

Response to Comments and Explanation of Changes from the Maryland Proposed Sale Notice to the Final Sale Notice

BOEM received 20 comment submissions in response to the *Proposed Sale Notice for Commercial Leasing for Wind Power on the Outer Continental Shelf (OCS) Offshore Maryland* (PSN) comment period that closed February 18, 2014. The submissions comprised dozens of individual comments that addressed many aspects of this lease sale, and this document was prepared in response to several of the key comments and questions. BOEM's responses to the comments are organized into six categories: (1) Auction Procedures, (2) Fiscal Terms, (3) BOEM's leasing procedures, (4) Lease Areas, (5) Conditions on Development, and (6) Miscellaneous.

1. Comments Related to Auction Procedures

***Comment:* As has been done for other lease sales, the Maryland FSN should allow more than 30 days for bidders to establish bid deposits. The Rhode Island/Massachusetts (RI/MA) and Virginia PSNs allowed just 14 calendar days to submit a full bid deposit. BOEM made changes to those FSNs and allowed more than 30 days to establish bid deposits. The same allowance should be made for the Maryland FSN.**

Under the schedule described in the FSN, bidders will have more than 30 calendar days to establish bid deposits.

***Comment:* Based upon the results from other lease sales, BOEM should reevaluate how it sets the bid increments from one round to the next. High percentage increases in early rounds makes sense, but the percentages used in the later rounds are too large. In previous auctions, increments of roughly \$500,000 and \$700,000 were used in the later rounds. The large increments serve BOEM's desire to bring the auction to a close in a single day but could severely limit many potential bidders. BOEM may have ended the auctions quickly, but may also have received a lower price this way. BOEM should consider capping the maximum increment from one round to the next at \$400,000 or \$500,000.**

The size of bid increments—that is, the amount by which BOEM raises asking prices from round to round during the auction—is a subject that BOEM considers at length both before and during the auction. BOEM has discretion in setting bid increments. The commenter is correct that the bid increment must balance BOEM's interest in concluding the lease sale in a timely manner (which argues for larger increments) against the interest in providing for effective price discovery (which argues for smaller increments). Regardless of the bid increment selected by BOEM at any round, each bidder may submit an intra-round bid thereby effectively setting its own bid increment.

***Comment:* BOEM's procedures state that each bidder will be told if they qualify for a credit for a non-monetary bid. It would be fair that all bidders should be told in advance if no one has qualified for the credit. That information would be very useful to all bidders**

and providing that information would not create any advantages for any one bidder over another.

BOEM has a policy to not disclose the status of credit qualifications prior to conclusion of the auction. BOEM does not believe that knowledge in advance that no one qualified for the credit would be useful.

Comment: BOEM should avoid withdrawing blocks prior to lease execution, but should follow its established procedure for doing so, as discussed in BOEM's June 4, 2013 "Response to Comments and Explanation of Changes from the RI/MA PSN to the FSN".

BOEM anticipates following the same procedure as outlined for previous lease sales. BOEM does not anticipate withdrawing blocks or reducing their size prior to lease execution. BOEM reserves this right to preserve its flexibility in the event of some unanticipated event. However, in the unlikely event that a lease area included in a winning bid is withdrawn or reduced, the winning bidder will be given the right to renege without penalty on the remaining lease areas in its bid. Should the bidder choose to acquire the remaining lease areas, the purchase price will be scaled down on a pro rate basis reflecting the most recent round's asking prices for the lease areas included in the winning bid and the pro rata reduction in lease area acreage. In addition, if we exercise this right, we will refund your bid deposit without interest pursuant to 585.224(f).

Comment: BOEM should not allow a bidder who chooses to bid on one lease area to then switch to the other lease area if they are outbid on their first choice. This encourages developers in weaker economic positions to try to drive up the price on the other lease area if they are initially unsuccessful and increases the likelihood that they may secure a site with no ability or intention to build.

