SITING + PERMITTING

MARCH 11 – 13, 2024 | COLORADO SPRINGS, CO

Westwood

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# European Union (EU) Development Regulations for Projects in the US?

## US REGULATIONS

- Federal
  - CWA, ESA, MBTA, BGEPA, NHPA, Tribal
  - NEPA (Agency dependent)
    - CatEX, EA, EIS
- State
  - Siting/Development Permits
- Local
  - Zoning/Planning Dept.
  - Conditional Use Permit
  - Civil/Electrical/Road Permits
  - Municipal/ETJ Permits


Source: usace.army.mil

## EU REGULATIONS

- Directive 2011/92/EU
  - Amended by Directive 2014/52/EU
    - EIA, SEA, Emissions, Water, Birds, etc.
    - EU/State Authority Coordination
    - Stakeholder Engagement
- Directive 2018/99EU (RED II)
  - 2030 Energy/Climate Targets


Source: bbc.org

## Regulation Comparison

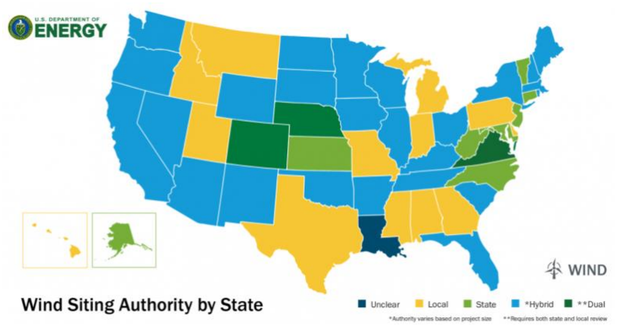
### US

- Only a Federal Nexus Triggers NEPA
  - Lead Agency Coordination
  - Suite of due diligence studies required
  - Public Comment Periods required
- State/Local Authorities regulate otherwise
  - Zoning/Conditional Use Permits
    - Supporting studies, site plans, public comment period required

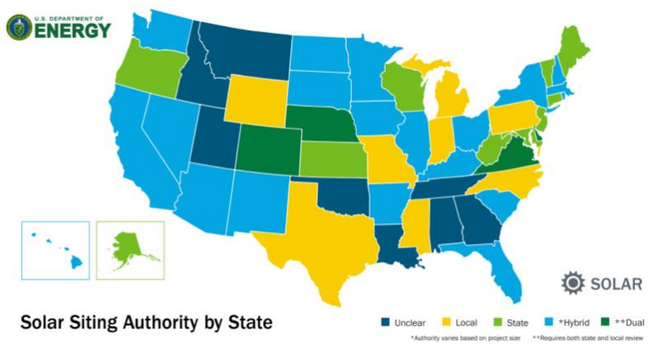
### EU

- 2011/92/EU & 2014/52/EU Environmental Directive applicable to public and private projects
  - Annex I = EIA required
  - Annex II = EIA at the discretion of authority agency
    - Renewable energy projects not automatically categorized as Annex I
  - Member states established designated authority agency
- 2018/1999/EU (Renewable Energy Directive (RED II))
  - Permitting process < 2 years max (New Projects)
  - New Projects <150kW or Repower Projects: permitting process < 1 year (max)

