

Billing Code: 4310-MR

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM-2021-0078]

Atlantic Wind Lease Sale 9 (ATLW-9) for Commercial Leasing for Wind Power on the Outer Continental Shelf in the Carolina Long Bay Area - Proposed Sale Notice

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Proposed sale notice; request for comments.

SUMMARY: This document is the proposed sale notice (PSN) for the sale of a commercial wind energy lease on the Outer Continental Shelf (OCS) in the Carolina Long Bay area offshore North Carolina (Lease Area). The Bureau of Ocean Energy Management (BOEM) proposes to offer a single lease using a multiple-factor bidding auction format. The PSN contains information pertaining to the areas available for leasing, certain provisions and conditions of the lease, auction details, lease forms, criteria for evaluating competing bids, award procedures, appeal procedures, and lease execution procedures. The issuance of a lease resulting from this sale, if any, would not constitute an approval of project-specific plans to develop offshore wind energy. Such plans, if submitted by the lessee, would be subject to subsequent environmental, technical, and public reviews prior to a decision on whether the proposed development should be authorized.

DATES: Comments should be submitted electronically or postmarked no later than [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

Prospective bidders **in the proposed lease sale must submit qualification materials by the end of the 60-day comment period for this PSN.** Qualification materials must be postmarked no later than [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Submit comments on the PSN in one of the following ways:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. In the search box on webpage, enter BOEM-2021-0078 and click “search.” Follow the instructions to submit public comments.
- **Mail:** In written form, delivered by mail or delivery service, enclosed in an envelope labeled “Comments on Carolina Long Bay PSN” and addressed to: Office of Renewable Energy Programs, Bureau of Ocean Energy Management, 45600 Woodland Road, VAM-OREP, Sterling, Virginia 20166.

Qualifications Materials: Prospective bidders submit qualification materials to Casey Reeves, BOEM Office of Renewable Energy Programs, 45600 Woodland Road, VAM-OREP, Sterling, Virginia 20166, (703) 787-1671, or casey.reeves@boem.gov.

For more information regarding the submission of public comments and qualification materials, see section V under the caption “Supplementary Information.”

FOR FURTHER INFORMATION CONTACT: Casey Reeves, BOEM Office of Renewable Energy Programs, 45600 Woodland Road, VAM-OREP, Sterling, Virginia 20166, (703) 787-1671, or casey.reeves@boem.gov.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND:

- a. Call for Information and Nominations:** On December 13, 2012, BOEM published a North Carolina call for information and nominations (77 FR 74204) (“Call”). On February 5, 2013, BOEM reopened the comment period for the Call to allow for additional public input. The Call contained three proposed call areas entitled “Wilmington-East,” “Wilmington-West,” and “Kitty Hawk.” BOEM received comments from the general public, the fishing industry, industry groups, offshore wind developers, non-governmental organizations, universities, other stakeholders, and Federal, State, and local agencies. The subjects receiving the most comments were impacts to military operations, impacts to North Atlantic right whale critical habitat, visual impacts, and impacts to tourism from the Wilmington-West Call Area. Four offshore wind

developers submitted nominations for the Wilmington-East Call Area.

- b. Area Identification:** After the close of the Call comment period on March 7, 2013, BOEM initiated the area identification process (Area ID) by reviewing the input received. Through the Area ID process, BOEM considered the following non-exclusive list of information sources: comments and nominations received on the Call; information from the Regional Carolina Long Bay Intergovernmental Task Force; input from North Carolina and South Carolina State agencies; input from Federal agencies; comments from relevant stakeholders and ocean users, including the maritime community, offshore wind developers, and the commercial fishing industry; State and local renewable energy goals; and domestic and global offshore wind market and technological trends.

BOEM also considered multiple existing uses of the North Carolina offshore area in developing the call areas and wind energy areas (WEAs). BOEM found that existing uses having the highest potential to interact with offshore wind energy development in the call areas are (i) North Atlantic right whale migration routes; (ii) maritime navigation; and (iii) Department of Defense (DoD) activities.

BOEM completed the Area ID on August 7, 2014, by identifying the following three WEAs within the call areas: Wilmington East, Wilmington West, and Kitty Hawk. The Area ID announcement and map of the WEAs are available at: https://www.boem.gov/sites/default/files/renewable-energy-program/State-Activities/NC/NC_AreaID_Announcement_.pdf

- c. **Environmental Reviews:** On December 13, 2012, BOEM published a notice of intent to prepare an environmental assessment (EA) to consider potential environmental consequences of site characterization activities (e.g., biological, archeological, geological, and geophysical surveys and core samples) and site assessment activities (e.g., installation of meteorological towers or buoys) associated with issuing wind energy leases in the call areas. As part of the EA process, BOEM sought comments on the issues and alternatives that should inform the EA and received approximately 47 comments, which can be found at <http://www.regulations.gov> under Docket No. BOEM-2012-0090. A notice of availability of the EA was published on January 23, 2015, to initiate a 30-day public comment period (80 FR 3621). The EA was subsequently revised based on comments received during the comment period and public information meetings. The revised EA and the finding of no significant impact are available

at: <https://www.boem.gov/sites/default/files/renewable-energy-program/State-Activities/NC/NC-EA-Camera-FONSI.pdf>

Concurrently with its preparation of the EA, BOEM conducted consultations under the Endangered Species Act (ESA), the Magnuson-Stevens Fishery Conservation and Management Act, and the Coastal Zone Management Act. BOEM prepared and executed a programmatic agreement (PA) to guide its consultations under section 106 of the National Historic Preservation Act. The PA provides for consultations to continue through BOEM's decision-making process regarding the issuance of leases on the OCS. Also included in the PA is BOEM's phased identification and evaluation of historic properties.

On August 13, 2021, BOEM announced its intent to prepare a supplemental EA to the *Commercial Wind Lease Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf Offshore North Carolina - Revised Environmental Assessment*, which was originally published on September 17, 2015. This announcement opened a 30-day comment period that closed on September 13, 2021. The supplemental EA will evaluate current science, studies, circumstances, and other information relevant to reasonably foreseeable environmental impacts from site characterization activities (i.e., shallow hazards, geological,

geotechnical, archeological, and biological surveys of the lease area and potential cable routes) and site assessment activities (i.e., installation and operation of meteorological buoys) associated with issuing wind energy leases in the Wilmington East WEA. This new information includes a recent marine cultural resources survey, changes in the status of some ESA-listed species, the listing of new endangered species, and the designation of the North Atlantic right whale critical habitat. The supplemental EA and consultations will be concluded before the final sale notice (FSN).