BOEM does not believe that an auction format that allows for the switching of bids will encourage bidding simply to drive prices up. A bidder may be bound by any bid that it submits, and hence may be obligated to pay for actions that serve only to raise prices for competing bidders. In contrast, the proposed alternative would lock a bidder into the initially selected lease area for the duration of the auction. While this could result in lower bids, it would come at some disadvantage to the bidders in terms of restricted bidding flexibility and serves to mitigate the informational advantages of holding a simultaneous ascending auction. Bidders on single lease areas would be required to select their preferred area in the first round, and would not have an opportunity to move their bid to another lease area for the duration of the auction, even if the asking prices for their preferred area rose sharply relative to the non-selected area.

Comment: BOEM should refund bid deposits to non-winners more quickly than it has following previous auctions.

The Virginia and RI/MA FSN provided that BOEM would refund bid deposits to non-winners following the completion DOJ's anti-trust review. The Maryland PSN and FSN has described a process whereby the bid deposits will be returned earlier, directly following BOEM's announcement of the provisional winner.

Comment: BOEM should have separate bid minima for the two Maryland lease areas – as was done in the RI/MA FSN. BOEM should take the approach it followed in the RI/MA FSN for two areas with “significantly dissimilar attributes,” which “taken together . . . tend to indicate that the North LA is a more competitive and cost effective area for near term commercial development” (National Renewable Energy Laboratory Final Technical Evaluation), and adopt a \$2/acre minimum in the North LA and \$1/acre in the South.

The commenter is correct that the two lease areas in this case have dissimilar attributes (indeed, no two lease areas will ever be identical). However, in this case, we do not believe that the difference between the areas is so great as to require an adjustment to the minimum bids for the two areas.

Comment: Should the Maryland Public Service Commission create a State selection criteria designation, we strongly urge BOEM to consider incorporating these criteria into determinations of nonmonetary factors in a multi-factor benefit context. This would ensure that the State of Maryland and its ratepayers’ priorities are represented in the auction bid consideration. It would also help to de-risk the project and ensure it is built to maximize economic value.

In the past, BOEM has stated that the explicit and contractual support of an affected state (e.g., a Joint Development Agreement, or JDA) represents a significant development advantage for a bidder. Accordingly, BOEM has given a non-monetary credit to any company holding this advantage in the RI/MA lease sale. However, the JDA in that case was executed following a competitive process and in circumstances unique to that situation. BOEM is open to consideration of such factors in the future on a case-specific basis, under circumstances that are not currently present in the case of Maryland.

Comment: BOEM should clarify the multi-factorial discount. The MD PSN indicates that a Power Purchase Agreement (PPA) or a Maryland Public Service Commission-issued Offshore Renewable Energy Certificate (OREC) order would qualify for the multi-factor discount. BOEM should clarify what would happen if a project was selling to another state.

BOEM suggests referring to the section entitled “Credit Factor Definitions” in the Maryland PSN and FSN for a definition of what criteria a PPA must meet in order to qualify for a multi-factor credit. BOEM has not specified that a qualifying PPA must be held in any specific state. The Maryland Public Service Commission will define the terms of OREC issuance in its forthcoming regulations.

Comment: The PSN proposes that holders of a 250 MW PPA or a Maryland OREC Order would each a credit of up to 25%. The credits should not be the same for each option. With ORECs limited to only 200 MW that agreement should be weighted less than a 250 MW PPA.

The bidder is correct that it could be appropriate to provide a 20% credit for an OREC for a 200 MW project, and a 25% credit for a PPA of 250 MW. After much deliberation, BOEM has decided to provide up to 25% for either factor. BOEM believes that an OREC award for a 200 MW project represents a State-sponsored development advantage that is worth the full 25% credit amount on par with a 250 MW PPA.