### US Renewable Energy Permitting

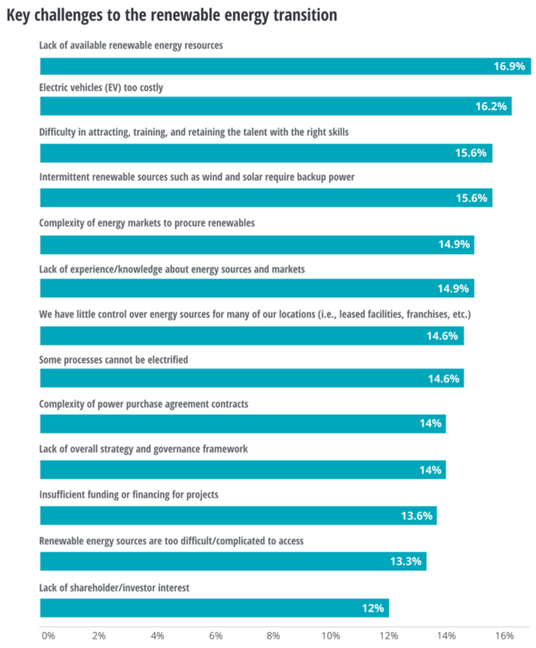



Source: doe.gov



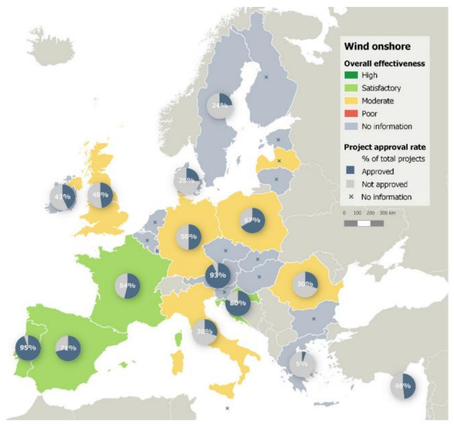

Source: doe.gov

### US Renewable Energy Barriers

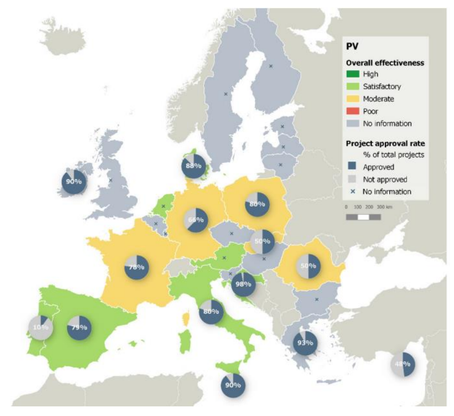



Source: deloitte.com

### EU Renewable Energy Permitting

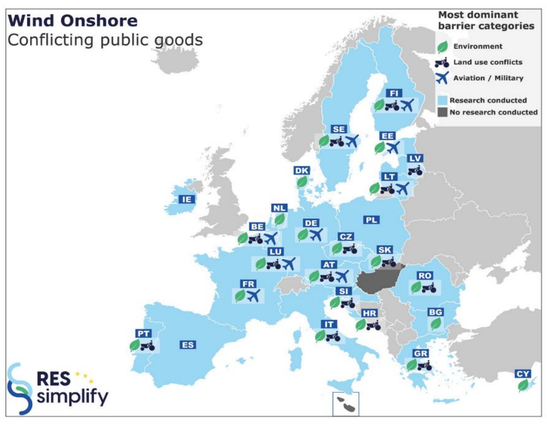



Overall Perceived Permitting Efficiency/Approval Rate – Wind
Source: RES simplify

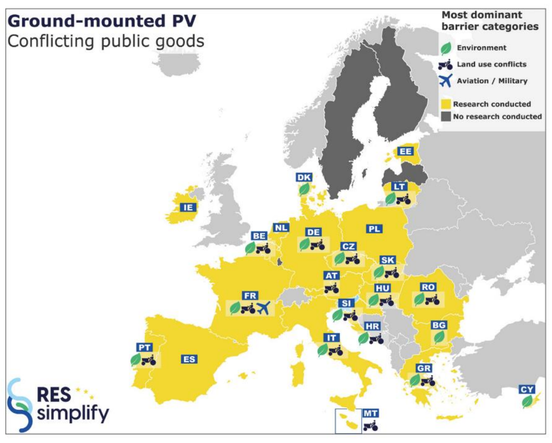



Overall Perceived Permitting Efficiency/Approval Rate – Solar
Source: RES simplify

### EU Renewable Energy Barriers




Source: RES simplify




Source: RES simplify

**What about US projects with no federal/state/local permit regulations?**

**How do Project Developers with EU requirements comply with US regulations?**

**Directive 2018/99/EU requires compliance reporting to Member States, March 2023.**

### Action Items for US Developers

- Comprehensive understanding of lender's requirements/commitments
- Understanding of lender's risk appetite
- Strategize/Prepare Compliance Plan with 2011/52/EU / 2014/92/EU
- Keep good records! More will likely be requested!

## REFERENCES

European Commission, Directorate-General for Energy, Tallat-Kelpšaitė, J., Brückmann, R., Banasiak, J. et al., *Technical support for RES policy development and implementation – simplification of permission andadministrative procedures for RES installations (RES Simplify) – Final report*, Publications Office of the European Union, 2023, **https://data.europa.eu/doi/10.2833/894296**