II. AREA PROPOSED FOR LEASING: The area available for sale is proposed to be auctioned as a single lease, Lease OCS-A 0545:

Lease Area Name	Lease Area ID	Acres
Wilmington East	OCS-A 0545	127,865

The proposed lease area includes the majority of the Wilmington East WEA. BOEM requests input on potentially subdividing the Wilmington East Lease Area into as many as three lease areas from the existing 127,865 acres.

BOEM is aware of potential conflicts with the U.S. Coast Guard (USCG) in portions of the Wilmington East Lease Area. BOEM is working closely with USCG and DoD to ensure the final lease area is deconflicted and suitable for offshore wind energy

development. For more information regarding DoD’s evaluation, please see the February 13, 2020, letter from the DoD Military Aviation and Installation Assurance Siting Clearinghouse to BOEM posted on our website: <https://www.boem.gov/regional-carolina-long-bay-intergovernmental-renewable-energy>.

A description of the proposed Lease Area can be found in addendum “A” of the proposed lease, which BOEM has made available with this notice on its website at: <https://www.boem.gov/regional-carolina-long-bay-intergovernmental-renewable-energy>.

a. Map of the Area Proposed for Leasing: A map of the Lease Area, and GIS spatial files X, Y (eastings, northings) UTM Zone 18, NAD83 Datum, and geographic X, Y (longitude, latitude), NAD83 Datum can be found on BOEM’s website at: <https://www.boem.gov/regional-carolina-long-bay-intergovernmental-renewable-energy>.

b. Potential Future Restrictions to Ensure Navigational Safety:

- i. **USCG Navigational Safety Measures:** Potential bidders should note that portions of the Wilmington East Lease Area may not be available for future development (i.e., installation of wind facilities) because of navigational safety concerns. In accordance with the Ports and

Waterways Safety Act, USCG has published an advance notice of proposed rulemaking (ANPRM), which includes traffic lanes in the vicinity of the Wilmington East Lease Area. This ANPRM included a shipping safety fairway to accommodate vessel traffic traveling across the Carolina Long Bay Area from Charleston, South Carolina, to ports on the U.S. Mid- and North Atlantic coast. The shipping safety fairway overlaps with the proposed Wilmington East Lease Area. The size and boundaries of the Wilmington East Lease Area could change between now and publication of a FSN, depending on the outcome of additional discussions between BOEM and USCG. BOEM may require additional mitigation measures upon review of a construction and operations plan (COP) when the Lessee's site-specific navigational safety risk assessment is available to inform BOEM's decision-making. In addition, in 2020, the USCG announced that it would be conducting a supplemental Port Access Route Study (PARS). This supplemental PARS may result in additional north to south navigational mitigation measures at the COP review stage.

- ii. **Vessel Transit Corridors:** Members of the fishing community have requested that offshore wind energy

facilities be designed in a manner that, among other things, provides for safe transit to fishing grounds where relevant. The information currently available does not indicate that transit corridors are warranted, but BOEM may nonetheless consider designating portions of the lease as transit corridors. Bidders should be aware that a lease stipulation may be included in the FSN that addresses transit corridors, pending the outcome of additional discussions with ocean users and stakeholders and consideration of comments submitted in response to this PSN.

c. Potential Future Restrictions to Mitigate Potential Conflicts

with Department of Defense Activities: Prospective bidders should be aware of potential conflicts with existing uses of the OCS by DoD. BOEM coordinates with DoD throughout the leasing process. A February 13, 2020, letter from DoD on the BOEM website summarizes our most recent consultations:

<https://www.boem.gov/regional-carolina-long-bay-intergovernmental-renewable-energy>.

- i. **Air Surveillance and Radar:** The North American Aerospace Defense Command mission may be affected by the development of the Lease Area. BOEM will coordinate with DoD and the Lessee to deconflict these potential

impacts throughout the project review stage. Mitigation measures or terms and conditions of a plan approval may result from this coordination effort.

III. PARTICIPATION IN THE PROPOSED LEASE SALE:

- a. Bidder Participation:** Entities wishing to participate in the proposed ATW-9 lease sale must submit the required qualification materials by the end of the 60-day comment period for this PSN.
- b. Affiliated Entities:** On the bidder's financial form discussed in section V.(c)(i) below, eligible bidders must list any other eligible bidders with whom they are affiliated. Affiliated eligible bidders are not permitted to compete against each other in the lease sale and must decide prior to the auction which eligible bidder (if any) will participate. If two or more affiliated bidders seek to participate in the auction, BOEM may disqualify some or all such bidders from the auction.

BOEM considers two entities to be affiliated if (a) one entity (or its parent or subsidiary) has or retains any right, title, or interest in the other entity (or its parent or subsidiary), including any ability to control or direct actions with respect to such entity, either directly or indirectly, individually or through any other

party; or (b) the entities are both direct or indirect subsidiaries of the same parent company.

IV. QUESTIONS FOR STAKEHOLDERS: Stakeholders are encouraged to comment on any matters related to this lease sale that are of interest or concern to them. However, BOEM has identified certain issues as particularly important in developing this lease sale and encourages commenters to address these issues specifically.

- a. *Number, size, orientation, and location of the proposed lease areas:* BOEM is requesting comment on the number of leases that should be offered within the Lease Area, the size and orientation of the Lease Area, as well as any portions of the Lease Area that should be prioritized for inclusion or exclusion from this lease sale or future lease sales.
- b. *Transit corridors:* BOEM welcomes comments on the potential need for including defined transit corridors within the proposed Lease Area and the degree to which such corridors might meet potential users' needs.
- c. *What existing uses would be affected by the development of the proposed Lease Area?* If transit corridors are warranted, what would be the preferred placement and orientation (length, width, etc.) that would facilitate continuance of existing uses? BOEM

asks commenters to submit technical and scientific data in support of their comments.

- d. *Benefits to underserved communities:* Executive Order 13985, “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,” directs advancement of equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality. Executive Order 14008, “Tackling the Climate Crisis at Home and Abroad,” establishes a policy to secure environmental justice and spur economic opportunity for disadvantaged communities through investing and building a clean energy economy and making environmental justice part of every agency’s mission.

To the extent of its statutory and regulatory authorities, BOEM is considering lease stipulations to ensure communities, particularly underserved communities, are engaged early and often throughout the offshore wind energy development process and to encourage direct investments in underserved communities that include, but are not limited to:

- i. workforce training and development.
- ii. contracting with and supporting the development of minority- and women-owned businesses.

iii. programs that promote and deliver environmental justice.