***Comment:* BOEM should consider how the nonmonetary credit is determined. A PPA or a Maryland OREC Order has a specific value. It is not right that as the auction prices rise the credit value continues to rise with it. There should be a maximum value to the credit so it would not continue to escalate later in an auction. The PSN describes a system whereby the value of the credit continues to rise but the value of the agreement towards the eventual success of an offshore project is fixed.**

The proposed alternative would provide for up to a maximum dollar benefit for possession of a PPA or OREC. Such an arrangement would require that BOEM estimate the dollar magnitude of that uncertain value for each bidder. It is not clear how BOEM could make such an informed estimate. Instead, BOEM makes an assessment of the proportion of any bid which it will allow as a credit. Since it is reasonable to assume that the value of the credit increases with project value, and anticipated project value increases with the bid, it follows that simply applying the credit to the bid amount is an appropriate way to calculate the applicable dollar amount of the credit.

2. Comments Related to Fiscal Terms

***Comment:* BOEM should reduce the operating fee rate to below 2%.**

Several commenters recommended reducing the operating fee rate from 2%. The commenters note that while the default rate in 30 CFR 585.506(c)(1) is 0.02, BOEM is allowed to “reduce or waive the fee rate under 585.510, when the BOEM Director “determines that it is necessary to encourage continued or additional activities.” One of the comments further notes that Congress’ direction that Interior obtain a “fair return” to the United States for interests conveyed under section 8(p) of the OCSLA, 43 USC 1344(p)(2), (p)(4), does not require BOEM to set significant operating rates. Congress used the term “fair return” rather than “fair market value”, which seems to invite a wider range of factors beyond monetary value. Pursuant to the OCSLA, BOEM must ensure that the government receives a fair return for leases and grants issued on the OCS. BOEM has determined that a 2% operating fee rate throughout the term of the lease does not threaten the government’s ability to receive a fair return and is in accordance with the default operating fee specified in 30 CFR 585.506.

***Comment:* BOEM should clarify if there is a minimum amount for the SAP bond that will be required.**

As discussed in 30 CFR 585.517, BOEM will base the determination for the amounts of the SAP, COP, and decommissioning financial assurance requirements on estimates of the cost to meet all accrued lease obligations. At a minimum, BOEM expects to require enough financial assurance to cover one year’s rent.

***Comment:* Regarding the financial assurance requirement for a surety bond, would a letter of credit issued by a bank be acceptable? Would there be any restrictions on which banks would be acceptable?**

Acceptable forms of financial assurance for the leases to be offered offshore Maryland are discussed in the Final Sale Notice, in accordance with 30 CFR 585.526 through 585.529.

3. Comments on BOEM's Leasing Process

***Comment:* BOEM should consult with neighboring states. A regional framework would be best to support development in the Maryland Wind Energy Area (WEA) and would serve to minimize regional environmental issues of concern that would otherwise surface later in the development process.**

BOEM participates in a regional planning body called the "Mid-Atlantic Regional Planning Body [Mid-Atlantic RPB]" that includes representatives from Maryland, Virginia, Delaware, New York and New Jersey. BOEM recognizes the importance of stakeholder engagement in the planning and leasing process and encourages participation from all user groups and stakeholders throughout the process. The RPB leverages existing efforts underway by states and regional entities, and engages stakeholders and technical experts at every key step. BOEM also works directly with federal, state, local and tribal governments through intergovernmental Renewable Energy Task Forces and coordinates through public information meetings in many of the Atlantic states to help keep interested stakeholders updated on major renewable energy milestones.

***Comment:* BOEM should include the Delaware Coastal Management Program (DCMP) in its coordination efforts when reviewing activities within this designated offshore area. As such, the DCMP would appreciate being kept abreast of developments within the Maryland WEA, and the proposed lease sales specifically so that we may provide any relevant data and information on coastal resource impacts.**

During the preparation of the Mid-Atlantic EA, BOEM recognized the regional aspect of offshore wind development, and as such, prepared a regional consistency determination for four Mid-Atlantic States, which includes Delaware. If a Lessee submits a SAP that shows changes in impacts from those identified in the regional consistency determination prepared for the action analyzed in the Mid-Atlantic EA, BOEM may determine that the SAP is subject to a consistency certification. In that case, the Lessee would submit a consistency certification under 15 CFR Part 930, Subpart E. BOEM would then submit the SAP and consistency certification to the affected State(s) for CZMA review.

