the authors and do not necessarily reflect those of the firms or organizations with which they are affiliated, any of the former or present clients of the authors or their firms or organizations, or the editors or publisher.

POSTMASTER: Send address changes to *Pratt's Energy Law Report*, LexisNexis Matthew Bender, 230 Park Ave. 7th Floor, New York NY 10169.

New York State Announces Nation-Leading Offshore Wind Investments

*By Lara M. Rios, Stephen J. Humes and Mark C. Kalpin**

The authors explore New York's recently announced commitment to invest \$500 million to further support offshore wind manufacturing and supply chain infrastructure, create thousands of good-paying green jobs, deliver billions in economic impact and generate enough energy to power millions of homes.

New York Governor Kathy Hochul announced a plan to strengthen the state's renewable energy leadership as part of the 2022 State of the State. The governor announced a commitment to invest \$500 million to further support offshore wind manufacturing and supply chain infrastructure, create thousands of good-paying green jobs, deliver billions in economic impact and generate enough energy to power millions of homes.

New York state has one of the most ambitious climate laws in the world and is already a leader in offshore wind development. Through the Climate Leadership and Community Protection Act,¹ New York has a mandated goal of a zero-emission electricity sector by 2040, including 70 percent renewable energy generation by 2030, and aims to reach economy-wide carbon neutrality.

NEW PROJECTS IN NEW YORK STATE

As part of the State of the State address,² the governor outlined the following additional commitments toward offshore wind:

- *Invest \$500 Million in Critical Offshore Wind Infrastructure:* New York will invest up to \$500 million in the ports, manufacturing and supply chain infrastructure needed to advance its offshore wind industry, leveraging private capital to deliver more than \$2 billion in economic activity while creating more than 2,000 good-paying green jobs.
- *Procure Enough New Offshore Wind Energy to Power at Least 1.5 Million Homes and Create at Least 2,000 New Jobs:* New York State Energy

* Lara M. Rios, a partner in Holland & Knight LLP, is a financial transactions attorney in the firm's New York and Miami offices. Stephen J. Humes, a partner in the firm's New York and Stamford offices, practices environmental, energy, public utility and infrastructure law. Mark C. Kalpin, a partner in the firm and co-leader of the firm's Renewable Energy Team, is an energy, environmental and natural resource attorney in its Boston and Washington, D.C., offices. The authors may be contacted at lara.rios@hkllaw.com, steve.humes@hkllaw.com and mark.kalpin@hkllaw.com, respectively.

¹ <https://legislation.nysenate.gov/pdf/bills/2019/S6599>.

² <https://www.governor.ny.gov/sites/default/files/2022-01/2022StateoftheStateBook.pdf>.

Research and Development Authority (“NYSERDA”) will launch its next offshore wind procurement in 2022, which is expected to result in at least two gigawatts (“GW”) of new projects—enough to power 1.5 million homes, bringing the state’s combined total to more than 4.5 million homes powered by offshore wind. NYSERDA will couple this procurement with the \$500 million offshore wind infrastructure investment to obtain maximum leverage for New York.

- *Initiate Planning for a Future Offshore Wind Transmission Network to Power Four Million New York City Homes:* To allow the development of an offshore transmission system that can interconnect at least six GW of offshore wind generation into New York City while minimizing onshore and ocean floor impacts, state agencies will conduct a New York State Cable Corridor Study to identify strategic offshore wind cable corridors and access key points of interconnection to the onshore transmission grid.
- *Launch the Offshore Wind Master Plan 2.0 Deep Water:* Building on the success of New York’s award-winning Offshore Wind Master Plan, NYSERDA will initiate a new Master Plan 2.0: Deep Water to unlock the next frontier of offshore wind development.

EXISTING PROJECTS IN NEW YORK STATE

New York currently has five offshore wind projects³ in active development—the largest offshore wind pipeline in the nation—totaling more than 4,300 megawatts (“MW”) and representing nearly 50 percent of the capacity needed to meet New York’s offshore wind goal of 9,000 MW by 2035. The projects include South Fork Wind Farm (130 MW), Sunrise Wind (880 MW), Empire Wind 1 (816 MW), Empire Wind 2 (1,260 MW) and Beacon Wind (1,230 MW).

The projects were awarded by Long Island Power Authority (“LIPA”) in the case of South Fork Wind and the rest by NYSERDA, which is the state agency responsible for issuing competitive solicitations for offshore wind energy and contracting with offshore wind developers to purchase offshore renewable energy certificates (“ORECs”).

³ New York State Energy Research and Development Authority (NYSERDA)—<https://www.nyserda.ny.gov/All-Programs/Offshore-Wind/Focus-Areas/NY-Offshore-Wind-Projects>.

In addition to awarding contracts to purchase ORECs, NYSERDA, New York Green Bank⁴ and other state agencies have committed to providing funding to support port improvements strategically located throughout the state that will serve as manufacturing and staging hubs for each of the awarded projects.

⁴ <https://greenbank.ny.gov/>.