BOEM invites comment on the appropriate mechanisms, evaluation metrics, and valuation of these additional lease requirements. Commenters are encouraged to describe how these or similar measures would further development of the proposed Lease Area and the purposes of OCS Lands Act. BOEM requests commenters provide references to any studies that support their recommendations.

e. *Bidding credits*: As authorized under 30 CFR 585.220(a)(4) and 585.221(a)(6), BOEM proposes to use a multiple-factor auction format, with a multiple-factor bidding system, for this lease sale. Under this system, BOEM would consider a combination of a monetary bid and bidding credits in determining the outcome of the auction. BOEM would appoint a panel of BOEM employees to review the non-monetary component and to verify the results of the lease sale. BOEM would reserve the right to change the composition of this panel at any time.

i. The proposed bidding credit would allow bidders to receive a credit of up to 20 percent off their winning bid in exchange for financial commitments to a workforce training program or to development of a domestic supply chain. To qualify, the winning bidder would be required to

financially commit at least 80 percent of the bidding credit value toward a workforce training program or development of a domestic supply chain. For example, a winning bidder with a high bid of \$31.25 million could receive a credit of \$6.25 million toward their winning bid in exchange for a \$5 million (80 percent of \$6.25 million) commitment to a workforce training or development of the domestic supply chain. Bidders could choose to limit their commitment (20 percent of bid up to \$X.0 million) or simply commit to a bidding credit worth 20 percent of their high bid.

- ii. The qualifying programs for the workforce training credit would contribute to well-trained personnel pursuant to congressional policy under 43 U.S.C. 1332(6), which states that operations on the OCS should be conducted in a safe manner by well-trained personnel. Workforce training would also promote “expeditious and orderly development” as called for by 43 U.S.C.1332(3).
- iii. The qualifying programs for the domestic supply chain credit would contribute to the development of a domestic supply chain, which would facilitate congressional policy set forth in 43 U.S.C. 1332(3) to promote expeditious and orderly development on the OCS.

- iv. Bidders who are interested in pursuing bidding credits would be able to choose to commit to workforce training programs, domestic supply chain initiatives, or a combination of both. Payment fulfilling the commitment could be deferred until submission of the facility design report (FDR) to BOEM. Documentation of the lessee's contribution and of how the commitment would benefit workforce training or the domestic supply chain would be due no later than the lessee's first FDR. By deferring the payment until the FDR, the lessee would be able to identify programs or recipients with the greatest potential to expedite or facilitate orderly OCS renewable energy development.
- v. Examples of programs that would qualify for the workforce training credit include specific job and workforce training, union apprenticeships, labor management training partnerships, stipends for workforce training, or other technical training programs focused on providing skills needed for the construction, maintenance, or operation of offshore wind energy projects. BOEM encourages lessees to maximize training opportunities for individuals from underserved communities.

vi. Examples of programs that would qualify for the domestic supply chain credit include commitments to technical assistance grants to help U.S. manufacturers re-tool or certify (e.g., ISO-9001) for offshore wind manufacturing, a non-equity investment in the development of a Jones Act-compliant wind turbine installation vessel, a bonding support reserve fund accessed by disadvantaged businesses, or other non-equity contributions to efforts to build a U.S. domestic supply chain supporting the offshore wind industry. BOEM encourages lessees to maximize supply chain opportunities for disadvantaged business enterprises. Commenters are encouraged to describe how these or similar measures would further development of the proposed Lease Area and the purposes of OCS Lands Act. BOEM requests commenters provide references to any studies that support their recommendations.

vii. Documentation

If a lease is awarded pursuant to a winning bid that includes the workforce training or supply chain development commitment or both, the lessee would be required to provide written documentation to BOEM demonstrating

payment of the full commitment no later than submission of the lessee's first FDR.

viii. Enforcement

The amount and conditions of the commitment would be included in a lease addendum and would bind the lessee and all future assignees of the lease. If a lessee or assignee fails to satisfy its commitment obligations before submission of the FDR or relinquishes or otherwise fails to develop the lease for any reason by the 10th anniversary date of lease execution or another date agreed to by BOEM, the original lessee and all assignees will owe an amount corresponding to the awarded bidding credit, immediately due and payable to the Office of Natural Resources Revenue with interest from the date of lease execution. In that circumstance, the bidding credit has been forfeited, and the lessee would be obligated to pay the amount of the credit not earned, resulting in payment of the full amount of the accepted bid.

- f. BOEM invites comment on the appropriate mechanisms, evaluation metrics, recipient program examples, and relative value

of bidding credits for workforce training and supply chain development.

g. *Native American Tribes, ocean users, and stakeholder*

engagement: In an effort to require early and regular lessee engagement with affected stakeholders, BOEM is proposing a lease stipulation that would require lessees to provide a semi-annual (i.e., every 6 months) progress report that summarizes engagement with Native American Tribes and ocean users potentially affected by proposed activities on the lease or proposed project easement. The progress report would identify and describe: all existing users; the lessee's engagement with those users; efforts to avoid, minimize, or mitigate any conflict between the existing users and the lessee; disproportionate impacts to environmental justice communities; and planned next steps to engage those users and address identified conflicts. The lease stipulation specifically would require coordination with the commercial fishing industry and consideration of potential conflicts prior to proposing a wind turbine layout in the COP. BOEM seeks comment on this concept generally, as well as comment on the contents and timing of such reports.

h. *Coordinated engagement:* BOEM seeks comments on methods to improve coordination and engagement among lessees, federally

recognized Tribes, and other stakeholders. Specifically, BOEM is soliciting input on how to improve the frequency, duration, and sustainability of collaborative engagement among these parties, as well as the preferred form it should take (in-person, webinar, facilitated meeting, etc.). BOEM recognizes its responsibility under Executive Order 13175 to conduct government-to-government consultations with Tribal governments. Coordinated engagement between federally recognized Tribes and lessees that may be required in a future lease would be in addition to BOEM's responsibilities. To illustrate the intent of this question, one possible lease term to facilitate coordinated engagement could be to require lessees to hold coordination meetings at regular intervals throughout the year (i.e., quarterly, biannually, annually, etc.). During these meetings, lessees would share information and updates about their activities with federally recognized Tribes and other stakeholders and solicit feedback and input about lessee activities. These meetings would not substitute for government-to-government meetings between Tribes and Federal agencies, including BOEM.

- i. *Prescribed layouts:* BOEM seeks comment about whether BOEM should consider prescribing uniform and aligned turbine layouts in

the Lease Area. Would the establishment of uniform turbine layouts negate the need for established transit corridors?