4. Comments Regarding BOEM's Lease Areas

***Comment:* The Maryland lease areas pose navigational safety risks to deep-draft commercial vessels that navigate south after exiting the Traffic Separation Scheme (TSS) and to coastal tug and barge traffic that operates inshore of the deep-draft commercial**

vessel traffic. BOEM should delay a final decision regarding the siting of the Maryland lease areas until the U.S. Coast Guard's (USCG) Atlantic Coast Port Access Route Study (ACPARS) is completed. This will ensure that state-by-state energy plans include a regional and national understanding of vessel operations. Adequate buffer zones are needed between commercial vessels and wind farm lease areas, which are currently set at 1 nmi and which we recommend be set at 2 nmi. In addition, we strongly recommend that BOEM modify the Maryland lease areas to align with USCG's recommended Alternative Routing Scenario 1 as the eastern edge of the WEA, as described in the USCG Fifth District's letter to BOEM dated April 22, 2013 posted on BOEM's website.

BOEM places a high priority on maritime safety and navigation concerns. These are major considerations for BOEM and BOEM strives to engage with the maritime community about these important issues.

BOEM's approach has been to actively seek USCG participation as early in the planning process as possible, and continue these engagement efforts as BOEM moves forward with leasing and specific plan reviews. The USCG sits on all twelve of BOEM's Intergovernmental Renewable Energy Task Forces, including Maryland, which were created to inform BOEM's offshore renewable energy authorization processes. For the past several years, BOEM and USCG staff have worked closely together to develop innovative methods of analyzing available Automatic Identification System (AIS) vessel traffic data.

In addition to working with USCG, BOEM also engages potentially affected maritime stakeholders, such as the American Waterways Operators (AWO), and potentially affected port authorities along the Atlantic Coast, to ensure BOEM considers their unique perspectives.

BOEM always strongly considers USCG's position and the information provided by maritime stakeholders during our planning process, which has resulted in the reduction of a number of our planning areas to accommodate for vessel traffic. For example, BOEM removed over 25,000 acres from our Virginia wind planning area, and has reduced the area included in our Maryland Request for Interest by approximately half. In some instances, the potential for conflict cannot be fully resolved in the early stages of the planning process. In such cases, BOEM has been and will continue to be especially vigilant when specific plans for development are submitted. BOEM's goal is to ensure that the installation of commercial wind facilities will be compatible with navigational safety.

BOEM's coordination efforts with USCG will continue after commercial wind leases are issued. Specifically, BOEM has committed to requiring that each commercial wind Lessee submit a Navigational Safety Risk Assessment (NSRA) pursuant to USCG's Navigation and Vessel Inspection Circular NO. 02-07 with its COP. The COP will detail the developer's specific commercial wind development proposal, and there will be opportunity for public input during the review of each COP. Each NSRA will be closely reviewed by BOEM and USCG, and BOEM will be looking to USCG for input and analysis on potential impacts to maritime users prior to approving, approving with modifications, or disapproving any COPs.

***Comment:* The proposed project may potentially affect Assateague Island National Seashore, in particular, the Seashore's natural lightscapes, soundscapes, and sediment processes. In addition, the proposed project has potential to affect other areas of National Park Service jurisdiction and special expertise, including National Historic Landmarks (NHLs), and properties that are listed or eligible for listing on the National Register of Historic Properties (NRHP). Additional studies, including a potential visualization study, may be warranted.**

BOEM acknowledges that the bureau's actions of issuing leases and approving plans are the types of activities that have the potential to cause effects to historic properties, and as such the bureau considers these actions as undertakings subject to review under Section 106 of the National Historic Preservation Act. BOEM has executed a Programmatic Agreement (PA) between the State Historic Preservation Officers of Delaware, Maryland, New Jersey and Virginia; the Narragansett Indian Tribe; the Shinnecock Indian Nation; and the Advisory Council on Historic Preservation to guide the Section 106 review for the undertakings of lease issuance and the approval of site assessment activities. BOEM has completed the Section 106 review for lease issuance in the Maryland WEA and documented this in a Finding of No Historic Properties Affected. The PA and Findings document can be found at: <http://www.boem.gov/Mid-Atlantic-Wind-Energy-Areas/>.