- j. *Rent:*** BOEM is proposing to simplify the calculation for rental fees once commercial operations have begun. The simplification would divide the leased area into “generating” and “non-generating” acreages and would use the “non-generating” acreage as the basis for the rental calculation. BOEM welcomes comments on the proposed rental calculation changes.
 - k. *Industry standards for environmental protection:*** Are there new industry standards (e.g., technology standards, vessel standards, etc.) for environmental protection for any phase of development that BOEM should consider?
- V. DEADLINES AND MILESTONES:** This section describes the major deadlines and milestones in the auction process from publication of this PSN to potential execution of the lease pursuant to this sale.

a. The PSN Comment Period:

- i. *Submit Comments:*** The public is invited to submit comments during this 60-day period, which expires on [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. All comments received or postmarked during the comment

period will be made available to the public and considered by BOEM prior to publication of the FSN.

- ii. *Public Auction Seminar:*** BOEM will host a public seminar to discuss the lease sale process and the auction format. The time and place of the seminar will be announced by BOEM and published on the BOEM website at <https://www.boem.gov/regional-carolina-long-bay-intergovernmental-renewable-energy>.

Neither registration nor RSVP is required to attend.

- iii. *Submit Qualifications Materials:*** All qualification materials must be received by BOEM by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. This includes materials sufficient to establish a company's legal, technical, and financial qualifications pursuant to 30 CFR 585.106 – .107. To qualify to participate in this lease sale, qualification materials should be developed in accordance with the guidelines available at <https://www.boem.gov/Renewable-Energy-Qualification-Guidelines/>. If you wish to protect the confidentiality of your comments or qualification materials, clearly mark the relevant sections and request that BOEM treat them as confidential. Please label

privileged or confidential information with the caption “Contains Confidential Information” and consider submitting such information as a separate attachment. Treatment of confidential information is addressed in section XXI entitled “Protection of Privileged or Confidential Information.” Information that is not labeled as privileged or confidential would be regarded by BOEM as suitable for public release.

b. End of PSN Comment Period to FSN Publication:

- i. Review Comments:* BOEM will review all comments submitted in response to the PSN during the comment period.
- ii. Finalize Qualifications Reviews:* Prior to the publication of the FSN, BOEM will complete its review of bidder qualification materials submitted during the PSN comment period. The final list of eligible bidders will be published in the FSN.
- iii. Prepare the FSN:* BOEM will prepare the FSN by updating information contained in the PSN where appropriate.
- iv. Publish FSN:* BOEM will publish the FSN in the *Federal Register*.

c. **FSN Waiting Period:** During this period, qualified bidders must take several steps to remain eligible to participate in the auction.

i. ***Bidder's Financial Form (BFF):*** Each bidder must submit a BFF to BOEM to participate in the auction. BOEM must receive each bidder's BFF no later than the date listed in the FSN. BOEM may consider extensions to this deadline only if BOEM determines that the failure to timely submit a BFF was caused by events beyond the bidder's control. The BFF can be downloaded at:

<https://www.boem.gov/regional-carolina-long-bay-intergovernmental-renewable-energy>.

Once BOEM has processed a bidder's BFF, the bidder may log into pay.gov and submit a bid deposit. For purposes of this auction, BOEM will not consider BFFs submitted by bidders for previous lease sales. You may submit your BFF electronically in PDF format to the mailbox at renewableenergy@boem.gov. Digital signatures, affixed to paper and digital copies, are acceptable until further notice.

- a. Please accompany your submission with a transmittal letter on company letterhead.
- b. BOEM prefers that your BFF be submitted using a company email address.

- c. The BFF must be executed by an authorized representative listed in the bidder’s legal qualifications. Each bidder is required to sign the self-certification in the BFF truthfully, under threat of criminal penalty for false statements in accordance with 18 U.S.C. 1001 (fraud and false statements).
 - d. BOEM will consider the date an emailed submission was received in the mailbox renewableenergy@boem.gov as the official receipt (filed) date.
 - e. Additional information regarding BFF may be found below in section IX “Bidder’s Financial Form.”
- ii. ***Bid Deposit:*** Each qualified bidder must submit a bid deposit of \$2,000,000 no later than the date specified in the FSN. Further information about bid deposits can be found below in section X “Bid Deposit.”
- d. **Mock Auction:** BOEM will hold a mock auction that is open only to qualified bidders who have met the requirements and deadlines for auction participation, including submission of the bid deposit. Final details of the mock auction will be provided in the FSN.

- e. **The Auction:** BOEM, through its contractor, will conduct the auction as described in the FSN. The auction will occur no sooner than 30 days following publication of the FSN in the *Federal Register*. The estimated timeframes described in this PSN assume the auction will occur approximately 45 days after FSN publication. Final dates will be included in the FSN. BOEM will announce the provisional winner of the lease sale after the auction ends.
- f. **From the Auction to Lease Execution:**
- i. **Notice and Refunds to Non-Winners:** Once the provisional winner has been announced, BOEM will notify the other bidders, include a written explanation of why they did not win, and return their bid deposits.
 - ii. **Department of Justice (DOJ) Review:** DOJ will have 30 days in which to conduct an antitrust review of the auction, pursuant to 43 U.S.C 1337(c).
 - iii. **Delivery of the Lease:** BOEM will send three copies of the lease to the winning bidder, with instructions on how to sign the lease. The winning bidder must pay the first year's rent within 45-calendar days after receiving the lease copies.
 - iv. **Return the Lease:** Within 10-business days of receiving the lease copies, the winning bidder must file financial assurance, pay any outstanding balance of its bonus bids (i.e., winning monetary bid

less the applicable non-monetary bidding credit and bid deposit), and sign and return the three lease copies. A winning bidder may request a deadline extension. BOEM may grant the request if BOEM determines the cause of the delay was beyond the winning bidder's control pursuant to 30 CFR 585.224(e).

- v. ***Execution of Lease:*** Once BOEM has received the signed lease copies and verified that all other required obligations have been met, BOEM will determine, in its discretion, whether to sign and execute the lease.

VI. WITHDRAWAL OF BLOCKS: BOEM reserves the right to withdraw all or portions of the Lease Area prior to executing the lease with the winning bidder.

VII. LEASE TERMS AND CONDITIONS: BOEM has made available proposed terms, conditions, and stipulations for the commercial lease that will be offered through this proposed sale. BOEM reserves the right to require compliance with additional terms and conditions associated with approval of a site assessment plan (SAP) and COP. The proposed lease is on BOEM's website at: The lease includes the following attachments:

1. Addendum A ("Description of Leased Area and Lease Activities");
2. Addendum B ("Lease Term and Financial Schedule");

3. Addendum C (“Lease-Specific Terms, Conditions, and Stipulations”);
4. Addendum D (“Project Easement”); and
5. Addendum E (“Rent Schedule”).

Addenda A, B, and C provide detailed descriptions of lease terms and conditions. Addendum D will be completed at the time of COP approval or approval with modifications. Addendum E will be completed after COP approval or approval with modifications. After considering comments on the PSN and proposed lease, BOEM will publish final lease terms and conditions in the FSN.

a. Required Plans for Potential Development of Executed Lease:

Under 30 CFR 585.601, if site assessment activities will be conducted, the leaseholder must submit a SAP within 12 months of lease issuance. If the leaseholder intends to continue its commercial lease with an operations term, the leaseholder must submit a COP at least 6 months before the end of the site assessment term.

b. Proposed New or Revised Lease Stipulations: BOEM proposes to add or revise the following lease stipulations or provisions from previous commercial leases:

- i. Fisheries Communication Plan:* The requirement for the fisheries communication plan (FCP) has been amended to

specify that the FCP must include discussions with fisheries stakeholders regarding any planned facilities within 120 days of lease execution.

- ii. Native American Tribes Communication Plan:* BOEM has added a lease stipulation requiring the lessee to develop a Native American Tribes Communication Plan (NATCP). The NATCP would require the lessee to designate a Tribal liaison responsible for communicating with federally recognized Tribes, to provide BOEM and federally recognized Tribes with a draft NATCP, and to hold a meeting with federally recognized Tribes to discuss the NATCP within 120 days of lease execution.
- iii. Protected Species:* In October 2018, BOEM initiated ESA section 7 formal consultation with the National Marine Fisheries Service (NMFS) to update the project design criteria and best management practices to be more consistent with recent incidental harassment authorizations (IHAs) issued by NMFS under the Marine Mammal Protection Act for site survey and data collection activities. In January 2020, BOEM and NMFS agreed to convert the formal consultation to a programmatic informal consultation limited to surveys and installation of met

buoys associated with a lease. Activities include geophysical and geotechnical surveys and the installation and decommissioning of met buoys in support of offshore wind energy projects.

Mitigation measures adopted during the consultation rely upon the most up-to-date science and mirror those included in recent IHAs. Adopting these measures would reduce the number of requests by the lessee to modify its lease stipulations consistent with its respective NMFS-issued IHAs, which in turn reduces compliance burdens on the lessee and BOEM. Accordingly, the lease stipulations would no longer specify exclusion zones for sound propagation from geophysical survey equipment, vessel strike avoidance measures, or protected species observer procedures, all of which would be specified in the outcome of the most up-to-date consultation.

- iv. Site Characterization:* BOEM updated language regarding survey plans and pre-survey meetings (section 2.1 of addendum C to the proposed lease). BOEM proposes to make the pre-survey meeting between the lessee and BOEM optional at BOEM's discretion. BOEM also recommends removing the requirement for lessees to meet

with BOEM prior to holding Tribal pre-survey meetings.

The change would allow lessees more flexibility scheduling Tribal pre-survey meetings, possibly holding them earlier and allowing greater opportunity for Tribal input.

- v. *Siting Conditions:* BOEM included a lease stipulation that outlines situations when lessees may not construct surface facilities.
- vi. *Operating Fee:* BOEM proposes several simplifications to the operating fee consistent with the recently proposed changes for future New York Bight leases. The changes include eliminating the inflation adjustment, moving from a weighted peak and off-peak power price to a simple hourly average, and eliminating the 10 percent limit to the capacity adjustment every 5 years. These changes are designed to simplify the operating fee calculation and are expected to have minimal impact on operating fee revenues paid by the lessee. BOEM also proposes simplifying the capacity formulation and utilizing the nameplate capacity in the fabrication and installation report (FIR) for the operating fee calculation.
- vii. *Project Labor Agreements:* BOEM proposes a lease stipulation which would require the lessee to make

reasonable efforts to enter into a project labor agreement (PLA) covering the construction stage of any project proposed for the leased area. The proposed stipulation is responsive to Executive Order 14008 and would support BOEM's achievement of the following OCS Lands Act policies:

- i. Expeditious and orderly development (43 U.S.C. 1332(3));
- ii. Safe operations conducted by well-trained personnel (43 U.S.C. 1332(6));
- iii. Any activity is carried out in a manner that provides for safety (43 U.S.C. 1337(p)(4)(A)); and
- iv. Fair return (43 U.S.C. 1337(p)(2)(A)).

PLAs may support the achievement of these goals—including expeditious development and potentially more years of operating fee receipts.

- viii. *Stakeholder and Ocean User Engagement Summary:*
- BOEM proposes that the lessee include a stakeholder and ocean user engagement summary as part of their progress reporting requirements (see section 2.2 of addendum C of the lease). This summary would include a description of all existing users, engagement activities with those users

during the reporting period, and a description of efforts to minimize any conflict between the existing users and the lessee.

VIII. LEASE FINANCIAL TERMS AND CONDITIONS:

This section provides an overview of the required annual payments and financial assurances under the lease. Please see the proposed lease for more information.

- a. Rent:** Pursuant to 30 CFR 585.224(b) and 585.503, the first year's rent payment of \$3 per acre is due within 45-calendar days after the lessee receives the lease copies from BOEM. Thereafter, annual rent payments are due on the anniversary of the effective date of the lease (the "Lease Anniversary"). Once commercial operations under the lease begin, BOEM will charge rent only for the portions of the Lease Area remaining undeveloped (i.e., non-generating acreage). For the 127,865-acre Lease Area of OCS-A 0545, the rent payment will be \$383,595 per year until commercial operations begin.

If the lessee submits an application for relinquishment of a portion of its leased area within the first 45-calendar days after receiving the lease copies from BOEM and BOEM approves that application, no rent payment would be due on the relinquished portion of the lease area. Later relinquishments of any portion of the lease

area would reduce the lessee's rent payments starting in the year following BOEM's approval of the relinquishment.

The lessee also must pay rent for any project easement associated with the lease. Rent commences on the date that BOEM approves the COP (or modification thereof) that describes the project easement as outlined in 30 CFR 585.508. Annual rent for a project easement that is 200 feet wide, centered on the transmission cable, will be \$70 per statute mile. For any additional acreage, the lessee must pay the greater of \$5 per acre per year or \$450 per year.

- b. Operating Fee:** For purposes of calculating the initial annual operating fee payment under 30 CFR 585.506, BOEM applies an operating fee rate to a proxy for the wholesale market value of the electricity expected to be generated from the project during its first 12 months of operations. This initial payment will be prorated to reflect the period between the commencement of commercial operations and the Lease Anniversary. The initial annual operating fee payment will be due within 45 days of the commencement of commercial operations. Thereafter, subsequent annual operating fee payments will be due on or before the Lease Anniversary.