If BOEM receives a SAP for activities within the Maryland WEA, the bureau will again initiate Section 106 review under the stipulations of the PA and will involve NPS as a consulting party. BOEM will request information on historic properties from the consulting parties, and will consult with NPS to identify NHLs and other historic properties within the Area of Potential Effect (which under the PA is defined to include the viewshed from which meteorological structures would be visible).

Many of the concerns raised in this comment are specific to impacts from the full scale commercial development of wind turbines within the Maryland lease areas. These are activities that the bureau has not yet considered under NHPA or NEPA. If BOEM receives a COP, the bureau will again initiate consultation under Section 106 to consider the effects of the activities in the COP on historic properties (including NHLs) and will involve NPS as a consulting party.

Regarding the request for a visualization study, further consideration of viewshed impacts will be achieved through the consultation and environmental review that takes place when BOEM receives a SAP or COP for proposed activities within the Maryland lease areas.

***Comment:* The development of the commercial Maryland lease areas could impact biological resources of Assateague Island National Seashore, including migratory fly-ways or other migration routes. The NPS is concerned that species that are important to the park's natural resources and also to the visitor experience may be negatively impacted by development in these OCS lease areas. Both spatial and temporal consideration of siting, construction and operational phases of any offshore development should be addressed to avoid migratory routes and to minimize impacts to migratory bird feeding habitats.**

BOEM appreciates and shares many of these concerns. It is important to point out that the issuance of the leases resulting from this sale would not constitute an approval of project specific plans to develop offshore wind energy. Such plans, expected to be submitted by successful Lessees, will be subject to subsequent environmental and public review prior to any decision to proceed with development. In fact, BOEM recommends the applicants engage in discussions with other agencies (e.g., U.S. Fish and Wildlife Service, NOAA National Marine Fisheries Service, NPS) and concerned parties to help resolve any issues which may arise as early as possible (see Guidelines for Providing Avian Survey Information for Renewable Energy Development on the Atlantic Outer Continental Shelf Pursuant to 30 CFR Part 585).

Comment: BOEM notes in the PSN that BOEM “reserves the right to withdraw areas from this lease sale prior to its execution of a lease.” We request that the agency follow the procedure it established for itself in response to comments on the RI/MA and Virginia PSNs (“BOEM should avoid, but establish procedures for, withdrawing blocks prior to lease execution”), contained in its June 4, 2013 “Response to Comments and Explanation of Changes from the Rhode Island and Massachusetts Proposed Sale Notice to the Final Sale Notice” (page 8).

BOEM anticipates following the same procedure as outlined for previous lease sales. BOEM does not anticipate withdrawing blocks or reducing their size prior to lease execution. BOEM reserves this right to preserve its flexibility in the event of some unanticipated event. However, in the unlikely event that a LA included in a winning bid is withdrawn or reduced the winning bidder will be given the right to renege without penalty on the remaining LAs in its bid. Should the bidder choose to acquire the remaining LAs, the purchase price will be scaled down on a pro rate basis reflecting the most recent round’s asking prices for the LAs included in the winning bid and the pro rata reduction in LA acreage.

5. Comments Related to Lease Specific Terms, Conditions, and Stipulations

Comment: Several commenters recommended that BOEM adopt additional stipulations for the protection of North Atlantic right whales similar to those contained in a voluntary agreement for the Mid-Atlantic WEAs.

BOEM is supportive of the collaborative efforts between environmental non-governmental organizations and offshore wind developers to pursue novel mitigation measures. BOEM believes the standard operating conditions in the proposed lease are sufficient to protect endangered species, including the North Atlantic right whale, in the proposed lease area during site assessment activities. These conditions were developed in consultation with the National Marine Fisheries Service to provide appropriate measures to reduce potential impacts from site assessment and site characterization activities. BOEM supports coordination and cooperation between environmental organizations and offshore wind energy developers as exemplified in the referenced environmental agreement. For any voluntary measures that may be less restrictive than those described by BOEM, BOEM’s environmental requirements and lease stipulations must be followed. BOEM remains committed to using the best science and scientific methodologies currently available to support effective mitigations to protect the North Atlantic right whale.