The subsequent annual operating fee payments will be calculated by multiplying the operating fee rate by the imputed wholesale market value of the projected annual electric power

production. For the purposes of this calculation, the imputed market value will be the product of the project’s annual nameplate capacity, the total number of hours in the year (8,760), the capacity factor, and the annual average price of electricity derived from a regional wholesale power price index. For example, the annual operating fee for a 1,622 megawatt (MW) wind facility operating at a 40 percent capacity (i.e., capacity factor of 0.4) with a regional wholesale power price of \$40 per megawatt hour (MWh) and an operating fee rate of 0.02 would be calculated as follows:

$$\text{Annual Operating Fee} = 1,622 \text{ MW} \times 8,760 \frac{\text{hrs}}{\text{year}} \times 0.4 \times$$

$$\frac{\$40}{\text{MWh}} \text{ Power Price} \times 0.02 = \$4,546,790.40$$

- i. Operating Fee Rate:* The operating fee rate is the share of imputed wholesale market value of the projected annual electric power production due to the Office of Natural Resources Revenue as an annual operating fee. For the Lease Areas, BOEM proposes to set the fee rate at 0.02 (2 percent) for the entire life of commercial operations.
- ii. Nameplate Capacity:* Nameplate capacity is the maximum rated electric output, expressed in MW, which the turbines of the wind facility under commercial operations can produce at their rated wind speed as designated by the turbine’s manufacturer. The nameplate capacity available at the start of each year of

commercial operations on the lease will be the capacity provided in the FIR. For example, if the lessee installed 100 turbines as documented in its FIR, and each is rated by the manufacturer at 12 MW, the nameplate capacity of the wind facility would be 1,200 MW.

iii. Capacity Factor: The capacity factor relates to the amount of energy delivered to the grid during a period of time compared to the amount of energy the wind facility would have produced at full capacity during that same period of time. This factor is represented as a decimal between zero and one. There are several reasons why the amount of power delivered is less than the theoretical 100 percent of capacity. For a wind facility, the capacity factor is mostly determined by the availability of wind. Transmission line loss and down time for maintenance or other purposes also affect the capacity factor.

BOEM proposes to set the capacity factor at 0.4 (i.e., 40 percent) for the year in which the commercial operation date occurs and for the first 6 full years of commercial operations on the lease. At the end of the sixth year, BOEM may adjust the capacity factor to reflect the performance over the previous 5 years based upon the actual metered electricity generation at the delivery point

to the electrical grid. BOEM may make similar adjustments to the capacity factor once every five years thereafter.

iv. Wholesale Power Price Index: Under 30 CFR 585.506(c)(2)(i), the wholesale power price, expressed in dollars per MWh, is determined at the time each annual operating fee payment is due. For the lease offered in this sale, BOEM proposes to use the index for VACAR average price per MW from the Enerfax power prices dataset within Hitachi's ABB Velocity Suite or similar. VACAR is a subregion of the Southeastern Electric Reliability Council and comprises the Carolinas and parts of Virginia. The VACAR average price per megawatt represents prices from Duke, Progress Energy's Carolina Power and Light, Santee Cooper, South Carolina Electric and Gas, Southeastern Power Administration, and APGI Yadkin Division.

c. Financial Assurance: Within 10-business days after receiving the lease copies and pursuant to 30 CFR 585.515-.516, the provisional winner must provide an initial lease-specific bond or other BOEM-approved financial assurance instrument in the amount of \$100,000. BOEM encourages the provisionally winning bidder to discuss financial assurance requirements with BOEM as soon as possible after selection notification.

BOEM will base the amount of all SAP, COP, and decommissioning financial assurance on cost estimates for meeting all accrued lease obligations at the respective stages of development. The required amount of supplemental and decommissioning financial assurance will be determined on a case-by-case basis.

The financial terms described above can be found in addendum B of the lease, which is available at: <https://www.boem.gov/regional-carolina-long-bay-intergovernmental-renewable-energy>.

- IX. BIDDER'S FINANCIAL FORM:** Each bidder must fill out the BFF referenced in this PSN. A copy of the form is available at: <https://www.boem.gov/regional-carolina-long-bay-intergovernmental-renewable-energy>. BOEM recommends that each bidder designate an email address in its BFF that the bidder would then use to create an account in pay.gov (if it has not already done so). BOEM will not consider previously submitted BFFs for previous lease sales to satisfy the requirements of this auction. BOEM may consider BFFs submitted after the deadline set in the FSN if BOEM determines that the failure to timely submit the BFF was caused by events beyond the bidder's control. BOEM will only accept an original, signed paper copy of the BFF. The BFF must be executed by an authorized representative listed in the qualification package on file with BOEM.

X. BID DEPOSIT: Each qualified bidder must submit a bid deposit no later than the date listed in the FSN. Typically, this deadline is approximately 30-calendar days after the publication of the FSN. BOEM may consider extensions to this deadline only if BOEM determines that the failure to timely submit the bid deposit was caused by events beyond the bidder's control.

Following the auction, bid deposits will be applied against the winning bid and other obligations owed to BOEM. If a bid deposit exceeds that bidder's total financial obligation, BOEM will refund the balance of the bid deposit to the bidder. BOEM will refund bid deposits to the other bidders once BOEM has announced the provisional winner.

If BOEM offers a lease to the provisionally winning bidder and that bidder neither timely returns the signed leases, establishes financial assurance, nor pays the balance of its bid, BOEM will retain that bidder's \$2,000,000 bid deposit. In such a circumstance, BOEM reserves the right to offer a lease to the next highest bidder as determined by BOEM.

XI. MINIMUM BID: The minimum bid is the lowest bid BOEM will accept as a winning bid, and it is where BOEM will start the bidding in the auction. BOEM proposes a minimum bid of \$50.00 per acre for this lease sale.

XII. AUCTION PROCEDURES:

a. Multiple-Factor Bidding Auction: As authorized under 30 CFR 585.220(a)(4) and 585.221(a)(6), BOEM proposes to use a multiple-factor bidding auction for this lease sale. Under BOEM's proposal, the bidding system for this lease sale would be a multiple-factor combination of nonmonetary and monetary factors. The bid made by a particular bidder in each round would represent the sum of a bidding credit and a monetary (cash) amount. BOEM proposes to start the auction using the minimum bid price for the Lease Area and to increase that price incrementally until no more than one active bidder remains in the auction.

b. The Auction: Using an online bidding system to host the auction, BOEM will start the bidding for Lease OCS-A 0545. The description below assumes that only a single lease area will be offered in the auction. In the event that two or more lease areas are offered, BOEM intends to use auction procedures similar to those described in the New York Bight PSN published in the *Federal Register* on June 14, 2021 (86 FR 31524).

The auction will be conducted in a series of rounds. At the start of each round, BOEM will state an asking price for the Lease Area. If a bidder is willing to meet that asking price, it would indicate its intent by submitting a bid equal to the asking price. A

bid at the full asking price submitted in a round is referred to as a “live bid.” To participate in the next round of the auction, a bidder must have submitted a live bid in each previous round.

As long as there are two or more live bids for the Lease Area, the auction moves to the next round. BOEM will continue to raise the asking price if two or more live bids are made in the previous round. Asking price increments would be determined based on several factors, including (but not necessarily limited to) the expected time needed to conduct the auction and the number of rounds that have already occurred. BOEM reserves the right to increase or decrease bidding increments as it deems appropriate.

Generally, a bidder that submitted a live bid in the previous round is free to continue bidding in the current round. If a bidder decides to stop bidding in a subsequent round, that bidder could still win the auction. For example, that bidder could be ultimately selected in the winner determination that is described in detail below, or the winning bidder may be disqualified at the award stage of the auction. If this happens, the bidder may be bound by its bid and thus obligated to pay the full bid amount. Bidders may be bound by any of their bids until the auction results are finalized.

Between rounds, BOEM would disclose to all bidders that submitted bids in the previous round: (1) the number of live bids in

the previous round of the auction (i.e., the level of demand at the asking price); and (2) the asking price for the lease area in the upcoming round of the auction.

In any round after the first round, a bidder may submit an “exit bid.” An exit bid is a bid that is higher than the previous round’s asking price, but less than the current round’s asking price. An exit bid is not a live bid, and it represents the final bid from the bidder who submitted it. During the auction, the exit bid can be seen only by BOEM, not by other bidders.

The auction will end after the first round in which only one or zero live bids is received. BOEM will then determine the provisional winner to be the bidder with the highest bid, whether the bid was a live bid or an exit bid. The auction system will resolve any tie by generating pseudo-random numbers. The provisional winner must pay the amount of its provisionally winning bid.

A provisional winner may be disqualified if it is subsequently found to have violated auction rules or BOEM regulations, or otherwise engaged in conduct detrimental to the integrity of the competitive auction. If a bidder submits a bid that BOEM determines to be a provisionally winning bid, the bidder will be expected to sign the applicable lease documents, establish financial

assurance, and submit the balance (if any) of its bonus bid (i.e., winning monetary bid less the applicable non-monetary bidding credit and bid deposit) within 10-business days of receiving the lease copies, pursuant to 30 CFR 585.224. BOEM reserves the right not to issue the lease to the provisionally winning bidder if that bidder neither timely signs the lease copies, establishes financial assurance, nor pays the balance of its winning bid, or otherwise fails to comply with applicable regulations or the terms of the FSN. In that case, the bidder would forfeit its bid deposit. BOEM may consider failure of a bidder to timely pay the full amount due to be an indication that the bidder may no longer be financially qualified to participate in other lease sales under 30 CFR 585.106 and 585.107.

BOEM will publish the provisionally winning bidder and bid amount. The bid results, including exit bids, will be published on BOEM's website after review of the results and announcement of the provisional winner.

c. Additional Information Regarding the Auction Format

- i. Bidder Authentication:** For the online auction, BOEM will require two-factor authentication. After BOEM has processed the bid deposits, the auction contractor will send several bidder authentication packages to the bidders. One

package will contain digital authentication tokens needed to allow access to the auction website. (Note: BOEM reserves the right to use software tokens instead of hardware tokens. If used, software tokens will be provided through electronic communications.) As a general practice, tokens are mailed to the primary point of contact indicated on the BFF. This individual is responsible for distributing the tokens to the individuals authorized to bid for that company. Up to three individuals can be nominated to bid for each bidder.

Bidders are to ensure that each token is returned within three business days following the auction. An addressed, stamped envelope will be provided to facilitate this process. If a bidder fails to submit a bid deposit or does not participate in the auction, BOEM will de-activate that bidder's tokens and login information, and the bidder must return its tokens. Under certain circumstances (e.g., if the authorized bidders are geographically dispersed and the ability of the primary point of contact to timely distribute the materials is in question), BOEM may send all materials directly to the authorized bidders.

The second package will contain login credentials for authorized bidders. The login credentials are mailed to the

address provided in the BFF for each authorized individual. Bidders can confirm these addresses by calling 703-787-1121. BOEM may also use email to provide login credentials. This package will contain user login information and instructions for accessing the auction system's Bidder Manual and the Auction System Technical Supplement (ASTS). The login information, along with the tokens, will be tested during the mock auction.

- ii. ***Timing of Auction:*** The FSN will provide specific information regarding when bidders can enter the auction system and when the auction will start.
- iii. ***Messaging service:*** BOEM and the auction contractors will use the auction platform messaging service to keep bidders informed on issues of interest during the auction. For example, BOEM may change the schedule at any time, including during the auction. If BOEM changes the schedule during an auction, it will use the messaging feature to notify bidders that a revision has been made and will direct bidders to the relevant page. BOEM will also use the messaging system for other updates during the auction.

Bidders may place bids at any time during the round. At the top of the bidding page, a countdown clock shows how much time remains in the round. Bidders have until the scheduled time to place bids. Bidders should do so according to the procedures described in this notice and the ASTS. Information about the round results will be made available only after the round has closed, so there is no strategic advantage to placing bids early or late in the round.

The ASTS elaborates on the auction procedures described in this PSN. In the event of an inconsistency between the Bidder Manual, the ASTS, and the FSN, the FSN is controlling.

- iv. *Alternate Bidding Procedures:*** It is the responsibility of the bidder to ensure it has a working internet connection and backup procedures in place in case its internet connection is disrupted during the auction. Such backup procedures can include redundant internet connections, multiple individual authorized to place bids on behalf of the company, geographically dispersing individuals who are authorized to bid (with different internet connections), and placing bids using a mobile data connection. The bidder is

responsible for testing its backup procedures ahead of time.

This can be done during the mock auction, for example.

XIII. REJECTION OR NON-ACCEPTANCE OF BIDS: BOEM

reserves the right and authority to reject any and all bids that do not satisfy the requirements and rules of the auction, the FSN, or applicable regulations and statutes.

XIV. ANTI-COMPETITIVE REVIEW: Bidding behavior in this sale is subject to Federal antitrust laws. Accordingly, following the auction, but before the acceptance of bids and the issuance of the lease, BOEM must “allow the Attorney General, in consultation with the Federal Trade Commission, thirty days to review the results of [the] lease sale.” 43 U.S.C. 1337(c)(1). If a provisionally winning bidder is found to have engaged in anti-competitive behavior in connection with this lease sale, BOEM may reject its provisionally winning bid. Compliance with BOEM’s auction procedures and regulations is not an absolute defense to violations of antitrust laws.

Anti-competitive behavior determinations are fact-specific.