Comment: Addendum “C”, Stipulation 4.1.1.5.2.2 requires vessels to reduce their speed to 10 knots when pods or large assemblages of delphinoid cetaceans are observed. However, such reduced speed could compromise safety in some circumstances because maintaining course and speed is important for the maneuverability of certain vessels in some sea conditions. Accordingly, this stipulation should be revised by adding, after "to 10 knots (18.5 km/h) or less," the following phrase: "or to the lowest speed greater than 10 knots that does not pose a safety threat to the crew or vessel. "

BOEM believes that this comment’s concern is already adequately addressed in Addendum “C”, Stipulation 4.1.1, where it states the Lessee must comply with Stipulations 4.1.1.1 through 4.1.1.7, “except under extraordinary circumstances when complying with these requirements would put the safety of the vessel or crew at risk.”

Comment: Addendum “C”, Section 4.2.3 should be revised as follows: **The purpose of this meeting will be for the Lessee and the Qualified Marine Archaeologist to discuss the Lessee's Survey Plan and consider requests to monitor portions of a program for tribal review, participation in the review, and comment on the archaeological survey and geotechnical sampling results."**

BOEM disagrees with this proposed change and has retained the original text for Stipulation 4.2.3. The original text reflects the consulting parties' desire under the Section 106 Programmatic Agreement to be allowed to be present aboard the vessels to monitor the survey activities and to be allowed to observe the core logging and recordation. While we do not feel that our regulatory jurisdiction allows us to make this mandatory of all developers, we do want to provide the opportunity for the tribes to request it and for the developers/lessees/grantees to consider the request in a good faith manner. It is BOEM’s responsibility to review and to solicit comment from the tribes on the results of surveys, but it would be up to the developers to consider the tribes' request for direct participation in the surveys. For this reason, the proposed changes do not meet the intent of the original stipulation nor do they accord with the Finding that was prepared for lease issuance.

Comment: BOEM should edit Addendum “C”, Stipulation 4.3.6.1, to insert the word "initially" before "must ensure a 200-meter radius exclusion zone" for clarity. This change would be beneficial because the final exclusion zone for cetaceans, pinnipeds, and sea turtles during HRG surveys should be based on actual equipment used and could increase or decrease from a 200-meter radius.

BOEM disagrees with this proposed change and has retained the original text for Stipulation 4.3.6.1. The Standard Operating Conditions in Addendum “C” have been updated to reflect the most recent Endangered Species Act Biological Opinion from the National Marine Fisheries Service.

Comment: BOEM should disallow seismic surveys or pile driving when visibility is poor. The Maryland leases allow operators to conduct activities at night and when visibility is poor as long as they obtain approval from the Lessor.

Addendum “C”, Stipulation 4.3.2 states that HRG and geotechnical operations may not be conducted at times of low visibility, except as allowed under Stipulation 4.3.3, which states that operations may be allowed under these conditions only if BOEM determines that the mitigation plans, supplied by the Lessee, are effective. Specifically, it states “the Lessee must submit to the Lessor an alternative monitoring plan detailing the alternative monitoring methodology (e.g., active or passive acoustic monitoring technologies). The Lessor may decide to allow the Lessee to conduct G&G surveys in support of plan submittal at night or when visual observation is otherwise impaired using the proposed alternative monitoring methodology.” BOEM believes this provision provides adequate coverage and gives BOEM the discretion to disapprove an alternative monitoring plan that it deems inadequate. The lease does not include environmental stipulations for site assessment activities or construction activities. Stipulations covering those types of activities, such as pile driving, will be considered in the future incident to BOEM receiving, reviewing and approving a project-specific plan such as a Site Assessment Plan or a Construction and Operations Plan.

***Comment:* BOEM should set a sound intensity limit during pile driving and adequately analyze and require sound dampening technologies.**

The lease does not include environmental stipulations for site assessment activities or construction activities. Stipulations covering those types of activities, such as pile driving, will be considered in the future incident to BOEM receiving, reviewing and approving a project-specific plan such as a Site Assessment Plan or a Construction and Operations Plan.

BOEM remains committed to using the most up-to-date science currently available and – in accordance with National Marine Fisheries Service’s Conservation Recommendations in BOEM’s Endangered Species Act consultations – is supporting studies in areas where data is currently not available. Studies include HRG survey sound source verification (see: <http://www.boem.gov/Collaborative-Archaeological-Investigations-Sound-Source-Verifications-Final/>) and pile-driving mitigation (<http://www.bsee.gov/Research-and-Training/Technology-Assessment-and-Research/Project-634/>). In addition, BOEM has recently made available the proceedings of a meeting BOEM convened to evaluate noise-mitigating technologies, including pile-driving mitigation (see: <https://www.infinityconferences.com/InfiniBase/Templates/183779/Links.html>). In order to reduce the potential for injury to protected species, BOEM has made use of previous reports and modeled areas of ensonification from pile driving activities, in consultation with the National Marine Fisheries Service, and has adopted a very conservative shutdown requirement that would apply to all incursions into the exclusion zone during pile driving. Exclusion zone and Protected Species Observer requirements, as well as soft-start procedures, also provide supportive mitigations to minimize any possible impacts to protected species. The use of vibratory hammers is restricted and empirical data collection on the acoustic nature of this methodology is only recently being undertaken in Europe and is currently underway, with no data being readily available.

6. Miscellaneous: Other Changes Not Prompted by Proposed Sale Notice Comments

Why has the Preliminary Term in Addendum “B” been extended from 6 months to 1 year?

On April 17, 2014, BOEM published its Final Rule to extend timing requirements for submitting a SAP and a GAP pursuant to its renewable energy regulations. Effective May 19, 2014, all OCS renewable energy lessees and grantees will have 12 months from lease or grant issuance to submit a SAP or GAP. Previously, BOEM regulations required lessees and grantees to submit a SAP or a GAP either 60 days after BOEM determined there was no competitive interest in the lease or grant, or six months after the lease or grant was issued competitively. Leases OCS-A 0489 and OCS-A 0490 have been updated with publication of this FSN to conform to the Final Rule. The Final Rule can be found at: <http://www.boem.gov/FR-79-21617/>.

Why has the commercial lease form 0008 been updated?

The BOEM lease form 0008 was updated in April 2014 to include two new sections – Sections 16 and 17 – to ensure that Lessees comply with existing requirements in place to prevent employment discrimination, and to prevent Lessees from maintaining segregated facilities.

Why has the *COP Survey Plan* stipulation changed in Addendum “C”?

The leases proposed with the Maryland PSN required that the COP survey plan “be submitted to the Lessor no later than on the first anniversary of this lease’s Effective Date and at least 30 calendar days prior to the date of the pre-survey meeting with the Lessor”. This stipulation has been simplified to require the COP survey plan to be submitted to the Lessor “30 calendar days prior to the date of the required pre-survey meeting with the Lessor”. The primary goal of this stipulation is to ensure that the Lessee submits complete and sufficient COPs to allow for timely and thorough environmental reviews. 30 calendar days is a sufficient amount of time to allow for BOEM’s review of the COP survey plan.

Why has the *HRG Survey Milestone* stipulation been deleted from Addendum “C”?

After considering the stipulation further, BOEM believes that retaining this deadline could establish unrealistic timelines for developers. The regulations require developers to submit extensive HRG survey data in support of the COP towards the end of the Site Assessment Term.

Why has the *Notification* stipulation been deleted from Addendum “C”?

This stipulation, 5.1, was originally added to the Delaware lease during noncompetitive negotiations to accommodate the Lessee’s specific concerns with potential foreseeable activities in the commercial lease area. BOEM believes this stipulation is not necessary for inclusion in the Maryland leases and that means to resolve Lessee concerns with potential other uses of the lease areas are already accommodated in various provisions of the regulations at 30 CFR 585.