However, such behavior may manifest itself in several different ways, including, but not limited to:

1. An express or tacit agreement among bidders not to bid in an auction, or to bid a particular price;
2. An agreement among bidders not to bid;

3. An agreement among bidders not to bid against each other; or
4. Other agreements among bidders that have the potential to affect the final auction price.

Pursuant to 43 U.S.C. 1337(c)(3), BOEM may decline to award a lease if the Attorney General, in consultation with the Federal Trade Commission, determines that awarding the lease may be inconsistent antitrust laws.

For more information on whether specific communications or agreements could constitute a violation of Federal antitrust law, please see <https://www.justice.gov/atr/business-resources> and consult legal counsel.

XV. PROCESS FOR ISSUING THE LEASE: Once all post-auction reviews have been completed to BOEM’s satisfaction, BOEM will issue three unsigned copies of the lease to the provisionally winning bidder. Within 10-business days after receiving the lease copies, the provisionally winning bidders must:

1. Sign and return the lease copies on the bidder’s behalf;
2. File financial assurance, as required under 30 CFR 585.515-537; and
3. Pay by electronic funds transfer (EFT) the balance (if any) of the bonus bid (winning monetary bid less the applicable non-monetary bidding credit and bid deposit). BOEM requires

bidders to use EFT procedures (not pay.gov, the website bidders used to submit bid deposits) for payment of the balance of the bonus bid, following the detailed instructions contained in the “Instructions for Making Electronic Payments” available on BOEM’s website at: <https://www.boem.gov/regional-carolina-long-bay-intergovernmental-renewable-energy>.

BOEM will not execute the lease until the three requirements above have been satisfied. BOEM may extend the 10-business-day deadline if BOEM determines the delay was caused by events beyond the provisionally winning bidder’s control.

If the provisionally winning bidder does not meet these requirements or otherwise fails to comply with applicable regulations or the terms of the FSN, BOEM reserves the right not to issue the lease to that bidder. In such a case, the provisionally winning bidder would forfeit its bid deposit. Also, in such a case, BOEM reserves the right to offer the lease to the next highest bidder as determined by BOEM.

Within 45-calendar days after receiving the lease copies, the provisionally winning bidder must pay the first year’s rent using the “ONRR Renewable Energy Initial Rental Payments” form available at: <https://www.pay.gov/public/form/start/27797604/>.

Subsequent annual rent payments must be made following the detailed instructions contained in the “Instructions for Making

Electronic Payments,” available on BOEM’s website at:

<https://www.boem.gov/regional-carolina-long-bay-intergovernmental-renewable-energy>.

XVI. NON-PROCUREMENT DEBARMENT AND SUSPENSION

REGULATIONS: Pursuant to 43 CFR part 42, subpart C, an OCS renewable energy lessee must comply with the Department of the Interior’s non-procurement debarment and suspension regulations at 2 CFR parts 180 and 1400. The lessee must also communicate this requirement to persons with whom the lessee does business relating to this lease by including this term as a condition in their contracts and other transactions.

XVII. FINAL SALE NOTICE: The development of the FSN will be informed through the EA, related consultations, and comments received during the PSN comment period. The FSN will provide the final details concerning the offering and issuance of an OCS commercial wind energy lease in the Lease Area in the vicinity of Carolina Long Bay. The FSN will be published in the *Federal Register* at least 30 days before the lease sale is conducted and will provide the date and time of the auction.

XVIII. CHANGES TO AUCTION DETAILS: The program manager of BOEM’s Office of Renewable Energy Programs has the discretion to change any auction detail specified in the FSN, including the date and

time, if the manager deems that events outside BOEM's control may interfere with a fair and proper lease sale. Such events may include, but are not limited to, natural disasters (e.g., earthquakes, hurricanes, floods, and blizzards), wars, riots, act of terrorism, fire, strikes, civil disorder, Federal Government shutdowns, cyberattacks against relevant information systems, or other events of a similar nature. In case of such events, BOEM would notify all qualified bidders via email, phone, and BOEM's website at:

<https://www.boem.gov/regional-carolina-long-bay-intergovernmental-renewable-energy>. Bidders should call 703-787-1121 if they have concerns.

XIX. APPEALS: The appeals and reconsideration procedures are provided in BOEM's regulations at 30 CFR 585.225 and 585.118(c). Under 30 CFR 585.225:

- (a) If BOEM rejects your bid, BOEM will provide a written statement of the reasons and will refund any money deposited with your bid, without interest.
- (b) You may ask the BOEM Director for reconsideration, in writing, within 15-business days of bid rejection, under 30 CFR 585.118(c)(1). The Director will send you a written response either affirming or reversing the rejection.

The procedures for requesting reconsideration of a bid rejection are described in 30 CFR 585.118(c).

XX. PUBLIC PARTICIPATION: BOEM does not consider anonymous comments; please include your name and address as part of your comment. You should be aware that your entire comment, including your name, address, and any other personal identifiable information (PII) included in your comment, may be made publicly available. All submissions from identified individuals, businesses, and organizations may be available for public viewing on regulations.gov.

In order for BOEM to withhold from disclosure your PII, you must identify any information contained in the your comment that, if released, would constitute a clearly unwarranted invasion of your personal privacy. You must also briefly describe any possible harmful consequences of the PII disclosure, such as embarrassment, injury, or other harm. BOEM is unable to guarantee that your PII will be protected from public disclosure because a court may determine that the benefits of disclosure about who may influence public policy outweigh possible harms.

XXI. PROTECTION OF PRIVILEGED OR CONFIDENTIAL INFORMATION: BOEM will protect privileged or confidential information that you submit consistent with the Freedom of Information Act (FOIA) and 30 CFR 585.113. Exemption 4 of FOIA

applies to “trade secrets and commercial or financial information obtained from a person” that is privileged or confidential. 5 U.S.C. 552(b)(4). If you wish to protect the confidentiality of such information, clearly mark it “Contains Privileged or Confidential Information” and consider submitting such information as a separate attachment. BOEM will not disclose such information, except as required by FOIA. Information that is not labeled as privileged or confidential may be regarded by BOEM as suitable for public release. Further, BOEM will not treat as confidential aggregate summaries of otherwise non-confidential information.

a. Access to Information (54 U.S.C. 307103): BOEM is required, after consultation with the Secretary of the Interior, to withhold the location, character, or ownership of historic resources if it determines that disclosure may, among other things, cause a significant invasion of privacy, risk harm to the historic resources, or impede the use of a traditional religious site by practitioners. Tribal entities and other interested parties should designate information that they wish to be held as confidential and provide the reasons why BOEM should do so.

AUTHORITY: 43 U.S.C. 1337(p)); 30 CFR 585.211 and 585.216.

Amanda Lefton
Director, Bureau of Ocean Energy Management

Date